

1st READING 11/4/2013
On Floor Bush/Crutchfield

CITY OF FREEPORT
STEPHENSON COUNTY, ILLINOIS

2nd READING 11/18/2013
Amendments Adopted and
placed in ORDINANCE

ORDINANCE NO. 2013-56

**AN ORDINANCE CREATING CHAPTER 876 ENTITLED
(RESIDENTIAL RENTAL PROPERTY REGULATION)
IN THE CITY OF FREEPORT, ILLINOIS**

(as renumbered from Chapter 882 to 876)

**ADOPTED BY THE
CITY COUNCIL
OF THE
CITY OF FREEPORT, ILLINOIS**

THIS 18th DAY OF NOVEMBER, 2013

**Published in pamphlet form by authority of the
City Council of the City of Freeport,
Stephenson County, Illinois, this
20th Day of November, 2013.**

**CC: Community Development
Freeport Police Department
Mayor Gitz**

**AN ORDINANCE CREATING CHAPTER 876 ENTITLED
(RESIDENTIAL RENTAL PROPERTY REGULATION)
IN THE CITY OF FREEPORT, ILLINOIS**

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ORDINANCE NO. 2013-56

WHEREAS, the City Council believes it to be in the City's best interest to pass an Ordinance for the City of Freeport that provides for the regulation of the operation and use of rental units located within the city limits of the City of Freeport to ensure the safety of the rental units and its inhabitants and to protect and promote the public health, safety and welfare of all citizens of the City.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREEPORT, ILLINOIS as follows:

Section 1. The foregoing recital is incorporated herein as findings of the City Council of the City of Freeport, Illinois:

Section 2. Chapter 876 entitled "RESIDENTIAL RENTAL REGULATION" of the Codified Ordinances for the City of Freeport is hereby created as follows:

"CHAPTER 876. RESIDENTIAL RENTAL PROPERTY REGULATION

Section 876.01 Definitions.

The following words and terms shall have the meanings respectively ascribed to them for the purposes of this Chapter of the Codified Ordinances of the City of Freeport, as follows:

- a. **Landlord.** The legal title holder of the premises, as shown by the records of the Stephenson County Recorder's office, which has one (1) or more residential rental units on it. If the legal title holder is a land trust, however, the landlord shall mean the beneficial owner or owners of the land trust, or a trustee having legal authority to act on behalf of the land trust.
- b. **Local Agent.** A person twenty-one (21) years of age or older who resides in Stephenson County or within thirty (30) miles of the location of the rental unit. The local agent shall be authorized by the landlord to receive notices of code violations and receive process in any court proceedings or administrative enforcement proceedings on behalf of the landlord in connection with the enforcement of this Chapter or any of the Codified Ordinances of the City of Freeport and any enforcement of state or federal laws or regulations.
- c. **Premises.** A tract of land on which one (1) or more rental units is located.

- d. Residential Rental Structure. A “residential rental structure” is any apartment, rooming house, boarding house, dwelling, multi-use dwelling structure (excluding hotels, motels, assisted living facilities, residential care homes, and nursing homes, all as defined elsewhere in these codified ordinances) - and any mobile home – located within the corporate limits of the City of Freeport that the owner thereof rents, either entirely or in part, to another person or persons for occupancy as a residence, regardless of the zoning of the property. If there is more than one unit within such structure, it shall be identified by the term “residential rental unit”.
- e. Tenant. The person, or person, occupying a residential rental unit who is not a legal title holder of the premises.

Section 876.02 Registration of landlords and rental properties.

Registration Required. It shall be unlawful for an owner of a residential rental structure to rent that residential rental structure or unit thereof, either entirely or in part, to another person for occupancy as a residence, unless the owner shall have registered the residential rental structure and/or unit thereof with the City of Freeport on or before April 1, 2014.

Section 876.03 Application.

- a. The owner of a residential rental structure shall register such residential rental structure with the City of Freeport by completing (on forms supplied by the City of Freeport) a written Application for Registration, and filing the application for Registration with the Building Commissioner of the City of Freeport.
- b. The Application for Registration shall state, concerning the residential rental structure:
 - (i) its address,
 - (ii) a description of the structure,
 - (iii) the number of rental units in the structure,
 - (iv) the name, mailing address and telephone number of each owner of the structure. If an owner is a business entity that has its own separate legal existence, rather than a natural person, then the Application shall provide the name, phone number and address of a natural person that is the controlling individual on that entity, or in the case of a land trust, a natural person that is the trustee having legal authority to act on behalf of the land trust – in no event shall compliance consist of the name of another company or non-natural persons,
 - (v) the name, mailing address, physical address, and telephone number of the Local Agent for the structure.

Section 876.04 Duration of Registration.

Registration shall be required annually for each residential rental structure by January 1 of each year beginning January 1, 2015, unless (i) all or part of the ownership of the residential rental structure changes, or (ii) the number of rental units in the residential rental structure changes. If either such change occurs, the then owners of the residential rental structure shall within forty-five (45) days of the change, file a new application of Registration with the Building Commissioner of the City of Freeport.

Section 876.05 Registration Not Assignable.

The registration of a residential rental structure is not assignable. If a residential rental structure is sold or the ownership of the complete fee simple interest in the residential rental structure otherwise changes, the new owner or owners thereof shall complete an Application for Registration concerning the residential rental structure and shall file the Application for Registration with the Building Commissioner of the City of Freeport.

Section 876.06 Rental Agreements – Required Terms.

- a. All rental agreements should be in writing. Effective April 1, 2014, all rental agreements shall be in writing and comply with this section.
- b. All landlords shall incorporate into the body of all leases or rental agreements, or renewals of leases or rental agreements, the first and last names of all individuals eighteen (18) years of age or older, and the number of person(s) under the age of eighteen (18), who will reside or operate businesses at the subject property during the term of the lease. All such landlords shall also require their tenants, as a condition of their lease, to provide written notice containing the first and last names of any guests who will be temporarily residing at the subject property for more than a calendar week (seven (7) consecutive days). Landlords shall provide, upon either oral or written request, copies of the information required in subsections (a) and (b) to the City of Freeport Police Department, Legal Department and/or the Building Commissioner. Any such oral request shall be followed by a written confirmation of the oral request from the interested City of Freeport department.
- c. Crime Free Housing Lease Addendum.-
After April 1, 2014, every lease, including lease extensions, shall contain a crime free lease provision, the purpose of which is to make nuisance activity, not limited to violent or drug related criminal activity, engaged by, facilitated by or permitted by the tenant, member of the household, guest or other party under the control of the tenant, a lease violation, and to provide the landlord with authority under that clause to initiate eviction proceedings pursuant to state law. The crime free lease provision shall in substantially the following form:

“Crime Free Housing Lease Provision

Prohibition against nuisance activity within the City of Freeport.

Notice of City of Freeport Ordinances. The City of Freeport has enacted the following in tis Code of Ordinances:

Chapter 659. Chronic Nuisances. This Chapter prohibits nuisance properties located within the corporate limits of the City of Freeport.

Crime free agreement:

In consideration of the execution or renewal of a lease of the rental unit identified in this lease (the “leased premises”), Owner (or Owner’s agent or representative) and resident/tenant agree as follows:

- (i) The Tenant, any member of the tenant’s household, Tenant’s guest(s), and any person under Tenant’s control shall not engage in or facilitate unlawful activity in, on, at or about the leased premises.
- (ii) The Tenant, any member of the tenant’s household, Tenant’s guest(s), and any person under Tenant’s control shall not permit the leased premises to be used for, or to facilitate, unlawful activity, regardless of whether the individual engaging in such activity is a member of the household, or a guest.
- (iii) The Tenant, any member of the tenant’s household, Tenant’s guest(s), and any person under Tenant’s control shall not engage in or facilitate any breach of the lease agreement that jeopardizes the health, safety, and welfare of the landlord, his agent, or other tenant, or involves imminent or actual serious property damage.
- (iv) The Tenant is vicariously liable for the unlawful activity of any member of the Tenant’s household, Tenant’s guest(s), and any person under Tenant’s control, whether or not the Tenant had knowledge of the activity or whether or not the household member or guest was under the Tenant’s control.
- (v) In case of conflict between the provisions of this addendum and any other provisions of the lease, the provisions of this addendum shall govern.
- (vi) For purposes of this Lease Section, unlawful activity shall mean:
 - 1. Any offense defined and prohibited by Section 6-16 (Prohibited Sales and Possession) or Section 6-20 (Purchase or Acceptance of Gift of Liquor by Persons Under Age 21) of the liquor Control Act of 1934, 235

- ILCS 5/6-16 and 5/6-20, or similar City of Freeport ordinance;
2. Any offense that constitutes a felony or misdemeanor under the Illinois Criminal Code of 1961, 720 ILCS 5/1-1 et seq;
 3. Any offense defined and prohibited by Chapter 659 of the Codified Ordinances of the City of Freeport; and
 4. Any inchoate offense defined and prohibited by Article 8 (Inchoate Offenses) of the Criminal Code of 1961, 720 ILCS 5/8-1, et seq., which is relative to the commission of any of the aforesaid principal offenses.
 5. Violation of any of the above provisions shall be a material and irreparable violation of the lease and good cause for termination of the tenancy, provided, however, a tenant shall not be retaliated against nor evicted when merely a victim of any unlawful act prohibited herein, but shall be responsible for the acts of his/her guests and persons under his/her control. A single violation of any of the provisions hereof shall be deemed a serious single violation shall be good cause for immediate termination of the lease. Unless otherwise provide by law, proof of violation shall not require criminal conviction, but shall be by a preponderance of the evidence. Tenant consents to venue in any court within the county wherein the unit is located in the event Owner initiates legal action against the tenant. Tenant hereby waives any objection to any venue chosen by Owner.

To the extent permitted by law, tenant agrees that service of process of any legal proceeding, including but not limited to a special detainer or forcible detainer action, or service of any notice to tenant, shall be effective and sufficient for purposes of providing legal service and conferring personal jurisdiction upon any Illinois court as to any tenant, co-signor, occupant or guarantor, if served upon any occupant or other person of suitable age and discretion who is present at the premises and residing therein, notwithstanding the fact that a tenant, co-signor, occupant or guarantor may reside at a different location other than the property address described in the lease agreement. This agreement regarding service is in addition to , and not in lieu of, any manner of service authorized under Illinois law or rule. By signing this lease the undersigned hereby waives any objection to service carried out under the terms of this agreement.”

- d. A provision must be included in a lease to authorize a Landlord to ban tenant guests whose conduct is prohibited by the Crime Free Housing Lease Addendum, as described in subsection (c) of this Section.

Section 876.07 Banned List/No Trespass Agreements.

- a. No Trespass Agreements. The Chief of Police or his designee is and shall be authorized to enter into No Trespass Agreements with landlords, property managers or other property owners (whether of rental property or otherwise), in a form acceptable to the Chief of Police and the property owner, providing that sworn personnel from the City's Police Department shall be authorized to give persons trespassing on private property notice to leave, and to sign complaints against such persons should they remain on or return to the private property.
- b. Banned List. As a component of such No Trespass Agreements, property owners or managers shall be authorized to provide the City with a "Banned List" identifying persons who have been prohibited from entering upon specified properties within the City. To include a person on the Banned List, the owner or property manager shall include such detail as the Police Department shall require to positively identify a person. In additions, it must be shown that any person on the banned list has received actual notice that they are not permitted to trespass upon the private property in question, either by in-person, actual notice, or by written notice acceptable to the Police Department. The Police Department shall be authorized to sign a complaint against any person listed on the Banned List who enters upon or returns to private property from which he or she is banned. The owner or property manager's decision to include a person on the banned list shall supersede any contrary direction from any tenant or lessee.

Section 876.08 Implementation Fee.

Implementation fees shall be \$25.00 for single family dwelling containing one (1) residential rental unit, \$35.00 for dwellings containing two (2) – four (4) residential rental units, and \$45.00 for dwellings containing five (5) or more residential rental units. For apartment complexes, each separate building will be assessed a registration fee as outlined above. For mobile home parks, a single trailer is considered one (1) residential rental unit and the entire contiguous park is considered one dwelling. Implementation fees shall be due and payable as part of the initial registration pursuant to Section 876.02.

Section 876.09. Penalty.

Failure to comply with the requirements of this ordinance will result in a violation being issued either through the Administrative Adjudication processes of the City or through a citation to appear in Court. There shall be a minimum fine of two-hundred fifty dollars (\$250.00) and a maximum fine of seven hundred and fifty dollars (\$750.00) per day for each violation hereunder.

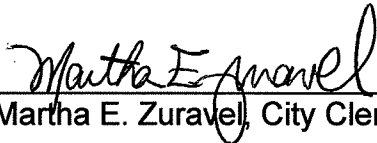
Section 3. This Ordinance shall be effective immediately upon its passage by the City Council, its approval by the Mayor, and its publication as provided by law.

Section 4. This Ordinance is expressly adopted pursuant to the Home Rule Powers of the City of Freeport under Section 6 of Article VII of the Illinois Constitution of 1970.

Section 5. All ordinances or parts of ordinances in conflict with this Ordinance are repealed insofar as they conflict.

Section 6. If any section, clause or provision of this Ordinance is declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid, and this City Council hereby expressly declares that it would have enacted this Ordinance even with the invalid portion deleted.

PASSED BY THE CITY COUNCIL OF THE CITY OF FREEPORT, ILLINOIS this 18th day of November, 2013.


Martha E. Zuravel, City Clerk

YEAS: Klemm, Bush, DeVine, Endress, and Crutchfield (5)

NAYS: Brashaw (1)

ABSENT: Boldt and Koester (2)

ABSTAIN: _____

PRESENT: Six Alderpersons

APPROVED BY THE MAYOR OF THE CITY OF FREEPORT, ILLINOIS this 20th day of November, 2013.


James L. Gitz, Mayor

Date Published: November 20, 2013

Date Effective: December 2, 2013