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controls the property commonly owned and associated with the apartment house, that the apartment house is a probationary rental residential dwelling. In the notification, the permittee shall explain the possible enforcement actions which can be applied for violations of the probationary rental occupancy permit on the common property of the apartment complex. The permittee shall provide proof of the delivery to the development services department along with a copy of the notification within ten days of receipt of proof of delivery.

(Ord. No. S2011-005, § 1, 4-26-2011)

Sec. 14-99. Compliance with provisions.

(a) Any person required by this article to have a permit for a probationary rental residential dwelling who files a complete application for any required permit within ten days following notice from the development services department that this article applies to, the dwelling shall be deemed compliant with this article unless and until the application is denied.

(b) It shall be unlawful to rent, to receive rental income from, or to offer for rent a dwelling subject to the permit requirements of this article beginning ten days after service of notice by the development services department that a permit is required under this part unless a complete application for a subsection 14-97(a) permit has been submitted for the dwelling.

(c) Any person who holds a G.S. 105-41(a)(8) or (9) privilege license as a rental agency, and is not the record owner of the probationary rental residential dwelling, shall be deemed compliant with this article upon filing with the development services department an affidavit or other notarized statement that the agency relationship has been terminated and that the failure to comply with the noticed violations was caused by the record owner's refusal to comply with the article.

(d) Any person who has been designated as a process service agent and is not the record owner of the probationary rental residential dwelling shall be deemed compliant with this article upon promptly notifying the development services department that the notice or order delivered for service cannot be delivered to the owner and upon filing with the development services department an affidavit or other notarized statement that the agency relationship has been terminated and that all prior notices and orders were delivered to the owner.

(e) If the activities, violations or abatements which individually or cumulatively could cause a property or dwelling to be deemed a probationary rental residential dwelling are the result of tenant behavior or actions, an owner shall be entitled to relief from any such violation(s) (i.e., the violation(s) shall not be counted as a strike against the owner) by evicting or removing the tenant, so long as the owner can show that the tenant behavior or action is the basis of the eviction or removal of the tenant. No owner may obtain relief for more than two violations in any three-year period per dwelling under this subsection. Any owner who evicted or removed the tenant as a result of the tenant causing such violation(s), whether such removal is the result of a tenant voluntarily vacating the dwelling or as a result of court action, shall be deemed compliant with this article upon filing with the development services department an affidavit or other notarized statement stating that: (1) the tenant cited for the violation no longer resides at the dwelling; or (2) the attached complaint was filed to evict the tenant and listing the actions showing diligence in effecting the eviction and attaching a copy of the signed lease with the required right to evict. An owner shall also be entitled to relief from any subsequent violation(s) that occur while the action to evict the tenant is pending upon a similar showing to the development services department.

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- (1) If the court has denied the owner's diligent pursuit to evict the tenant, it shall be sufficient if the owner does not renew the tenant's lease at the end of the then-current term and instead terminates the lease.
- (2) When an owner shows an inability to access the dwelling for purposes of effecting remedial activity as ordered by the development services department pursuant to chapter 14 due to a court order in an eviction proceeding, the failure to complete the required remedial activity as previously ordered by the development services department is not a violation for purposes of determining whether the dwelling is a probationary rental residential dwelling until 30 days after the expiration of the court order barring access or within such additional time for compliance as is provided by the development services department.

(f) Any mortgagee of record, not otherwise defined as an owner, shall be deemed compliant with this article unless and until the other owners of the probationary rental residential dwelling fail to comply with notices of violations or orders, including for the payment of civil penalties. A mortgagee of record, not otherwise defined as an owner, shall not be liable for civil penalties or administrative fees in excess of the liability of the other owners.

(Ord. No. S2011-005, § 1, 4-26-2011)

Sec. 14-100. Enforcement.

Enforcement may be by any one or a combination of the following methods, and the institution of an action under any of these methods shall not relieve any party from any civil proceeding prescribed for violations of this article. When a violation continues from day to day without interruption, a new and separate violation occurs when the violation continues after service of the notice or order of the immediately preceding violation for the unlawful activity.

- (1) *Civil penalties.*
 - a. Any person who shall rent, or offer for rent, a probationary rental residential dwelling without first applying for and obtaining a permit as required in section 14-97 or who shall rent, or offer for rent, a probationary rental residential dwelling permitted under this article in violation of this article shall be subject to a civil penalty as follows:
 1. Fifty dollars for a first violation, and each continuing day of noncompliance following written notice thereof shall result in the assessment of an additional civil penalty of \$50.00 per day;
 2. Two hundred fifty dollars for a second violation, and each continuing day of noncompliance following notice thereof shall result in the assessment of an additional civil penalty of \$100.00 per day;
 3. Two hundred fifty dollars for a third violation, and each continuing day of noncompliance following notice thereof shall result in the assessment of an additional civil penalty of \$250.00 per day;

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4. Five hundred dollars for a violation during a period of revocation, and each continuing day of noncompliance following notice thereof shall result in the assessment of an additional civil penalty of \$500.00 per day;
 5. Five hundred dollars against the owner of common property in a condominium or townhouse development for each violation occurring on the common area of a dwelling subject to this article, and each continuing day of noncompliance following notice thereof shall result in the assessment of an additional civil penalty of \$250.00 per day; and
 6. Five hundred dollars against the owner of an apartment project with common property used by an apartment house for each violation occurring on the common area of an apartment house subject to this article, and each continuing day of noncompliance following notice thereof shall result in the assessment of an additional civil penalty of \$250.00 per day.
- b. Any duly appointed licensed rental agency employee who, after receiving written notice of a violation by the city, fails to contact the city as stated in the standards found in subsection 14-98(a) shall be subject to a civil penalty of \$100.00. Thereafter, each and every subsequent single violation occurring on the same probationary rental residential dwelling shall be assessed a civil penalty of \$250.00 and each continuing day of noncompliance following notice thereof shall result in the assessment of an additional civil penalty of \$100.00 per day.
 - c. Any duly appointed process service agent who, after receiving written notice of a violation or an order from the city, refuses to accept service of process or delivery of notices of violation or orders from the city in accordance with the agent's notarized statement attached to the application submitted for the dwelling shall be subject to a civil penalty of \$100.00. Thereafter, each and every subsequent single violation occurring on the same probationary rental residential dwelling shall be assessed a civil penalty of \$250.00 and each continuing day of noncompliance following notice thereof shall result in the assessment of an additional civil penalty of \$100.00 per day.
- (2) *Equitable remedies, including injunctions.* As authorized by the city council, the city may apply to the courts for any appropriate equitable remedy to enforce the provisions of this article, including mandatory or prohibitory injunctions commanding the party to correct the unlawful condition or cease the unlawful use of the business.
- (3) *Revocation of permit.*
- a. For each dwelling where a second violation of this article occurs within 24 months of the most recent violation of this article, the development services department shall issue an order revoking the residential rental occupancy permit for a period of two years, or when no permit had been issued the dwelling, making the probationary residential rental dwelling ineligible for a permit for a period of two years.

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- b. For each dwelling where a third violation of this article occurs within 24 months of the most recent violation of this article, the development services department shall issue an order revoking every probationary rental occupancy permit issued to, or held in the name of the owner of the dwelling where the violation occurred, for a period of two years, and making the owner ineligible to hold a probationary rental occupancy permit for a period of two years.
 - c. Ten days following the service on the permittee of a written recommendation by the director of the development services department or his designee which describes the nature of any violation, the director of the development services department or his designee may revoke a permit issued pursuant to section 14-97 if it is determined that the permittee has violated any provision of this article and other means of enforcement have failed to deter the permittee from operating in violation of this article.
- (4) *Probationary status.* Following a determination that a permittee under this article has violated the provisions of this article, the permittee shall be sent a notice that the permit is on a probationary status and will be revoked for a period of 24 months if the permittee commits a second violation during the 24-month period following the first violation. Following a determination that a permittee under this article has violated the provisions of this article a second time within any 24-month period, the permittee shall be sent a notice that the permit is on a probationary status and if the permittee commits a third violation during the 24-month period following the first violation, every probationary rental occupancy permit issued to, or held in the name of the owner where the violation occurred, will be revoked for a period of 24 months.
- (5) *Cancellation of revocation orders.* The director of the development services department or his designee shall cancel an order revoking a probationary rental occupancy permit when the owner requesting cancellation of the revocation order has paid all outstanding fees and civil penalties for the dwelling and the owner has no pending appeals of any notices or orders and:
- a. Within five working days of the service of the order, the owner obtains approval from the development services department of a management plan for the dwelling to achieve full compliance with the standards in section 14-98 within the time otherwise provided by the Fayetteville City Code, or such time as the development services department finds reasonable; and
 - b. The owner by power of attorney appoints a licensed rental agency to manage the property for the two-year period following the approval; or
 - c. Within 15 days of the service of the order, the new owner of the dwelling unit, who is not a prior owner, not related by marriage or within the fifth degree of kinship to the seller, is not a business affiliate of the prior owner, submits an affidavit so attesting along with proof of title transfer, pays all outstanding fees and civil penalties, and shows the development services department that the dwelling complies with the standards in section 14-98

(Ord. No. S2011-005, § 1, 4-26-2011)

Sec. 14-101. Appeal.

Any permittee, owner or other person served with notice or an order under the provisions of this article, including denial of a request pursuant to subsection 14-97(e), may appeal the notice or order in the following manner:

- (1) An appeal must be filed in writing with the director of the development services department or his designee within 30 days after service of the written notice or order of the director of the development services department or his designee on the petitioner. The written appeal shall identify the application of the article at issue and provide the reasons the petitioner contends that it was wrongly applied and any supporting documentation. An appeal challenging a notice that a dwelling is qualified as a "probationary rental residential dwelling" pursuant to subsection 14-96(l)(9) may include an appeal of the basis for the citations resulting in the determination that the dwelling is qualified as a "probationary rental residential dwelling" pursuant to subsection 14-96(l)(9).
- (2) Unless the director of development services or his designee decides to allow the requested relief based on the appeal request, the director of the development services department or his designee, which shall send each appeal request to the board of appeals on dwellings and buildings, shall consider both the applicable code provisions and equitable factors in resolving the appeal. If the person who files an appeal of a notice that a dwelling is qualified as a "probationary rental residential dwelling" pursuant to subsection 14-96(l)(9) shows that the owner did not cause and, with the use of reasonable measures, could not have prevented the actions or activities leading to the citations which qualified the dwelling as a "probationary rental residential dwelling" pursuant to subsection 14-96(l)(9) the board of appeals on dwellings and buildings may reverse the order.
- (3) An appeal may be taken from any decision of the board of appeals on dwellings and buildings to arbitration by giving notice of appeal to the city council within 30 days after service of the written decision of the board of appeals on dwellings and buildings. Notice of appeal shall be given by delivery of a written statement to the city clerk stating the grounds for the appeal and providing the city clerk with a copy of the written decision of the board of appeals on dwellings and buildings. The written appeal shall identify the application of the article at issue and provide the reasons the petitioner contends that it was wrongly applied. The director of the development services department or his designee and the appealing party shall select an arbitrator from the Cumberland County District Court list of arbitrators. The arbitration shall be conducted, to the extent practicable, in accordance with the supreme court rules for court-ordered arbitration in North Carolina. The arbitrator shall be paid a fee equal to the maximum fee specified in such rules. The arbitrator shall consider both the applicable code provisions and equitable factors in resolving the appeal if the person who files an appeal of a notice that a dwelling is qualified as a "probationary rental residential dwelling" pursuant to subsection 14-96(l)(9) shows that the owner did not cause and, with the use of reasonable measures, could not have prevented the actions or activities leading to the citations which qualified the dwelling as a "probationary rental residential dwelling" pursuant to subsection 14-96(l)(9), the arbitrator may reverse the order.

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- (4) All decisions of the director of the development services department or his designee, the board of appeals of housing and dwellings and the arbitrator shall be served on the petitioner.
- (5) The enforcement of an order issued by the development services department which includes the revocation of a residential rental occupancy permit shall be stayed upon the filing of an appeal and until a final order is issued by the director of the development services department or his designee or the arbitrator.

(Ord. No. S2011-005, § 1, 4-26-2011)

Sec. 14-102. Administrative fee and arbitration fee.

(a) *Fee for each violation.* Any person who violates this article shall pay an administrative fee of \$200.00 per violation and the costs to the city of service of orders and notices.

(b) *Fee for arbitration.* Any person who files an appeal shall pay an administrative fee of \$145.00 to the city at the time the appeal request is made. Failure to pay the administrative fee shall cause the appeal to be denied. The person who filed the appeal shall be responsible for paying one-half of the costs of the arbitration fee. If the person who appeals is the prevailing party, the administrative fee and the portion of the arbitration fee shall be reimbursed.

(Ord. No. S2011-005, § 1, 4-26-2011)

Sec. 14-103. Methods of service.

(a) Unless otherwise provided, notices, orders or other documents issued pursuant to this article shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the notices, orders or other documents may also be sent by regular mail service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(b) If the identities of any owners or whereabouts of persons are unknown and the same cannot be ascertained by the development services department or the probationary rental occupancy permit team of the police department in the exercise of reasonable diligence, or if the owners are known but have refused to accept service by registered or certified mail, and the development services department shall make an affidavit to that effect, stating the steps taken to determine and locate the persons in interest, then the serving of such complaint or order upon such owners or persons may be made by publication in a newspaper having general circulation in the city at least once no later than time at which personal service would be required under this article. Where such service is by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

(c) In order to assist the development services department and the police department with the service of notices, orders and other documents pursuant to this article, an owner who submits an affidavit showing a failure to receive a notice of violation and who affirms in the affidavit submitted to the development services department or the probationary rental occupancy permit team of the police department that the address listed in the Cumberland County tax records has been changed to the

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correct address at which the owner can receive further notices, shall have the prior violation removed from consideration for the probationary rental residential dwelling determination so long as the owner continues to maintain a correct address with the Cumberland County tax records and does not refuse to accept service of any notice at the address listed with the Cumberland County tax records.

(d) In order to assist owners who desire to better monitor activities at their properties, the police department shall notify an owner as provided in subsection (a) of this section within ten business days of an activity at the property by a tenant or a guest of a tenant that can or will cause the property to be qualified as a probationary rental residential dwelling. In addition and to the extent practicable, a notice to the owner shall be provided in the most expeditious manner available, including notice sent by electronic mail or facsimile to the locations provided in the rental registration. Failure to send or deliver the more expeditious notice shall not impede the enforcement of the probationary rental occupancy permit program against the owner.

(Ord. No. S2011-005, § 1, 4-26-2011)

Sec. 14-104. Relation to other laws.

Nothing in this article shall authorize or condone any violation of federal, state, and city fair housing laws and state landlord and tenant laws. This article shall not diminish any private right of action of any person.

(Ord. No. S2011-005, § 1, 4-26-2011)

Secs. 14-105—14-130. Reserved.

ARTICLE V. PROBATIONARY RENTAL OCCUPANCY PERMIT

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- Sec. 14-103. Methods of service.
- Sec. 14-104. Relation to other laws.
- Secs. 14-105—14-130. Reserved.

Sec. 14-95. Findings and declaration of necessity.

(a) *Findings.* Housing in the city consists of owner-occupied and tenant-occupied properties and the two types of housing are in general parity. The substantial majority of complaints about and violations of the Code provisions adopted to assure minimum adequate housing arise from tenant-occupied property. State law and this Code impose the responsibility to provide minimally adequate housing for tenants on the property owner. Existing remedial measures in the Code are insufficient to achieve prompt Code compliance resulting in significant adverse impacts on the public health, safety and welfare of the city including the quality of life for tenants, affected neighborhoods, and the city to expedite compliance with the Code at such properties and thereby assure better quality housing for tenants and the neighborhood, the city council finds it necessary to adopt additional remedial measures for more effective compliance with the Code at such properties.

(b) *Declaration of necessity.* It is deemed necessary in order to promote public health, welfare, good order and safety of the city and its residents that persons renting residential properties where there exist certain unsafe building, minimum housing, zoning or nuisance code violations should be subject to a permitting system. Permitting will:

- (1) Reduce the likelihood that these residential housing accommodations will become public nuisances in violation of G.S. 19-1(b).
- (2) Promote responsible management of these housing accommodations.
- (3) Assist in providing a safe habitat for residents and neighbors of these facilities.
- (4) Safeguard property values.
- (5) Reduce the likelihood that housing accommodations where such problems most frequently have arisen and which are unfit for human habitation, dangerous, or injurious to the public will exist or be occupied.
- (6) Expedite repair of residential housing accommodations where such problems arise.

(Ord. No. S2011-005, § 1, 4-26-2011)

Sec. 14-96. Definitions.

Unless the context clearly indicates otherwise, the following words and phrases as used in this article shall have the following meanings:

- (a) *Business affiliate.* A person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, the owner of a probationary residential rental dwelling of any property. Solely for purposes of this definition, the terms "owns", "is owned", and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent or more.
- (b) *Dwelling.* A dwelling unit used for residential purposes other than a dwelling unit in a bed and breakfast inn, hotel or motel, guest house, rest home, rooming house, boarding house, lodging house, or tourist home.
- (c) *Dwelling unit.* One or more rooms physically arranged as to create an independent housekeeping establishment with separate facilities for cooking, sleeping and toilet. A dwelling unit can be occupied by only one family. A dwelling unit can also contain a utility apartment or rented rooms in accordance with the Fayetteville City Code.
- (d) *Fifth degree of kinship.* Collateral kin within five degrees of kinship removed from the owner with the degree of kinship to be computed as provided in G.S. 104A-1.
- (e) *Housing code.* The provisions of the Fayetteville City Code, chapter 14
- (f) *Development services department.* The Development Services Department of the City of Fayetteville.
- (g) *Licensed rental agency.* A rental agency holding a current privilege license issued by the State of North Carolina pursuant to G.S. 10541(a)(8) or (9).
- (h) *Notice of violation.* A city issued list of failures to comply with the City Code at the dwelling included in the notice sent to the owner(s) pursuant to G.S. 160A-428 and 160A-429 and chapters 14, 16, 22, and 30 of the Fayetteville City Code.
- (i) *Owner.* Any person who alone, or jointly, or severally with others:
 - (1) Shall have title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
 - (2) Shall have charge, care, or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article, and of rules and regulations adopted pursuant thereto, to the same extent as if the person were the owner; or
 - (3) For violations of the housing code, shall be a mortgagee of record.

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- (j) *Person.* Associations, corporations, limited liability companies, company, firm, partnerships, joint ventures, public or private institutions, corporations, trusts, estates, utilities, cooperatives, commissions, boards, condominiums, interstate bodies and bodies politic and corporate as well as to individuals or other legal entities.
- (k) *Probationary rental occupancy permit.* A permit issued to the owner of a probationary rental residential dwelling pursuant to this article.
- (l) *Probationary rental residential dwelling.* A dwelling unit, other than a utility apartment, including the premises of the dwelling unit which is the site of:
 - (1) A violation of Fayetteville City Code by re-occupancy of a dwelling previously found unsafe;
 - (2) A violation of Fayetteville City Code by re-occupancy before certification of compliance with the housing code by the development services department;
 - (3) Activities resulting in: (a) a third conviction for violation of sections 17-7 through 17-16 of the Fayetteville City Code, noises ordinances, within the 24-month period following notice of the first conviction; or (b) a third civil penalty for violation of sections 17-7 through 17-16, within the 24-month period following notice from the police department of the first notice of violation;
 - (4) A violation of chapter 14 of the Fayetteville City Code by the failure to repair, vacate, or demolish within the time provided for compliance with the Code in the order issued by the development services department pursuant to G.S. 160A-429;
 - (5) A violation of the Fayetteville City Code section 14-31 by housing more inhabitants than permitted in the dwelling;
 - (6) A zoning vehicle violation by the failure to comply in a timely manner with an order issued by development services department due to the unlawful storage of unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automotive vehicles on the premises;
 - (7) A second nuisance abatement pursuant to the Fayetteville City Code within a 24-month period;
 - (8) A second citation for violation of sections 6-226 through 6-230 or sections 6-241 through 6-243 of the Fayetteville City Code within a 24-month period;
 - (9) A fourth notice of violation within a 24-month period, when the prior notices of violations were resolved by corrective action and without issuance of any order or mandate for corrective action, of any of the following chapters or sections: chapter 14, section 16-311, sections 16-354 through 16-356, and sections 22-11 through 22-18 of the Fayetteville City Code and upon implementation of the Fayetteville Unified Development Ordinance, article 30-4, section D, subsections 3(h) and 3(s) of the Fayetteville Unified Development Ordinance; and

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- (10) Activities resulting in a third arrest for a criminal activity on the premises of the dwelling following notice from the police department within the 24-month period following notice from the first arrest for a criminal activity on the premises of the dwelling.

- (m) *Public nuisance violation.* A determination by a code enforcement official that any of the nuisances listed in section 22-16 exist at a property which determination is included in a notice sent to the property owner pursuant to section 22-17

- (n) *Violation.* A determination by a code enforcement official or a judge, after a notice of violation of the City Code and an opportunity for response to the noticed alleged failures, that an order or other mandate should issue to the owner or any other person imposing a sanction or requiring further actions to comply with the City Code, including without any limitation the payment of civil penalties or administrative fees, implementation of corrective measures, or cessation of activities which are not authorized by the City Code, or conviction of a criminal code offense for failure to comply with the Code provisions listed in subsection (l) of this section.

- (o) *Zoning vehicle violation.* A determination that unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automotive vehicles are present on the premises in violation of the zoning code including the provisions at sections 16-354 through 16-356

- (p) *Criminal activity.* Means arrest of a tenant or tenant guest for conduct on the premises of the dwelling under any of the following:
 - (1) G.S. 14-204;
 - (2) G.S. 14-71.1 on the premises;
 - (3) G.S. 18B-300;
 - (4) G.S. 14-409 or G.S. 14-415.1;
 - (5) G.S. 14-292;
 - (6) G.S. 14-288.2; or
 - (7) G.S. 90-95.

(Ord. No. S2011-005, § 1, 4-26-2011)

Sec. 14-97. Permitting of probationary rental residential dwellings.

(a) Unless compliance with this article is deemed pursuant to section 14-99, it shall be unlawful for an owner to rent, to receive rental income from, or to offer for rent, any probationary rental residential dwelling required to be permitted under this part without first obtaining a permit for the dwelling under this part or when the permit issued under this part is revoked. The owner of a probationary rental residential dwelling shall hold a permit under this part for each probationary rental residential dwelling and shall abide by the standards in section 14-98 in order to be eligible to retain the

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permit. Each probationary rental residential dwelling is a separate dwelling for fee purposes and for the requirement to be permitted. When an apartment house consisting of multiple dwelling units is required to have a probationary rental occupancy permit as a result of a violation which applies to the building as a whole, a single permit will be required for the building as a whole which permit will be issued to the owner of the building, however each dwelling unit within the building which separately qualifies as a probationary rental residential dwelling shall be subject to separate permit fees and the requirement to be permitted. The development services department shall assign violations in common areas of an apartment complex to the apartment house nearest to the common area where the violation occurred.

(b) Every application for the probationary rental occupancy permit prescribed herein, or a permit amendment to add another probationary rental residential dwelling to the permit, shall be upon a form approved by the director of the development services department or his designee and shall be filed with the development services department. Every application shall be made under oath and shall contain the information required to show the owner is eligible for a permit under this article and sufficient information to enable the development services department to determine that the standards of section 14-98 are being, or will be, met at any probationary rental residential dwelling to be permitted. Within 30 days of receipt of a complete application and a nonrefundable application fee of \$200.00, the development services department shall review each application and determine whether the application should be approved. The development services department shall deny any application which does not satisfy the minimum requirements of this article and any application submitted by an owner during a period of permit revocation.

(c) The permit fee shall be \$300.00 for the first year of the permit. The annual fee for subsequent years shall be \$500.00. Such fee shall be due and payable when the permit issues with annual fees for subsequent years due and payable annually.

(d) Any person required to have a probationary rental occupancy permit shall be permitted for two years. If a violation of the permit occurs, the permit requirement is extended for the probationary rental residential dwelling covered by the permit for two years following the date of the violation. To be released from the requirement for a probationary rental occupancy permit, the owner must have had no violation of any of the Code provisions listed in subsection 14-96(1) and the standards in section 14-98 for the two-year period immediately before the permit period ends and the dwelling must be approved as compliant with the Code in a final inspection. Final inspections will be conducted only upon the request of the owner. When the owner fails to request an inspection within 90 days after the date the permit requirement was due to expire, the development services department, after written notice to the owner and tenant, shall inspect the permitted dwelling for compliance with the Code provisions listed in subsection 14-96(l) and the standards in section 14-98

(e) Any person taking title to a permitted probationary rental residential dwelling shall be the holder of the probationary rental occupancy permit. Any person taking title to a probationary rental residential dwelling not previously holding a permit shall apply for a probationary rental occupancy permit. The new owner of the dwelling unit, who is not a prior owner or related by marriage or within the fifth degree of kinship to the seller, may request that the director of the development services department or his designee remove the requirement that the dwelling have a probationary rental occupancy permit. For the request to be eligible for consideration, the new owner must:

- (1) Have paid all outstanding fees and civil penalties for the dwelling;
- (2) Have no violations or pending violations of this article issued to the new owner;

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- (3) Obtain from the development services department a determination that the dwelling complies with the standards in section 14-98; and
- (4) Submit an affidavit which shows proof of title transfer, that the new owner is not a prior owner, not related by marriage or within the fifth degree of kinship to the seller, is not a business affiliate of the prior owner, and that the lease for the dwelling includes a provision making violations of the City Code by the tenant grounds for eviction.

(f) A temporary permit shall be issued by the development services department if the final decision on a complete application is not made at the end of the 30-day review period. The temporary permit will expire 30 days following an inspection which finds the dwelling to be ineligible to hold a permit under this article; upon issuance of the probationary rental occupancy permit for the dwelling; or upon denial of the application for a probationary rental occupancy permit. The development services department shall not charge a fee for a temporary permit.

(g) An application shall be accompanied by a notarized statement from a competent person agreeing to an appointment with a process service agent for receipt of a notice of violation or order from the city for all violations at the dwelling unless each notice of violation or order previously sent from the city to the owner of the dwelling was delivered and no such notices of violation or orders returned to the city. The refusal of service by the process service agent of a notice of violation or order, or a notice of violation or orders returned undelivered, shall be grounds to revoke the permit. When a notice or order under this article is returned undelivered, the development services department may require the appointment of a process service agent as a condition for continuing to hold the permit. Failure by the owner to maintain a duly appointed process service agent, or to appoint a process service agent within 30 days of being so ordered, shall be grounds to revoke the probationary rental occupancy permit.

(h) The development services department shall maintain a list of all dwellings and dwelling units which are probationary rental residential dwellings and subject to the permit requirements of this article. The development services department shall send a copy of the list of probationary rental residential dwellings, which shows whether each listed dwelling is permitted, to the office of the city clerk, for public inspection, at least once every 30 days. The development services department shall use other reasonable means to make the list publicly available including the information systems for public access to city information.

(i) The city council, by ordinance, may add the dwelling to the probationary rental occupancy permit program upon finding that existing remedial provisions have been inadequate to abate the detrimental impact on the tenants, the adjacent properties, the dwelling and the neighborhood.

(Ord. No. S2011-005, § 1, 4-26-2011)

Sec. 14-98. Standards.

(a) The permittee shall respond to the department making contact, either in person or by telephone within two business days after being contacted at the telephone number provided in the application, to the police department, the fire department, or the development services department. The permittee shall submit to the department making the contact, within three days of the response, written documentation of the response. The permittee may designate a licensed rental agency as the person responsible for responding to calls for assistance from the police department, the fire department, or

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the development services department. The designated agency must have at least one agent located in the city or within 50 miles of the city's planning jurisdiction who is authorized by it to respond to calls. The designation shall be effective only after a notarized statement is submitted to the development services department in which the responsible employee is identified and agrees to accept the duty.

(b) The permittee shall maintain the dwelling so that it does not violate any applicable provision of the zoning code, minimum housing code, or other code provisions listed in the definition of probationary rental residential dwelling at section 14-96

(c) The permittee shall maintain a current list of occupants. Upon request, by city inspectors, police, and fire and emergency response personnel investigating violations or potential violations of this article, the permittee shall present the list of occupants to the investigating personnel.

(d) The permittee shall obtain a section 7-33 certificate of housing code compliance before a vacant probationary rental residential dwelling with an unresolved notice of violation of the housing code is occupied by another tenant.

(e) The permittee shall comply with the requirements of this article.

(f) The public works commission shall not provide water service to a vacant probationary rental residential dwelling which is in violation of the housing code until a certificate of housing code compliance has been issued for the dwelling pursuant to section 7-33, unless the director of the public utilities department determines such service is necessary for public health reasons and will not be used by occupants of the dwelling for residential purposes.

(g) Within 30 days of the designation of a dwelling as probationary residential rental dwelling, the owner shall deliver a written notification, using the form approved by the development services department, to each tenant that the dwelling is a probationary rental residential dwelling. Prior to entering into a rental agreement, whether oral or written, the permittee shall provide written notification, using the form approved by the development services department, to each prospective tenant that the dwelling is a probationary rental residential dwelling. In the notification, the permittee shall explain the possible enforcement actions which can be applied for violations of the probationary rental occupancy permit. The permittee shall provide proof of the delivery to the development services department along with a copy of the notification within ten days of receipt of proof of delivery.

(h) Within 30 days of the designation of a dwelling as probationary residential rental dwelling, the owner of a condominium or a dwelling in a townhouse development, shall deliver a written notification, using the form approved by the development services department, to the association or governing body which controls the property commonly owned and associated with the dwelling, that the dwelling is a probationary rental residential dwelling. In the notification, the permittee shall explain the possible enforcement actions which can be applied for violations of the probationary rental occupancy permit on the common property of the association. The permittee shall provide proof of the delivery to the development services department along with a copy of the notification within ten days of receipt of proof of delivery.

(i) Within 30 days of the designation of an apartment house as probationary residential rental dwelling and when the persons owning the apartment house and the apartment complex are not the same person, the owner of an apartment house shall deliver a written notification, using the form approved by the development services department, to the owner of the apartment project which