

ORDINANCE NO. _____

AMENDING CHAPTER 6

**AN ORDINANCE AMENDING CHAPTER 6, ARTICLE XII OF THE CITY
CODE, ENTITLED “RESIDENTIAL RENTAL REGISTRATION AND
REMEDIAL ACTION PROGRAM”**

WHEREAS, the City of Charlotte has a significant governmental interest in protecting the health, safety, and welfare of the general public and preserving the public order; and

WHEREAS, the City of Charlotte has authority pursuant to Article 6 of Chapter 160A of the North Carolina General Statutes to adopt ordinances to protect the health, safety, or welfare of its citizens and peace and dignity of the City.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE, NORTH CAROLINA THAT:

Section 1: Article XII. Residential Rental Registration Program and Remedial Action Program of the City Code is amended as follows:

Sec. 6-580. - Purpose.

The purpose of this article is to establish a registration requirement for Owners of Residential Rental Property when excessive levels of Disorder Activity have occurred on or in the property. In addition, the City desires to establish a method to hold Owners of Residential Rental Property accountable for failing to use effective methods to reduce Disorder Activity on their property. It is not the intent of this article to determine the rights and liabilities of persons under agreements to which the City is not a party. This Article shall not be construed to alter the terms of any lease or other agreement between a landlord and a tenant or others relating to property that is the subject of this Article; provided that no provision of any lease or other agreement shall be construed to excuse compliance with this Article. Additionally, a violation of this Article shall not in and of itself create a negligence per se standard or otherwise expand existing liability in tort for either a landlord or a tenant.

Sec. 6-581. - Definitions.

The following words, terms and phrases when used in this Article shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning:

Disorder Activity: Activity occurring on or in a Residential Rental Property categorized as either reported violent crimes, or certain types of disorder-related activities as listed in the appendix of this Article entitled "Appendix A - Disorder Activity." A domestic violence call for service is not a Disorder Activity.

Disorder Activity Count: A calculation as set forth in the appendix of the Article entitled "Appendix B - Calculation" assigned to a Residential Rental Property that represents the amount of Disorder Activity occurring within a specified time period in or on the Property.

Disorder Risk Threshold: For each Residential Rental Property Category, the Disorder Activity Count for the Residential Rental Property that is at the 96th percentile of Residential Rental Properties within the Residential Rental Property Category.

In Need of Remedial Action (INRA): A designation by the Police Official that a Residential Rental Property has been identified for enforcement action under this Article.

Manager: The person, persons or legal entity appointed or hired by the Owner to be responsible for the daily operation of the Residential Rental Property.

Owner: The person, persons or legal entity that holds legal title to a Residential Rental Property.

Police Official: A person designated by the Chief of Police who is primarily responsible for the administration of this Article.

Registered Agent: The person identified by the Owner of the Residential Rental Property in the registration filed pursuant to this Article who is authorized to receive legal process and/or notice required or provided for in this Article.

Remedial Action Plan: A written plan agreed upon and signed by both the Police Official and Owner whereby the Owner agrees to implement remedial measures on a Residential Rental Property whose Disorder Activity Count exceeds the Disorder Risk Threshold for its Residential Rental Property Category.

Remedial Measures: Mandatory and voluntary measures as stated within the Remedial Action Plan Manual, a copy of which is on file at the City Clerk's Office.

Residential Rental Property: Property that contains a single-family rental dwelling unit or multi-family rental dwelling units for use by residential tenants including but not limited to the following: mobile homes, mobile home spaces, town homes and condominium unit(s). A rental dwelling unit includes property that is provided to an individual or entity for residential purposes upon payment of rent or any other consideration in lieu of rent.

Residential Rental Property Category: Residential Rental Properties will be categorized by the number of residential units contained in the property as follows:

- Category 1 - 1 unit
- Category 2 - 2 to 9 units
- Category 3 - 10 to 49 units
- Category 4 - 50 to 99 units
- Category 5 - 100 to 149 units
- Category 6 - 150 to 199 units
- Category 7 - 200 to 249 units
- Category 8 - 250 to 299 units
- Category 9 - 300 or more units

Sec. 6-582. - Registration of Residential Rental Property.

(a) Each Owner of Residential Rental Property that falls at or above the Disorder Risk Threshold shall register by providing the following information to the designated Police Official:

(1) The address(s) for the Residential Rental Property which shall include the street name(s), number(s) and zip code;

(2) The name(s), business and personal address, telephone number and e-mail address of the Owner;

a. If the property is owned by multiple natural persons, then the required information shall be that of one person who has legal authority to act on behalf of the other Owners.

b. If the property is owned by a corporation, whether foreign or domestic, then the required information shall be that of a Registered Agent and of an officer who has authority to act on behalf of the corporation.

c. If the property is owned by a partnership, then the required information shall be that of the managing partner and one alternate who have legal authority to act on behalf of the partnership.

d. If the property is owned by an unincorporated association or any other legal entity not mentioned above, then the required information shall be that of a person who has legal authority to act on behalf of that association or entity.

(3) The number of units located on the Residential Property.

(b) The address(s) required in Subsection (a)(2) shall not be a public or private post office box or other similar address.

(c) An Owner whose property is found to be INRA shall notify the Police Official of all purchaser information within thirty (30) days from the date of change of ownership. Purchaser information shall include the name, address, phone number and e-mail address for the purchaser.

(d) Each Residential Rental Property parcel shall be registered separately.

Sec. 6-583. - Disorder Risk Threshold and Disorder Activity Count.

The Police Official shall determine the Disorder Activity Count for each Residential Rental Property and the Disorder Risk Threshold for each Residential Rental Property Category on a quarterly calendar basis. These determinations shall be made using the Disorder Activity during the previous calendar quarter.

Sec. 6-584. - Notification of Registration and Mandatory Meeting.

(a) The Owner of Residential Rental Property that falls at or above the Disorder Risk Threshold shall be sent a notice no later than fifteen (15) days after the Disorder Risk Threshold is calculated for that quarter by certified mail to the name and address registered with the Department or if the property is not registered, then to addresses listed at the Mecklenburg County's Office of Tax Assessor for that property.

(b) The notice shall include the following information:

(1) The registration requirements contained in Section 6-582; and

(2) The date, time and location for the mandatory initial meeting between the Police Official and the Owner; and

- (3) The Disorder Activity Count for the Residential Rental Property; and
- (4) A statement that the Owner may provide additional evidence at the initial mandatory meeting to be considered by the Police Official; and
- (5) A detailed summary of the Disorder Activity that has occurred on or in the property.

Sec. 6-585. - Mandatory Initial Meeting.

(a) A mandatory initial meeting shall be held between the Owner and the Police Official within fifteen (15) days from the date the notice was sent to the Owner of the property unless otherwise agreed by the Owner and Police Official. The notice shall be sent to the business or personal address listed on the registration or if the property is not registered, then to addresses listed at the Mecklenburg County's Office of Tax Assessor for that property. The initial meeting may be held in person or by telephone. In the event there are multiple property Owners, the Owner attending the initial meeting must have power of attorney to execute the Remedial Action Plan on behalf of the other Owners.

(b) At the mandatory initial meeting, the attendance of the Police Official and the Owner is required. Nothing in this Section prohibits the Owner and Police Official from voluntarily continuing the mandatory initial meeting. The Police Official and the Owner shall at a minimum review the following:

- (1) Residential Rental Property Registration requirements;
- (2) The data that established the Disorder Activity Count for that property;
- (3) Any relevant evidence provided by the Owner that may establish that the property does not fall at or above the Disorder Risk Threshold;
- (4) Whether or not the Owner knew or should have known that the Disorder Activity was occurring on the property.

(c) The Police Official may adjust the Disorder Activity Count upon a finding that there is clear and convincing evidence to do so, or as otherwise required by law. In the event that the adjusted Disorder Activity Count for the property falls at or above the Disorder Risk Threshold, then the property will be designated In Need of Remedial Action (INRA). The Owner and Police Official shall develop and sign a Remedial Action Plan and the property will be set for a three (3) month review date pursuant to Section 6-586. In the event the adjusted Disorder Activity Count is below the Disorder Risk Threshold, then no further action shall be taken by the Police Official, and Residential Rental Property registration shall not be required. Any property that is required to pay a civil penalty shall do so within seven (7) days after the conclusion of the mandatory meeting.

(d) In the event the Owner fails to attend the initial meeting without just cause, the Police Official shall review all the evidence concerning the property pursuant to Subsections (b) and (c) of this Section and determine whether the Disorder Risk Threshold is accurate and determine if further action is warranted.

Sec. 6-586. - Remedial Action Plan and Review.

(a) At the first quarterly review, the Owner and Police Official shall review the Disorder Activity in or on the property since the date of the Remedial Action Plan and determine the Disorder Activity Count for the property during that time period. If the Disorder Activity Count is no longer at or above the Disorder Risk

Threshold, then the designation of INRA will be removed and no further review requirements or registration shall be required. Nothing in this Section prohibits the Owner and Police Official from voluntarily continuing the implementation of an agreed plan of action. If the Disorder Activity Count continues to fall at or above the Disorder Risk Threshold, then the Owner and the Police Official may amend the Remedial Action Plan and a second quarterly month review date will be set.

(b) At the second quarterly month review, the Owner and Police Official shall review the Disorder Activity in or on the property since the date of the amended Remedial Action Plan and determine the Disorder Activity Count for the property during that time period. If the Disorder Activity Count is no longer at or above the Disorder Risk Threshold, then the designation of INRA will be removed and no further review requirements or registration shall be required. Nothing in this Section prohibits the Owner and Police Official from voluntarily continuing the implementation of an agreed plan of action. If the Disorder Activity Count continues to fall at or above the Disorder Risk Threshold, then the Police Official and the Owner shall amend and sign the Remedial Action Plan and a third quarterly month review date will be set.

(c) At the third quarterly month review, the Owner and Police Official shall review the Disorder Activity in or on the property since the date of the amended Remedial Action Plan and determine the Disorder Activity Count for the property during that time period. If the Disorder Activity Count is no longer at or above the Disorder Risk Threshold, the designation of INRA will be removed and no further review requirements or registration shall be required. Nothing in this Section prohibits the Owner and Police Official from voluntarily continuing the implementation of an agreed plan of action. If the Disorder Activity Count continues to fall at or above the Disorder Risk Threshold, then the Police Official shall determine whether the Owner has complied in good faith with the Remedial Action Plans.

(1) In determining whether the Owner has acted in good faith, the Police Official shall weigh the following factors:

- a. Whether the Owner has regularly met with the Police Official;
- b. Whether the Owner has exhausted all resources reasonably available to the Owner in order to comply with the terms of the Remedial Action Plans;
- c. Whether the Owner has intentionally ignored a term of a Remedial Action Plan; and
- d. Whether the Disorder Activity on the property constitutes a public nuisance.

(2) If there is clear and convincing evidence that the Owner has been found to have acted in good faith, then the Police Official may remove the designation of INRA and continue to work with the Owner. A property that continues to fall at or above the Disorder Risk Threshold will be referred to the City Attorney's Office for a determination as to whether a public nuisance action or any other legal or equitable remedy is warranted.

(d) All Remedial Action Plans will be based on the procedures and practices set forth in the CMPD Remedial Action Plan Manual; A Guide to Managing Rental Properties to Prevent Crime.

Sec. 6-587. - INRA Designation Binding on Subsequent Owner.

The designation of a property as INRA and the application of the procedures set forth in this Article shall be binding upon all subsequent Owners or other transferees of an ownership interest in the Rental Residential Property.

Sec. 6-588. - Enforcement, Remedies and Penalties.

(a) The following violations of this Article may be enforced by the issuance of a civil penalty in the amount provided:

- (1) Failing to register Residential Rental Property as required by Section 6-582...\$50.00;
- (2) Providing materially false or misleading Residential Rental Property registration information 50.00;
- (3) Failing to attend the mandatory initial meeting or any other quarterly meeting after notice has been timely sent pursuant to Section 6-585...\$50.00;

(b) An additional late fee civil penalty in the amount of \$50.00 may be assessed if the initial civil penalty is not paid or appealed within thirty (30) days from the date of issuance.

(c) The remedies provided herein are not exclusive and may be exercised singly, simultaneously, or cumulatively. In addition, the remedies provided herein may be combined with any other remedies authorized by law and exercised in any order. This Article may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.

(d) Notwithstanding that an Owner of Rental Registration Property has been issued a civil penalty for a violation of this Article or the Owner has failed to attend the mandatory initial meeting as set forth in Section 6-585, the Owner shall not commit the following acts:

- (1) Refuse or fail to comply with any order of the City to repair a dwelling pursuant to Section 11-38 of the Housing Code; or
- (2) Terminate the utility services of any occupants or otherwise violate the rights of residential tenants under Article 2A, Article 5, or Article 6 of the General Statutes.

Sec. 6-589. - Adoption of Remedial Action Plan Manual.

The Remedial Action Plan Manual, a copy of which is on file in the Office of the City Clerk, is hereby adopted. The City Council hereby finds and determines the remediation strategies set out therein to be reasonable and appropriate to address the public health, safety and welfare issues addressed by this Article entitled the "Remedial Action Plan Manual; A Guide to Managing Rental Properties to Prevent Crime." The Chief of Police or his designee is hereby authorized to amend the Remedial Action Plan Manual.

March __, 2019
Ordinance Book __, Page __

Sec. 6-590. - Appeals.

Appeals of decisions by a Police Official to issue civil penalties pursuant to this Article are governed by G.S. 160A-424(f) and shall be taken by the Owner to the Housing Appeals Board as provided in Section 5-38, except that the Police Official shall function as the code enforcement official thereunder.

Section 2. This ordinance shall become effective upon adoption.

Approved as to form:

City Attorney

CERTIFICATION