

AMENDMENT TO ORDINANCE CHAPTER 120

AN ORDINANCE DEALING WITH RESIDENTIAL RENTAL PROPERTIES IN THE CITY OF BROWNS VALLEY

Findings.

1. There have been several concerns concerning the existing provisions of the city's residential rental ordinance.
2. The existing Ordinance does not contain certain provisions which surrounding municipalities have adopted as a part of their ordinances regulating residential rental properties.
3. The Browns Valley City Council believes that it is in the best interests of the residents of the City of Browns Valley to amend its Ordinance dealing residential rental properties within the City of Browns Valley to include additional these provisions.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BROWNS VALLEY ORDAINS AS FOLLOWS:

1. That Browns Valley City Ordinance Section 120.04 is hereby amended to read as follows:

“120.04. FEES AND PENALTIES. There shall be a license fee for the initial license, and a renewal fee every year thereafter. The fee shall be based upon the number of units in the case of multiple unit dwellings. There shall also be a license transfer fee and a license reinstatement fee. All fees shall be as established by annual resolution of the City Council. A delinquency fee of 5% of the license fee shall be assessed for each day of operation without a valid license to rental dwelling operators, and shall be assessed against the rental property as outline in Section 99(B) below.”

2. That the last paragraph of Browns Valley City Ordinance Section 120.08 is hereby amended to read as follows:

“Failure to correct violations within the time period stated in the Correction Order shall result in an administrative penalty to be set by Council resolution, as well as other sanctions provided by law or this ordinance, which may include a fine of \$100 per day up for up to 20 days, with any unpaid fine. If the Correction Order relates to actions or omissions of the occupant, and the occupant fails to make the necessary correction, the licensee may be required to remedy the condition by whatever means necessary. No adverse action shall be taken against a licensee for failure to remedy a condition during the pendency of a bona fide eviction proceeding being pursued diligently by the licensee.”

3. That Browns Valley City Ordinance Section 120.10 is hereby amended to add the following provisions:

“(C) The license may be suspended, revoked, or placed on a probation status by the Council after a written notice is sent to the license holder specifying the Ordinance or law violations with which they are charged. This notice shall also specify the date for hearing before the Council, which shall not be less than 10 business days from the date of the notice. At such hearing before the Council, the license holder or their attorneys may submit and present witnesses on their behalf.

- (D) Summary Action.
- (1) When the condition of the residential real property of any license holder or their agent, representative, employee or lessee is detrimental to the public health, safety and general welfare as to constitute a nuisance, fire hazard or other unsafe or dangerous condition and thus give rise to an emergency. The Enforcement Officer shall have the authority to summarily condemn or close off such area of the residential real property.
 - (2) Any person aggrieved by a decision of the Enforcement Officer to cease business or revoke or suspend the license or permit shall be entitled to appeal to the Council immediately, by filing a Notice of Appeal. The City Administrator shall schedule a date for hearing before the Council and notify the aggrieved person of the date.
 - (3) The hearing shall be conducted in the same manner as if the aggrieved person had not received summary action.
 - (4) The decision of the Enforcement Officer shall not be voided by the filing of such appeal. Only after the Council has held its hearing will the decision of the Enforcement Officer be affected.
- (E) Applicable Laws. Licenses shall be subject to all of the ordinances of the City and the State of Minnesota relating to residential real properties and this ordinance shall not be construed or interpreted to supersede or limit any other such applicable ordinance or law.
- (F) Vacation. When the City Council revokes or suspends a rental license, the property shall be vacated as of the effective date as established by the City Council and remain vacated until restoration of the license.
- (G) Restoration. In the case of a suspension, restoration shall occur automatically at the end of the suspension period. In the case of revocation, restoration of the license shall occur only after the premises' owner has applied for a new license and paid a new application fee. The City Council may then issue a new license upon completion of the revocation period.”

4. That Browns Valley City Ordinance Section 120.13 is hereby amended to read as follows, which includes new provisions:

“120.13. APPEAL PROCESS.

- (A) When it is alleged by any person to whom a Correction Order is directed that such order is based upon erroneous interpretation of the applicable rules, standards, statutes or ordinance or mistake in fact, such person may appeal the Correction Order to the Rental Appeals Board.
- (B) Such appeal must be in writing, must specify the grounds for the appeal, must be accompanied by any filing fee set by Council resolution, and must be filed within five (5)

business days after service of the Correction Order. Upon receipt of the written appeal, the City shall set a date for a hearing and give the appellant at least five (5) days prior written notice of the date, time and place of the hearing. By mutual agreement between the appellant and the City Administrator, the five (5) day notice may be waived.

- (C) The appellant shall have the right to appear and be represented by counsel. The Rental Appeals Board shall hear and consider the matter within thirty-days (30) of the filing of an appeal. The filing of an appeal shall stay all proceedings in furtherance of the action appealed from unless the Enforcement Officer certifies that such a stay would cause imminent peril to life, health, or property.
- (D) The Rental Appeals Board shall issue its decision to the appellant in writing within thirty-days (30) after the hearing affirming, modifying, or reversing the Correction Order upon such terms as the Council deems necessary to accomplish the purposes of this ordinance. A copy of the decision shall be mailed to the appellant.
- (E) Restrictions on Ownership Transfer. It shall be unlawful for the owner of any residential real property upon whom a pending Correction Order has been issued to sell, transfer, mortgage, lease or otherwise dispose of the premises to another person until the provisions of the tag or Correction Order have been complied with, unless the owners shall furnish to the grantee, lessee, or mortgagee a true copy of any notice of violation or compliance order and shall obtain and possess a receipt of acknowledgment. Anyone securing an interest in the residential real property who has received notice of the existence of a violation tag or Correction Order shall be bound by it without further service of notice and shall be liable to all penalties and procedure provided by this Ordinance.
- (F) Disposition. If the City Council determines that an owner is in violation of this Ordinance, or has not complied with a Correction Order within the specified time, after right of appeal has expired, the rental license may be revoked or suspended by the City Council. The Council may stay execution of the suspension or revocation on reasonable conditions established by the Council, including but not limited to, the payment of an administrative penalty not to exceed \$1,000.

5. That the second paragraph of Browns Valley City Ordinance Section 120.16 is hereby amended to read as follows:

“If an owner, occupant, or other person in charge of a residential real property fails or refuses to permit free access and entry to the structure or premises, or any part thereof, for an inspection authorized by this section, the Enforcement Officer may, pursuant to City of Golden Valley v. Wiebesick, 899 N.W.2d 152 (Minn. 2017) petition and obtain an order to inspect and/or a search warrant from a court of competent jurisdiction. Except as specifically authorized to the contrary by the court in exigent circumstances, search warrants under this section shall be executed at reasonable times and after reasonable efforts to give the owner (or other person in charge) and the occupant at least five (5) days written notice of the date and time of the inspection authorized by the warrant. Property owners shall cooperate in the execution of all administrative search warrants and court orders, including providing access and entry to rented premises where directed to do so. An authorized representative of the property owner shall be present on the

premises during inspections; however, failure of a property owner to comply with this requirement shall not deprive the City of the authority to inspect.”

6. That Browns Valley City Ordinance Section 120.24 is hereby enacted to read as follows:

“120.24. OWNER AND OCCUPANT RESPONSIBILITIES.

- (A) Sanitation. No owners or other person shall occupy or let to another person any residential real property unless it and the premises are clean, sanitary, fit for human occupancy, and complies with all applicable legal requirements of City and state law.
- (B) Shared or Public Areas. Every owner of residential real property containing 2 or more dwelling units shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and premises.
- (C) Occupied Areas. Every occupant of residential real property shall maintain in a clean and sanitary condition that part or those parts of the residential real property which he or she occupies and controls.
- (D) Pest Extermination. Every owner and occupant of residential real property shall be responsible for the extermination of infestations of vermin, rodents, cockroaches, bedbugs, or any other similar type of animal or insect, on the premises.
- (E) Rodent Harborages and Food. No owner or occupant of residential real property shall accumulate boxes, lumber, scrap metal, or any other similar materials in such a manner which may provide a rodent harborage in or about any residential real property. Stored materials shall be stacked neatly in piles. No owner or occupant of a residential real property shall store, place or allow the accumulation any materials which may serve as food for rodents in a site accessible to rodents.
- (F) Snow and Ice Removal. The owner of residential real property containing multiple units shall be responsible for the removal of snow and ice from parking lots, driveways, steps and walkways on the premises pursuant to the City Code.
- (G) Minimum Exterior Lighting. The owner of residential real property containing multiple units shall be responsible for providing and maintaining effective illumination in all exterior parking lots and walkways.
- (H) Driving and Parking Areas. The owners of residential real property containing multiple units shall be responsible for providing and maintaining in good condition parking areas and driveways for tenants consistent with the City Code.
- (I) Yards. The owner of residential real property containing multiple units shall be responsible for providing and maintaining premises’ yards consistent with the City zoning ordinance and City Code.

7. That Browns Valley City Ordinance Section 120.25 is hereby enacted to read as follows:

“120.25. UNFIT FOR HUMAN HABITATION.

- (A) Building Vacation. Any residential real property which is damaged, decayed, dilapidated, unsanitary, unsafe, vermin or rodent infested, or which lacks provision for basic illumination, ventilation or sanitary facilities to the extent that the defects create a hazard to the health, safety or welfare of the occupants or of the public may be declared unfit for human habitation. Whenever any residential real property has been declared unfit for human habitation, the Enforcement Officer shall order the premises vacated within a reasonable time and shall post a placard on the premises indicating that it is unfit for human habitation, and any operating license previously issued for the residential real property shall be revoked.
- (B) Reoccupation. It shall be unlawful for any residential real property to be used for human habitation until the defective conditions have been corrected and the Enforcement Officer has issued written approval. It shall be unlawful for any person to deface or remove the declaration placard from any residential real property.
- (C) Secure Units and Vacated Dwellings. The owner of any residential real property which has been declared unfit for human habitation, or which is otherwise vacant for a period of 60 days or more, shall make the premises safe and secure so that it is not hazardous to the public’s health, safety and welfare and does not constitute a public nuisance. Any vacant residential real property open at doors or windows, if unguarded, shall be deemed to be a hazard to the public’s health, safety and welfare and a public nuisance within this Ordinance’s meaning.
- (D) Hazardous Building Declaration. If a residential real property has been declared unfit for human habitation and the owner has not remedied the defects within a prescribed reasonable time, the residential real property may be declared a hazardous building and treated consistent with city ordinance and state law.”

8. That Browns Valley City Ordinance Section 120.26 is hereby enacted to read as follows:

“120.24. RESIDENTIAL REAL PROPERTY LICENSES: CONDUCT ON LICENSED PREMISES.

- (A) It shall be the responsibility of the rental license holder to take appropriate action, with the assistance of the City, to prevent conduct by tenants or their guests on the licensed premises which is hereby deemed to be disorderly, in violation of any of the following statues or ordinances:
 - (1) M.S.A. §§609.75 through 609.76, which prohibits gambling.
 - (2) M.S.A. §§609.321 through 609.324, which prohibits prostitution and acts relating thereto.
 - (3) M.S.A. §§152.01 through 152.025, and 152.072, Subdivisions 1 and 2, which prohibit the unlawful sale or possession of controlled substances.

- (4) M.S.A. §340A.401, which prohibits the unlawful sale of alcoholic beverages.
 - (5) Section 92.18(G) and (V) of this Code, which prohibits noise and noisy assemblies.
 - (6) M.S.A. §§97B.021, 97B.045, 609.66 through 609.67 and 624.712 through 624.716, which prohibit the unlawful possession, transportation, sale, or use of a weapon.
 - (7) M.S.A. §609.72, which prohibits disorderly conduct, when the violation disturbs the peace and quiet of the occupants of at least one unit on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation.
 - (8) Failure to comply with dangerous dog requirements in violation of Minnesota Statutes Chapter 347.
 - (9) Failure to comply with Section 91.02(A) of this Code, which prohibits allowing dogs or cats to run at large.
 - (10) Indecent exposure in violation of Minnesota Statutes Section 617.23.
 - (11) Assault, as defined by M.S.A. §§609.221, 609.222, 609.223, 609.2231, and 609.224, excluding domestic assaults.
 - (12) Public nuisance, as defined by M.S.A. §§609.75 - .745.
 - (13) The unlawful sale, furnishing, use, or possession of intoxicating liquor or non intoxicating malt liquor in violation of Minnesota law.
 - (14) Criminal damage to property in violation of M.S.A. §609.595.
 - (15) The unlawful sale or possession of small amounts of marijuana in violation of M.S.A. §152.07 Subd. 4.
 - (16) The unlawful possession or use of drug paraphernalia in violation of M.S.A. § 152.092.
 - (17) Contributing to the delinquency or status as a juvenile.
- (B) A determination that the licensed premises have been used in a disorderly manner as described in this section shall be made upon evidence to support such a determination. It shall not be necessary that criminal charges are brought to support a determination of disorderly use, nor shall the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse license actions under this section.
- (C) Upon determination by the Enforcement Officer utilizing established procedures, that a licensed premises was used in a disorderly manner, as described in this section, the City

- shall notify the licensee by certified mail of the violation and direct the licensee to take appropriate action with the assistance of the City to prevent further violations.
- (D) If another instance of disorderly use of the licensed premises at the same residential real property occurs within 365 days of an incident for which a notice in this section was given, the City shall notify the licensee by certified mail of the violation and shall also require the licensee to submit a written report of the actions taken, and proposed to be taken, by the licensee to prevent further disorderly use of the premises. This written report shall be submitted to the City within five (5) business days of receipt of the notice (excluding holidays) of disorderly use of the premises and shall detail all actions taken by the licensee in response to all notices of disorderly use of the premises within the preceding 365 days.
- (E) If another instance of disorderly use of the licensed premises at the same residential real property occurs within 365 days after the second of any two previous instances of disorderly use for which notices were sent to the licensee pursuant to this section, the residential real property license for the premises may be denied, revoked, suspended, placed on probation, or not renewed. An action to deny, revoke, suspend, place on probation, or not renew a license under this section shall be initiated by the City in the manner described in Section 13, and shall proceed according to the procedures established therein.
- (F) No adverse license action shall be imposed where the instance of disorderly use of the licensed premises occurred during the pendency of eviction proceedings (unlawful detainer) or within 30 days after a notice is given by the licensee to a tenant to vacate the premises, where the disorderly use was related to conduct by that tenant or the tenant's guests. Eviction proceedings shall not be a bar to adverse license action, however, unless the licensee diligently pursues them. A notice to vacate shall not be a bar to adverse license action unless a copy of the notice is submitted to the City within 10 days of receipt of the violation notice. Further, an action to deny, revoke, suspend, place on probation, or not renew a license based upon violations of this section may be postponed or discontinued by the Enforcement Officer at any time if it appears that the licensee has taken appropriate action to prevent further instances of disorderly use.”

9. That Browns Valley City Ordinance Section 120.99 is hereby enacted to read as follows:

“120.99 PENALTIES.

- (A) **Criminal.** A violation of any provision of this Ordinance shall be deemed a misdemeanor offense. Each day upon which such violation occurs shall be deemed to constitute a distinct and separate violation, and each day shall therefore be deemed to constitute a distinct and separate offense.
- (B) **Civil.**
- (1) Any owner, occupant, operator, or agent of residential real property who has received an Order or notice of an alleged violation of this Ordinance and has not corrected the violation during the period of time given on the Order or notice to correct the violation, may be subject to a daily fine in the amount of \$100 for each

day said violation has not been corrected thereafter, to a maximum of 20 days.

- (2) The City Administrator shall, after consultation with the Enforcement Officer, certify to the City Council which persons are subject to a fine and the applicable fine amount at each meeting of the City Council. No later than five (5) business days before the meeting of the City Council, the City Administrator shall cause any such persons to be notified, by sending of certified mail or by personal service, of the fine amount believed to be due for violation. The City Council shall approve and levy such fines proposed by the City Administrator as appear proper upon a determination of good cause, and notice of fines imposed shall be mailed to the persons fined.
- (3) Each and every fine or fee levied pursuant to this Ordinance is hereby made a lien upon the residential real property at issue, and all such charges are, on October 20 of each year, past due and delinquent, may be certified to the County Auditor as taxes or assessments on the real estate. Nothing in this Ordinance or other Ordinances of the City shall be held or construed as in any way stopping or interfering with the right of the City to levy taxes or assessments against any premises affected by any delinquent fine or fee.

PASSED AND ADOPTED this 13th day of April, 2020.

BROWNS VALLEY CITY COUNCIL

Mike Heck, Mayor

ATTEST:

Jodi Hook, City Administrator

Motion:
Seconded:
Published:
Passed: