

ADDRESS: _____

TENANT NAMES: _____

CITY OF COLUMBIA NUISANCE PARTY ORDINANCE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. A new Article IV of Chapter 16 of the Code of Ordinances of the City of Columbia, Missouri, is hereby enacted to read as follows:

ARTICLE IV. NUISANCES

DIVISION I. NUISANCE PARTIES

Sec. 16-301. Definitions.

The following definitions apply to this division:

"Nuisance party" is a social gathering of ten or more people on residential property that results in any of the following occurring at the site of the gathering, on neighboring property or on an adjacent public street:

- (1) Unlawful sale, furnishing, possession or consumption of alcoholic beverages;
- (2) Violation of any of the provisions of Article III of this chapter (noise);
- (3) Fighting;
- (4) Property damage;
- (5) Littering;
- (6) Outdoor urination or defecation in a place open to public view;
- (7) The standing or parking of vehicles in a manner that obstructs the free flow of traffic;
- (8) Conduct that threatens injury to persons or damage to property;
- (9) Unlawful use or possession of marijuana or any drug or controlled substance;
- (10) Trespassing; or
- (11) Indecent exposure.

"Permit" means to give permission to; or to allow by silent consent, by not prohibiting, or by failing to exercise control.

Sec. 16-302. Nuisance parties prohibited.

It shall be unlawful for any person having the right to possession of any residential premises, whether individually or jointly with others, to cause or permit a social gathering on the premises to become a nuisance party.

Sec. 16-303. Police order to disperse.

Columbia police officers are authorized to order those attending a nuisance party to disperse. It shall be unlawful for any person not domiciled at the site of the nuisance party to fail or refuse to leave the premises immediately after being told to leave by a Columbia police officer.

Sec. 16-304. Nuisance parties -- residential rental properties; certificate of compliance sanctions.

(a) *Intent of section.* This section shall set forth administrative procedures and standards for revoking a residential landlord's certificate of compliance under the Rental Unit Conservation Law (Sec. 22-181, et seq. of this code) when multiple nuisance parties have occurred on residential rental property. The city seeks the cooperation of residential landlords in eliminating nuisance parties held by their tenants. The sanction of revoking a certificate of compliance is intended as a last resort after other attempts to eliminate the problem have failed. This section also establishes the offense of failure to prevent a nuisance party.

(b) *Initial nuisance party.* Within ten (10) days after the initial nuisance party that serves as a basis for a certificate of compliance sanction, the police department shall send the property owner and tenants of the unit hosting the gathering, by certified mail, a notice of nuisance party ordinance violation. The notice shall set forth the date, place and nature of the violation and urge the property owner and tenants to take action to prevent future nuisance parties on the property. If notice cannot be given to a party by certified mail, notice shall be given by first class mail and by posting a copy of the notice in a conspicuous place on the dwelling.

(c) *Subsequent nuisance party; compliance meeting.* If a subsequent nuisance party occurs at the same unit within a twelve (12) month period, the police department shall send the property owner and tenants, by certified mail, another notice of nuisance party violation within ten (10) days of the party. If notice cannot be given to a party by certified mail, notice shall be given by first class mail and by posting a copy of the notice in a conspicuous place on the dwelling. The notice shall set forth the date, place and nature of the violation and shall schedule a nuisance party ordinance compliance meeting. The compliance meeting shall be attended by a police department representative, by the property owner or the owner's agent and by the tenants responsible for the nuisance party. The purpose of the compliance meeting is to reach agreement on corrective action necessary to avoid future nuisance parties on the property. Possible corrective actions include, but are not limited to:

- (1) An agreement by tenants to impose limits on social gatherings such as restrictions on the number of guests, time, music, consumption of alcoholic beverages, etc.
- (2) An agreement by the property owner not to renew the lease or to initiate an eviction action if further nuisance parties are held on the property.

If agreement is reached, a police department representative shall reduce the corrective action to writing and shall provide a copy to the property owner and tenants.

(d) *Owner's failure to prevent a third nuisance party.* It shall be unlawful for the owner of any residential rental property to fail to prevent a nuisance party within twelve (12) months of a nuisance party that triggered a compliance meeting under subsection (c). An owner of residential rental property shall not be prosecuted for a violation of this subsection unless:

- (1) At least one person was charged with a violation of Sec. 16-302 or Sec. 16-303 or an offense that caused a social gathering to become a nuisance party in connection with a nuisance party at the residential unit which triggered a notice under Sec. 16-304 (b); and
- (2) At least one person was charged with a violation of Sec. 16-302 or Sec. 16-303 or an offense that caused a social gathering to become a nuisance party in connection with a nuisance party at the residential unit which triggered a compliance meeting under Sec. 16-304 (c).

(e) *Revocation of certificate of compliance.* A certificate of compliance may be revoked if the notices of nuisance party ordinance violations under subsections (b) and (c) have been sent and

- (1) The property owner refused or failed to attend a compliance meeting;
- (2) The property owner refused or failed to comply with any corrective action agreed to at the compliance meeting;
- (3) Another nuisance party occurred at the same unit within twelve (12) months of the nuisance party that triggered the compliance meeting and the owner of the property failed to appear in response to a summons issued for a violation of subsection (d); or
- (4) Two nuisance parties, each resulting in at least one person being charged with a violation of Sec. 16-302 or Sec. 16-303 or an offense that caused the social gathering to become a nuisance party, occurred at the same unit within eighteen (18) months of the nuisance party that triggered the compliance meeting.

When the police have sufficient evidence to support the revocation of a certificate of compliance, the police chief shall submit the matter to the city manager.

(f) *Initiation of revocation proceedings.* If the city manager determines that a revocation of the certificate of compliance for a building or unit may be justified, the city manager may institute a contested case for that purpose in accordance with Chapter 536, RSMo. The property owner and affected tenants shall be necessary parties to the case. The city manager or the manager's designee shall serve as hearing officer at the hearing held on the proposed revocation of the certificate of compliance.

(g) *Findings required for revocation; other considerations.* The hearing officer may revoke the certificate of compliance for the unit in violation of this division if the officer finds that:

- (1) The initial and subsequent nuisance parties occurred at the unit;
- (2) The proper notices of nuisance party ordinance violations were sent; and
- (3)
 - a. The property owner failed or refused to attend a compliance meeting;
 - b. The property owner failed or refused to comply with any corrective action agreed to at the compliance meeting; or
 - c. Another nuisance party occurred at the same unit within twelve (12) months of the nuisance party that triggered the compliance meeting and the owner of the property failed to appear in response to a summons issued for a violation of subsection (d); or
 - d. Two nuisance parties, each resulting in at least one person being charged with a violation of Sec. 16-302 or Sec. 16-303 or an offense that caused the social gathering to become a nuisance party, occurred at the same unit within eighteen (18) months of the nuisance party that triggered the compliance meeting.

In determining whether the certificate of compliance should be revoked, the hearing officer shall consider:

- (1) The level of cooperation of the parties in attempting to avoid nuisance parties;
- (2) The level of disturbance associated with the nuisance parties;
- (3) The impact of the nuisance parties on neighbors and other victims;
- (4) The degree to which the landlord and tenants have taken reasonable steps to avoid future nuisance parties; and
- (5) The history of nuisance party ordinance violations on owner's property.

(h) *Affirmative defense.* It shall be an affirmative defense to a charge of violating subsection (d) and to a certificate of compliance revocation proceeding that the property owner has evicted or is diligently attempting to evict all tenants and occupants of the property who were responsible for the nuisance parties.

(i) *Time sanctions in effect.* The order revoking a certificate of compliance shall state the period of time that must elapse between the effective date of the revocation and the time when a new certificate may be issued for the property. This period shall not exceed one (1) year.

(j) *Appeal.* The property owner or any affected tenant may appeal an adverse decision of the hearing officer to the Circuit Court of Boone County in accordance with Chapter 536, RSMo.

(k) *Effect of property conveyance.* If title to property subject to an order revoking the certificate of compliance is conveyed in an arms-length transaction, as determined by the city manager or the manager's designee, the new owner may apply for a certificate of compliance after the new owner has met with a representative of the police department and agreed to take corrective action satisfactory to the chief of police to avoid future nuisance parties.

In determining whether the conveyance was an arms-length transaction, the city manager or the manager's designee shall consider:

- (1) Whether the property was conveyed for less than fair market value;
- (2) Whether the property was conveyed to an entity controlled by a person conveying the property; and
- (3) Whether the property was conveyed to a relative of a person conveying the property.

Sec. 16-305. Penalty.

Any person who violates Sec. 16-302, Sec. 16-303, or Sec. 16-304 (d) shall, upon conviction, be punished for a first offense by a fine of not less than five hundred dollars (\$500.00) nor more than two thousand dollars (\$2,000.00) or by imprisonment not exceeding three (3) months or by both such fine and imprisonment. Upon conviction for a second or subsequent offense, a person shall be punished by a fine of not less than one thousand dollars (\$1,000.00), nor more than four thousand dollars (\$4,000.00) or by imprisonment not exceeding three (3) months or by both such fine and imprisonment.

Secs. 16-306 – 16-315. Reserved.

SECTION 2. This ordinance shall be in full force and effect from and after its passage, except for Section 16-304, which shall be in full force and effect from and after August 1, 2007.

I/WE HAVE READ THE ABOVE CITY OF COLUMBIA ORDINANCE AND AGREE TO COMPLY. ANY MONETARY LOSSES INCURRED BY THE PROPERTY OWNER OR MANAGEMENT COMPANY DUE TO NON-COMPLIANCE OF THE ABOVE ORDINANCE BY LESSEE SHALL BE THE RESPONSIBILITY OF THE LESSEE. ANY VIOLATION OF THIS ORDINANCE WILL RESULT IN A MINIMUM FINE OF \$100.00 AND WILL BE POSTED TO THE VIOLATORS ACCOUNT. NOTICE WILL BE GIVEN IN WRITING AND PAYMENT WILL BE DUE WITH IN THIRTY DAYS OF NOTICE TO: Jacobs Realty, Inc. 33 E. Broadway Suite 100, Columbia, MO 65203.

LESSOR
Jacobs Realty, Inc., Agent for Owner _____

LESSEE _____ Date _____

_____ Date _____

Date _____

_____ Date _____