

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

09-025-0

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 29A-32.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO RENTAL LICENSING.

BY COUNCILOR STAUBER:

The city of Duluth does ordain:

Section 1. That Section 29A-32.1 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 29A-32.1. Rental restrictions in the protection zone.

(a) In areas zoned R-1-a, R-1-b and R-1-c located within the protection zone, no license shall be issued for any dwelling, rooming house or rental unit within a distance of 300 feet from any other licensed dwelling, rooming house or rental unit. The distance restriction shall not apply to the following:

- (1) A two family dwelling;
- (2) Any multiple family dwelling containing less than five dwelling units;
- (3) An owner occupied one family dwelling, provided that the number of persons occupying pursuant to a rental agreement is limited to one person;

(b) In areas zoned R-2 and R-3 located within the protection zone, no license shall be issued for any one family dwelling within a distance of 300 feet from any other licensed one family dwelling. The restriction shall not apply to the following:

- (1) An owner occupied one family dwelling, provided that the number of persons occupying pursuant to a rental agreement is limited to one person;

(c) In all residentially zoned districts within the protection zone, restrictions shall not apply to short-term licenses. Except as otherwise provided, the building official may

issue short-term licenses for a period not to exceed 12 consecutive months. A short-term license may not be issued more frequently than once in any three year period. Such short-term licenses shall be applied for in the same manner as other rental licenses and all rental requirements for such dwelling unit shall otherwise meet all rental licensing requirements. A short-term license may be issued for any single-family or two-family dwelling under the following circumstances:

(1) The owner is the current occupant of the dwelling unit; and

(2) For professional, educational or military service reasons the owner intends to reside in another community located at least 50 miles from the dwelling unit; and

(3) The owner provides sufficient evidence of such intention to temporarily relocate to the building official. Such evidence may include, but is not limited to written offers of employment, employment transfer directives, letter of acceptance from an educational institution, or military orders.

A short-term license may be extended for an additional six months period provided that an application for extension is received prior to the expiration of the short-term license and adequate evidence justifying such an extension is submitted with the application. The building official shall act upon such application for extension within 15 business days of delivery of the application.

The decision of the building official is subject to appeal as provided in Section 29A-34;

(d) This Section shall not apply to a one family or two family dwelling that is subject to a purchase agreement for the sale

of the dwelling when all of the following conditions are met:

- (1) The dwelling is occupied by a seller; and
- (2) The buyer and seller agree that the buyer may occupy the dwelling prior to completion of the sale; and
- (3) The buyer, pursuant to a written early occupancy agreement between the buyer and seller, occupies the dwelling; and
- (4) The sales transaction is completed or cancelled in writing within 120 days from the date of the written early occupancy agreement;

(e) Any licensed dwelling, rental unit or rooming house lawfully existing in the protection zone on July 19, 2008, may continue, even though such use does not conform to the provisions of this Chapter;

(f) If a rental license lapses as a result of the failure to comply with Section 29A-29, the license may be administratively reissued without regard to the provisions of paragraphs (a) and (b) of this Section if within 60 days of the expiration of the license the owner complies with Section 29A-29;

(g) If a rental license lapses as a result of the failure to comply with Section 29A-29, the owner fails to comply with paragraph (f) of this Section, and the provisions of paragraphs (a) and (b) prohibit issuance of a license, the owner may appeal pursuant to Section 29A-34. The building appeal board may authorize issuance of a license without regard to the provisions of paragraphs (a) or (b) of this Section if the owner demonstrates by clear and convincing evidence the existence of good cause for the failure to comply with Section 29A-29. For purposes of this provision, good cause shall be defined as circumstances beyond the control of the owner which made compliance with Section 29A-29 impossible;

(h) The building appeal board may grant a variance from the provisions of paragraphs (a) and (b) of this Section where a hardship exists. For purposes of this Section, a hardship exists when it can be demonstrated by clear and convincing evidence that the property no longer retains a reasonable economic value as an owner occupied dwelling and the ability to rent the property is necessary in order to retain a reasonable economic use. Notice of the hearing shall be mailed to all property owners within 300 feet of the subject property at least one week in advance of the hearing. Failure to give written notice to all property owners within 300 feet of the subject property boundary or any defect in the notice shall not invalidate any action of the board, provided that a bona fide attempt to comply with this Section has been made. Any property owner so notified may testify and present evidence at the hearing.

Section 2. This ordinance shall expire after midnight on June 30, 2012.

Section 3. That this ordinance shall take effect 30 days after its passage and publication.

Approved as to form:

Attorney

COUNCIL REQUEST/ATTY MAL:blj 5/14/2009

STATEMENT OF PURPOSE: This ordinance amends the 300 foot rule appeal procedures which grants to the building appeal board the authority to grant variances from the strict application of the 300 foot rule. It adds a requirement that property owners within 300 foot of the property subject to the appeal be notified of the appeal and be given the right to be heard at the appeal hearing. Section 2 provides the sundown provision that is already applicable to the 300 foot rule.