

ORDINANCE NO. 98

AN ORDINANCE ESTABLISHING RENTAL PROPERTY INSPECTIONS AND REGULATIONS

The City Council of the City of Brownton, McLeod County, Minnesota does ordain as follows:

Purpose and Scope

The purpose of this ordinance is to provide minimum standards to safeguard life or limb, health, and public welfare by regulating and controlling the use and occupancy, maintenance and repair of all buildings and structures within the City used for the purpose of rental housing. The purpose of this ordinance is not to create or otherwise establish or designate any particular class or group of person who will or should be especially protected or benefited by the terms of this ordinance.

The provisions of this ordinance shall apply to all buildings or portions thereof used, or designed or intended to be rented, leased, or let for human habitation. All provisions of this ordinance shall apply to new dwellings and also those already in existence at the time of adoption of this ordinance. Licensed rest homes, convalescent homes, nursing homes, hotels, motels and units rented, let or leased to direct family members of the property owner are exempt from the provisions of this ordinance.

1. Definitions

Apartment Building is a building or portion of a building that contains three or more dwelling units.

Building Code is the Minnesota State Building Code.

Code Official is the official who is charged with the administration and enforcement of this ordinance, or any duly authorized representative.

Condemn shall mean to adjudge unfit for occupancy.

Congregate Residence is any building or portion thereof that contains facilities for living, sleeping and sanitation, as required by this ordinance, and may include facilities for eating and cooking and for occupancy by other than a family member. A congregate residence may be a shelter, convent, monastery, dormitory, and fraternity or sorority house but does not include jails, hospitals, nursing homes, hotels or lodging houses.

Dwelling is a building wholly or partly used or intended to be used for living, sleeping, cooking or eating purposes by human occupants; but not including hotels and motels.

Dwelling Unit is a room or a group of rooms located within a dwelling, forming a single habitable unit with facilities, which are used or intended to be used for living, sleeping, cooking, sanitation, and eating purposes.

Efficiency Dwelling Unit is a dwelling unit containing only one habitable room and meeting the requirements of the scope.

Egress is an arrangement of exit facilities to assure a safe means of exit from a building.

Electrical Code is the Minnesota State Electrical Code.

Excessive Clutter is buildings, occupancies or rooms where the state of order or clutter is such that a health, safety, fire or egress issue exists, shall be deemed substandard as defined by this ordinance.

Extermination is the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination method approved by the Code Official; and to remove all signs of extermination thereafter.

Family Members are parent, stepparent, child, stepchild, foster child, brother, sister, grandparent, or grandchild.

Fire Code is the Minnesota State Fire Code.

Floor Area is the net floor area within the enclosed walls of a room in which the ceiling height is not less than 5 feet, excluding areas used for closets and built-in equipment, such as cabinets, kitchen units, fixtures and appliances.

Habitable Room is a room or enclosed floor space, used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers or communicating corridors, closets and storage spaces.

Health Officer is the legally designated health officer or official of the State, County and/or City.

Hot Water is water supplies to plumbing fixtures at a temperature of not less than 120 degrees F (49 degrees C).

Infestation is the presence of insects, rodents, or other pests within or around the dwelling on the premises.

Kitchen is a room or an area equipped for preparing and cooking food.

Let is to give the use of a dwelling, dwelling unit or rooming unit by an owner or manager to a tenant in return for rent.

Manager is a person or firm who has charge, care or control of a building or part thereof, in which dwelling units or rooming units are let.

Mechanical Code is the Minnesota State Mechanical Code and Fuel Gas Code.

Nuisance The following shall be defined as nuisances:

1. Any public nuisance known as common law or in equity jurisprudence.
2. Any attractive nuisance that may prove detrimental to children whether in a building, on the premises of a building or on an unoccupied lot. This includes any abandoned wells, shafts, basements or excavations; abandoned refrigerators and motor vehicles; any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation that may prove a hazard for inquisitive minors.
3. Whatever is dangerous to human life or is detrimental to health, as determined by the Code Official or health officer.
4. Overcrowding a room with occupants.

5. Insufficient ventilation or illumination.
6. Inadequate or unsanitary sewage or plumbing facilities.
7. Un-cleanliness, as determined by the health officer.
8. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings, as determined by the health officer.

Occupancy is the purpose for which a building or portion thereof is utilized or occupied.

Occupant is any person living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.

Owner is a person, firm or corporation who, alone, jointly or severally with others, owns or has an ownership interest in a dwelling, dwelling unit or rooming unit within the city.

Plumbing Code is the State of Minnesota Plumbing Code.

Premises are the dwelling and its land and all buildings thereon and areas thereof.

Refuse is all putrescible and non-putrescible waste solids including garbage and rubbish. Putrescible are liable to undergo bacterial decomposition when in contact with air and moisture at normal temperatures.

Rent is a stated return or payment for the temporary possession of a dwelling, dwelling unit or rooming unit. The return or payment may be money or service or property.

Rooming House is a building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one or two-family dwelling.

Rooming Unit is a group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking purposes, along with a private or shared sanitation facilities.

Safety is the condition of being reasonably free from danger and hazards, which may cause injury or illness.

Substandard Building is any building where any condition exists that endangers the life, limb, health, safety or welfare of the public or the occupants thereof.

Tenant can be a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Variance is a difference between that which is required or specified and that, which is permitted.

2. Application

The owner of each rental housing unit shall make written application to the City Clerk for a license on a form to be supplied by the City and containing such information as necessary to administer and enforce the provisions of this Section.

The legal owner of record of such rental housing unit, including any contract purchaser thereof shall make written application to the City Clerk for a license as provided in this section prior to any initial occupancy, and prior to license renewal. Every applicant for a license shall assist the City in making an inspection of all portions of the building, including the notification to building occupants of the time of the inspection and requesting their cooperation during the course of the inspection.

A. A rental cycle shall begin on January 1st of even calendar years and expire on

December 31st of the odd calendar years, thus a (2) two year rental cycle. Once a license is issued it shall remain valid until it expires or such time as the code official determines that the dwelling, dwelling unit or rooming unit does not meet the minimum requirements set by this ordinance.

- B. Inspection of all dwellings, dwelling units or rooming units shall be required prior to issuance of a new license. Applications for licenses shall be made in writing on forms provided by the City and accompanied by the fee amounts as established by the City Council. Such application shall be submitted at least sixty (60) days prior to the expiration date of the license.
- C. An application to existing buildings, additions, alterations or repairs, shall be done in compliance with the building, fire, plumbing and mechanical codes. Applicable permits shall apply as required by the Minnesota State Building Code.
- D. Homes that were in existence at the time of original adoption of this chapter, but were not certified rental units at the time, may become certified rental units in the future.
- E. Owners submitting an application for a new rental cycle, shall be issued a rental license for the upcoming rental cycle after all requirements have been met.

3. Fees

At the time of application, the City Clerk shall collect the appropriate license and inspection fees in accordance with the fee schedule.

- A. The City shall have the right, and just cause, to bill or to assess the responsible party for additional costs associated with:
 - 1. Required additional follow up rental inspections, beyond the prescribed number allowed, for a single rental inspection cycle.
 - 2. Failure of the responsible party to appear for a scheduled inspection without prior notification of the inspector.
 - 3. After business hours, weekend or holiday inspections.
 - 4. Penalty fees and fines imposed by the City Council for noncompliance.

4. Inspector

- A. Authority. The Building Official is hereby authorized and directed to enforce, for cause, the enforcement of all of the provisions of this ordinance. For such purposes, the Building Official or his/her designated representative shall have the powers of a Code Official. The Code Official shall have the power to render interpretations of this ordinance
- B. Right of Entry. When it is necessary to make an inspection to enforce the provisions of this ordinance, or when the Code Official has reasonable cause to believe that there exists in a building or upon a premises, a condition that is contrary to or in violation of this ordinance, the Code Official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this ordinance, provided that if such building or premises are occupied, that credentials be presented to the occupant and entry requested. If such building or premises is unoccupied, the Code Official shall first make a

reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the Code Official shall have recourse to the remedies provided by law to enter a building, no owner or occupant or operator of a building or premises may refuse entry and if the owner or occupant or operator of a building fails to allow entry the refusal is deemed a violation under this ordinance.

5. Issuance of License

It shall be unlawful for any person to conduct or operate or cause to be operated either as owner, lessee, and agent or in any other capacity within the City, any rental housing as defined in this section without having first obtained a license to do so as provided in the section.

- A. If upon completion of the inspection of the building and habitable portions thereof, it is found that the minimum requirements of this code have been met, a license shall be issued.
- B. When the code official or a health officer has reasonable cause to believe that a condition exists in regards to a rental dwelling or premises that violates this ordinance including, but not limited to, a written tenant complaint made in good faith, the code official or health officer may enter the rental dwelling to inspect, re-inspect, or otherwise perform the duties imposed by this ordinance. No such entry shall be made, however, until:
 1. The owner, manager or tenant permits entry
 2. The Code Official or health officer secures an administrative warrant from a court with jurisdiction or,
 3. An emergency exists
- C. Upon completion of a complaint inspection and finding of a violation(s), the code official shall prepare a compliance order, listing all violations and the dates when such violations shall be corrected. The property owner shall have the responsibility to correct such alleged violations and have them re-inspected and verified by the code official for compliance with this ordinance within the time period as set forth.
- D. When a license has been denied, expired, suspended, or revoked as provided in this section, no further rental and occupancy of dwelling units then vacant or which may become vacant shall be permitted until a license has been issued.
- E. Units occupied that are not licensed, based on the license being either expired, revoked, suspended or denied shall be vacated by the occupants, within 30 days of the receipt by occupant of notice of the expiration, suspension, revocation, or denial of the license.
- F. The units within a structure which are in compliance with this section's minimum requirements may continue, on condition that units in other portions of the structure in non-compliance, do not create an immediate hazard to the health and safety to the persons in the occupied units. The extended occupancy may continue until final denial of the license and noncompliance is acted upon by the City Council.
- G. The Code Official for the city shall make an inspection of a licensee's rental

- units once every two (2) years, unless there has been a compliant of a violation and the Code Official has found code deficiencies.
- H. The code official may issue a temporary rental housing license not exceeding three (3) months in duration, in order to bring the unit into compliance with this ordinance.
 - I. Inspection for the issuance or renewal of a license may be waived by the City if the owner of a dwelling unit:
 - a. Proves that within the previous twelve (12) months the dwelling unit(s) passed an inspection required by the county, state or federal regulations that is at least as stringent as the inspection required under this section.
 - b. Has, within the twelve (12) months preceding the licensing period deadline, applied for and received a rental dwelling license from the city.

6. Space and Occupancy Requirements

Floor Area

- A. Every dwelling or dwelling unit shall contain at least 150 square feet of floor space for the first occupant and at least 100 additional square feet of floor space for each additional occupant; the total floor space to be calculated on the basis of total habitable room area. Every room unit occupied for sleeping purposes by one person shall contain at least 70 square feet of floor area. Every room occupied for sleeping purposes by two or more persons shall contain at least 40 square feet of floor area for each occupant thereof.
- B. Every rooming unit occupied for sleeping purposes by one person shall contain at least 70 square feet of floor area. Every rooming unit occupied for sleeping purposes by two or more persons shall contain at least 40 square feet of floor area for each occupant thereof.

7. Transfer

A license is not transferable to another person or to another rental dwelling. Every person holding a license must give notice in writing to the city within 72 hours after having legally transferred or otherwise disposed of the legal control of any rental dwelling(s). The person succeeding to the ownership or control of the rental dwelling(s) must obtain a temporary permit or operating license in order to continue operating the rental dwelling(s). An inspection is not required to obtain this temporary permit or license unless the rental dwelling(s) have not been inspected within two (2) years of the transfer of ownership or control.

8. Display

License or temporary certificates issued under this section shall be displayed or a copy distributed to all residents, and produced on demand by any tenant or prospective tenant, and shall be available at reasonable times for inspection by the Code Official, or any law enforcement officer. In addition to posting the license, the owner shall post the inspection report or distribute a copy to all residents, completed for the license renewal or any complaint inspection for a

period of thirty (30) days after receipt of the report.

9. Enforcement

Property owners remain liable for violations of duties imposed by this ordinance even if the owner has, by agreement, imposed on the occupant the duty of furnishing required equipment or of complying with this ordinance.

- A. Building and structures and parts thereof shall be maintained in a safe and sanitary condition. The owner or the owner's designated agent shall be responsible for such maintenance. To determine compliance with this subsection, the building may be re-inspected.
- B. Owners, in addition to being responsible for maintaining buildings in a sound structural condition, shall be responsible for keeping that part of the building or premises which the owner occupies or controls in a clean, sanitary and safe condition, including the shared or public areas in a building containing two or more dwelling units.
- C. Owners shall, when required by this ordinance, health laws or a health officer, furnish and maintain such approved sanitary facilities as required, and shall furnish and maintain approved devices, equipment or facilities for the prevention of insect and rodent infestation. When infestation has taken place, shall be responsible for any insects, rodents or other pests when such extermination is not specifically made the responsibility of the occupant by law or ruling.
- D. Occupants of a dwelling unit, in addition to being responsible for keeping a clean, sanitary and safe condition that part of the dwelling or dwelling unit or premises which they occupy and control, shall properly dispose of their recyclables, rubbish, garbage and other organic waste.
- E. Substandard Buildings. Buildings or portions thereof that are determined to be substandard as defined in this ordinance are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal.
- F. Any person aggrieved by an order, requirement, decision or determination made by the Code Official pursuant to this ordinance may, within 10 days of the decision, appeal to the City Council in accordance with this code.
- G. No rental dwelling premise shall be kept in any state which creates a nuisance.
- H. Whenever it is determined by the Building Official that any property, upon inspection, is found to have alleged violations, a correction notice shall be issued to the owner or designated representative. Such alleged violations must be corrected, re-inspected and verified by the building inspector for compliance with this ordinance within the time period as set forth:
 1. Smoke and carbon monoxide detectors are required in all rental properties and shall be operational at ALL times. Any required detectors not properly operational at the time of the inspection shall be repaired immediately and re-inspection with-in three (3)

- working days.
2. Preparations for the actual work for correcting the alleged violations shall commence within the time period as specified by the Code Official and the time frame for the work to be re-inspected not to exceed thirty (30) days.
 3. Upon completion of the second follow-up inspection:
 - a. If the infraction(s) has been satisfactorily addressed or corrected the City will, at its discretion, levy a re-inspection fee to cover the cost of the second follow up inspection. The fee will be set by the City Council and listed in the fee schedule.
 4. Extensions may be granted by the Code Official. The request shall be made in writing and justifiable cause must be demonstrated for the requested extension. All requests shall be made and delivered to the Code Official prior to the expiration date of the violation(s).

10. Inspections

The Code Official shall inspect a unit after receiving an application and an inspection has been scheduled per the application process.

When during the course of a rental housing inspection or complaint investigation, the Code Official encounters or observes a condition or conditions that are considered dangerous to life, limb, safety, health or the welfare of the occupants, the inspector shall, if the situation warrants, issue a substandard property condition citation. Upon posting of the citation, occupancy of the dwelling, or dwelling unit, shall be prohibited until such time as corrections are made and verified by inspection.

- A. Prior to, or immediately after, the issuance of the substandard property condition citation, the Code Official will be required to notify the City of the posting and the reason for the posting.
 - B. The Code Official shall have the authority to require immediate evacuation of the dwelling and/or dwelling unit in the event of immediate danger to life or safety.
 - C. The removal or defacing of, or tampering with, a substandard property condition citation posting shall be punishable as a criminal offense and subject to the provisions of state statutes regulating misdemeanors as outlined in this ordinance.
 - D. The dwelling and/or dwelling unit shall remain unoccupied until such time as the condition is, or conditions are, corrected and satisfactorily re-inspected.
- If upon completion of an initial rental housing inspection and subsequent re-inspection with appropriate and documented notification of the property owner or agent, a property is found to remain in a state of non-compliance, the property owner or agent shall be given written notification of the remaining infraction(s) and shall be informed of the following:
- A. The exact date and time of the second follow up inspection not to exceed 14

- days from the first re-inspection.
- B. Upon completion of the second follow up inspection:
1. If the infraction(s) has been satisfactorily addressed or corrected:
 - a. The City will, at their discretion, levy a re-inspection fee to cover the cost of the second follow-up inspection and is listed on the fee schedule.
 - b. If the infraction(s) remain(s), the enforcement section shall be imposed, fees are listed on the fee schedule.
 - c. The property owner or agent shall be notified in writing if their license will be suspended or revoked.

11. Suspension and Revocation

A license or temporary certificate once issued or reissued may be suspended upon a finding by the Code Official that one or more of the requirements of this section has been violated. Upon failure of the licensee to comply with a notice of violation, the license may be revoked by the City Council on recommendation of the Code Official.

1. Suspended licenses may be revalidated upon meeting the requirements of this section with payment of 50% of the applicable license and inspection fee. Issuance of a new license after revocation shall be subject to a payment of the full amount of applicable license and inspection fees.
2. The license may be suspended or revoked by the City Council after 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 City Council. No hearing shall be scheduled less than ten (10) days from the date of the notice.
3. At such hearing before the City Council, the license holder or their attorneys may submit and present witnesses on their behalf.
4. After a hearing, the City Council may suspend or revoke the license if the council deems it necessary to protect public health, safety or general welfare.

12. Appeal

- A. Any person may appeal from any notice, order, decision, or determination of the Code Official. Said appeal shall be made in writing and submitted to the City within ten (10) calendar days of any notice, order, decision or determination of the Code Official of a violation of the rental housing ordinance.
1. The City Clerk shall determine whether the appeal has been filed within the ten (10) days and is timely. If it is determined that the appeal has not been filed timely, the City Clerk will file a report to be reviewed by the City Council at the next City Council meeting and a motion may be made to disallow the appeal.
- B. If the appeal has been timely filed or allowed to continue per City Council, the City Clerk shall mail written notices to the owner, occupants acknowledging receipt of the appeal, with the date, time and place of the hearing. The City

Clerk shall deliver a copy of the appeal and a copy of the notice of the hearing to the Code Official.

- C. At the hearing the following process will be followed:
1. The Code Official shall introduce the issue, explain the ordinance requirements and summarize the appellant's appeal.
 2. Appellant shall state his or her case and may provide written submissions and witness testimony to the City Council.
 3. The City Council shall vote to:
 - a. Table the appeal for additional information/review; if the vote is to table for additional information/review, the City Council shall schedule a hearing setting the date, time and place of the next hearing and specify the additional information/evidence requested, specify who will be providing the information and a deadline for the submission. Failure to provide the information by the deadline for submission, the City Council may proceed with the appeal without the information and make a determination based on the evidence previously received;
 - b. Determine that the record supports the determination of the Code Official and uphold the notice, order, decision, or determination of the Code Official; or
 - c. Determine that the record does not support the determination of the Code Official and deny the notice, order, decision or determination of the Code Official.
 - d. The City Council may grant relief to the appealing party as deemed fair and appropriate by the City Council.
- D. The City Council shall make a decision in writing summarizing its determination within 45 days. The decision shall be placed in the City's property file and the City Clerk shall mail a copy of the written summary to the appellant and a copy to the Code Official. If the outcome of the appeal results in work remaining to be completed, a new deadline for compliance shall be established by the Code Official or as directed by the City Council.
- E. If the appellant fails to appear at the hearing, the City Council may choose to deny the appeal or make a determination based on the written appeal and any documentation provided by the appellant.

13. Violations

A violation of any provision of this Rental Property Ordinance is a misdemeanor. Each day the property is in violation is a separate violation.

This ordinance shall be in full force and effect January 1, 2024.

Adopted the 7th day of November, 2023.

Rich Pohlmeier, Mayor

Attest:

Lori Cacka, City Clerk