

CITY OF WAYZATA
HENNEPIN COUNTY, MINNESOTA
ORDINANCE NO. 725

**AN ORDINANCE AMENDING SECTION 815
OF THE WAYZATA CITY CODE (RENTAL DWELLING LICENSES)
TO INCORPORATE MINNESOTA CRIME FREE MULTI-HOUSING PROVISIONS**

THE CITY OF WAYZATA ORDAINS:

Section 1. Amendment. Chapter 815 of the Wayzata City Code (Rental Dwelling Licenses) is hereby amended as follows:

**CHAPTER 815
RENTAL DWELLING LICENSES**

815.01. Purpose. This subchapter may be referred to as the Rental Dwelling License Ordinance. The purpose of this subchapter is to assure that rental housing in the City is decent, safe, and sanitary; that it is so operated and maintained as not to become (i) a nuisance to the surrounding neighborhood, or (ii) an influence that fosters blight and deterioration, or creates a disincentive to reinvestment in the community.

(Ord. 685 [6-4-2008])

815.02. Scope. This subchapter applies to all rental dwellings and the individual units therein that are rented or leased in whole or in part, including apartment buildings, town homes, single-family and two-family housing, guest and caretaker houses, and condominiums with private entrances. It also includes any accessory structures of the rental dwellings, such as garages and storage buildings, and appurtenances such as sidewalks, driveways and retaining walls, which are on the property of the rental dwelling. This subchapter does not apply to Minnesota Department of Health licensed rest homes, convalescent care facilities, nursing homes, hotels or motels licensed by the City.

(Ord. 685 [6-4-2008])

815.03. Definitions. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- a. City.** The City of Wayzata.
- b. City Council.** The City Council of the City of Wayzata.
- c. Compliance Official.** The City Manager or the City Manager's designee.
- d. Dwelling Unit.** A single unit providing complete, independent living facilities for one or more persons, including provisions for living, sleeping, eating, cooking, and sanitation.

- e. **License.** The license required by and issued pursuant to this subchapter.
- f. **License Holder.** An owner holding a license.
- g. **Licensed Premises.** A licensed rental dwelling and all accessory structures of the rental dwellings, such as garages and storage buildings, and appurtenances such as sidewalks, driveways and retaining walls, which are on the property of the rental dwelling.
- h. **Official Order.** A written notice stating violation(s) of City Code and corrective action to be taken.
- i. **Operate.** To charge a rental fee or other form of rent for the use of a unit in a rental dwelling.
- j. **Owner.** A person or legal entity that owns a rental dwelling.
- k. **Property Manager.** A person authorized by the owner to operate and/or manage the licensed premises.
- l. **Rental Dwelling.** Any building containing one or more dwelling units.
- m. **Revoke.** To take back, in whole or in part, a license issued by the City.
- n. **Subchapter.** Sections 815.01-815.27 of the Wayzata City Code.
- o. **Suspend.** To make a license temporarily inoperative, in whole or in part.
- p. **Tenant.** Any person granted temporary use of a dwelling unit or sleeping room pursuant to a lease or other agreement with the owner of the dwelling unit.
- q. **Unit.** A part of a rental dwelling that is leased to a tenant.
- r. **Wayzata Property Maintenance Code.** Sections 803.01-803.02 of Wayzata City Code.

(Ord. 685 [6-4-2008])

815.04. License Required. No rental dwelling may be operated in the City without the owner first obtaining a license as provided for in this chapter.

815.05. Crime Free/Drug Free Training. Every owner or property manager of a rental dwelling must attend Phase I Crime Free Training or similar City-approved program, or provide the City with proof of having received such training, prior to the issuance of a license for that owner's rental dwelling.

815.06. Application Procedures. Every application for a license shall be made in writing on forms provided by the City, accompanied by the fee amounts as established in the current fee schedule of the City. The Compliance Official may cause inspection to be made of the rental dwelling that is the subject of the application to determine whether it is in compliance with the Wayzata Property Maintenance Code, other Wayzata City code sections or the laws of State of Minnesota. Once the Compliance Official is satisfied that all requirements of this code have been met by the applicant, the license shall be issued.

The application must be submitted by an owner or property manager living or located in the one of the seven counties in the metro Twin Cities area (Hennepin, Ramsey, Anoka, Carver, Dakota, Scott and Washington) who shall be legally responsible for compliance with this subchapter.

Applications shall specify the following:

- (1) Mailing, street and legal address of the rental dwelling.
- (2) Name and address of the owner of the rental dwelling.
- (3) Name and address of any property manager_or agent actively managing the rental dwelling.
- (4) Name and address of on-site property manager, if any.
- (5) Name and address of the vendee if the rental dwelling is owned or being sold on a contract for deed.
- (6) Number and kind of units within the rental dwelling, however classified, including dwelling units, rooming units or other.
- (7) Any other information requested by the compliance official to insure compliance under this subchapter.
- (8) Verification that the designated property manager has attended required training as specified in this subchapter and that the Crime Free/Drug Free and Disorderly Conduct language required by this subchapter is contained in the licensed property tenant lease or leases.

(Ord. 685 [6-4-2008])

815.07. Provisional Licenses. A provisional license may be issued for up to six months to give any applicant or existing license holder the opportunity to comply with the training requirements of this subchapter. The provisional license shall be valid until (i) a regular license is issued, or (ii) it is determined that license requirements have not been met and the City will not issue a regular license.

(Ord. 685 [6-4-2008])

815.08. Expiration. Except as otherwise provided, all licenses under this subchapter shall be valid for one calendar year and shall expire on April 1st unless suspended or revoked earlier. All licenses issued for a portion of a calendar year also shall expire on April 1st.

(Ord. 685 [6-4-2008])

815.09. Renewal. All applications for renewal of an existing license shall be made at least sixty (60) days prior to the expiration of the current license. All such applications shall be submitted to the Compliance Official in the manner described in section 815.06 of this subchapter on forms provided by the City and shall be accompanied by the required fee.

(Ord. 685 [6-4-2008])

815.10. Transferability. A license is not transferable to another owner or to another rental dwelling. Every license holder must give notice in writing to the compliance official within 72 hours after having legally transferred or otherwise disposed of the legal control of any rental dwelling. The notice must include the name and address of the owner succeeding to the ownership or control of such rental dwelling. A new license shall be applied for by the new owner.

(Ord. 685 [6-4-2008])

815.11. License Fees. License fees and Administrative Penalties shall be in the amount established in current fee schedule adopted by the City Council. License fees shall not be prorated for any portion of the calendar year, nor shall any license fee be refunded in whole or in part. The license fee may be doubled whenever a renewal application is received after it is due.

(Ord. 685 [6-4-2008])

815.12. Posting. The license shall be conspicuously posted or otherwise available to the tenant, prospective tenant, or Compliance Official upon request.

(Ord. 685 [6-4-2008])

815.13. Maintenance Standards. Every rental dwelling shall conform to the standards of the Wayzata Property Maintenance Code, in addition to any other building or zoning requirements of City code, special permits issued by the City, or the laws of the State of Minnesota.

(Ord. 685 [6-4-2008])

815.14. Inspection. The compliance official may set up a schedule of periodic inspections of rental dwellings and units to insure compliance with this subchapter. The compliance official shall provide reasonable notice to the owner or the owner's agent as to the date and time of the inspection. Inspections shall include all common areas, utility and mechanical rooms, garages, exterior of structures and exterior property areas.

Inspection of dwelling units shall take place if the number of complaints or violations warrants such inspection or when requested by a tenant or property owner. Each occupant of a dwelling unit shall give the owner or the owner's agent access to any part of such dwelling unit at reasonable times for the purpose of effecting inspection, maintenance, repairs or alterations as are necessary to comply with the provisions of this subchapter. If any owner, owner's agent or tenant of a dwelling unit fails or refuses to permit entry to the dwelling unit under its control for an inspection pursuant to this subchapter, the compliance official may seek a court order authorizing such inspection. Should the owner or owner's agent fail to keep a scheduled inspection without reasonable cause or refuse to permit entry to the dwelling unit, a reinspection fee will be charged.

There shall be no fee charged for an initial inspection to determine the existence of a Wayzata Property Maintenance Code violation, nor any fee for the first reinspection to determine compliance with an order to correct such violation. A reinspection fee shall be charged for each subsequent reinspection occurring after the due date for compliance with an order. The compliance official may waive the reinspection fee in case of an error or other reasonable cause, including extension of time granted for compliance.

(Ord. 685 [6-4-2008])

815.15. Maintenance Violations.

- a.** A license issued under this subchapter may be suspended or revoked by the City Council if the license holder or its agents, employees, representatives or tenants directly or indirectly operate or maintain the licensed rental dwellings contrary to the provisions of section 815.13.
- b.** Upon determining violation(s) of section 815.12, the compliance official shall issue an official order to the license holder. If the license holder fails to comply with the terms of the official order, a written notice shall be sent to the license holder specifying the date for a hearing before the City Council. That date shall not be less than ten days from the date of the written notice.
- c.** At such hearing before the City Council, the license holder or its representative may submit and present evidence on its behalf.
- d.** After the hearing, the City Council may suspend or revoke the license if it finds a violation of section 815.12 has occurred.

(Ord. 685 [6-4-2008])

815.16. Summary Action.

- a.** When the condition of the rental dwelling is so detrimental to the public health, safety and general welfare as to constitute an immediate nuisance, fire hazard or other unsafe or dangerous condition, the compliance official shall have the authority to summarily condemn or close off such area of the rental dwelling.
- b.** Any person aggrieved by the action of the compliance official under this section may appeal to the City Council immediately, by filing a notice of appeal. The City manager shall schedule a date for a hearing before the City Council and notify the aggrieved person of the date.
- c.** The hearing shall be conducted in the same manner as a suspension or revocation hearing under section 815.15.
- d.** The summary action taken by the City under this section shall not be changed while the hearing is pending.

(Ord. 685 [6-4-2008])

815.17. Criminal Background Check. A license holder shall conduct criminal background checks on all prospective tenants. The criminal background check must include the following:

- a.** A statewide (Minnesota) criminal history check of all prospective tenants covering at least the last three years; the check must be done utilizing the most recent update of the state criminal history files;
- b.** A statewide criminal history check from the prospective tenant's previous state of residence, if available, if the tenant is moving directly from the state other than Minnesota;
- c.** A criminal history check of any prospective tenant in the tenant's previous states of residence, if available, covering the last three years if they have not resided in Minnesota for three years or longer; and

- d. A criminal history check of all prospective tenants covering the seven counties in the metro Twin Cities area (Hennepin, Ramsey, Anoka, Carver, Dakota, Scott and Washington) covering at least the last three years, that includes any misdemeanor, gross misdemeanor, and felony convictions.

815.18 Crime Free/Drug Free and Disorderly Conduct Lease Requirements.

All tenant leases entered into or renewed after April 1, 2012, shall contain the following “Crime Free/Drug Free and Disorderly Conduct” language or language that is the contractual and legal equivalent:

Crime Free/Drug Free.

- a. Resident, any members of the resident's household or a guest or other person under the resident's control shall not engage in illegal activity, including drug-related illegal activity, on or near the said premises. "Drug-related illegal activity" means the illegal manufacture, sale, distribution, purchase, use or possession with intent to manufacture, sell, distribute, or use of a controlled substance (as defined in Section 102 or the Controlled Substance Act [21 U.S.C. 802]) or possession of drug paraphernalia.
- b. Resident, any member of the resident's household or a guest or other person under the resident's control shall not engage in any act intended to facilitate illegal activity, including drug-related illegal activity, on or near the said premises.
- c. Resident or members of the household will not permit the dwelling to be used for, or to facilitate illegal activity, including drug-related illegal activity, regardless of whether the individual engaging in such activity is a member of the household.
- d. Resident or members of the household will not engage in the manufacture, sale, or distribution of illegal drugs at any locations, whether on or near the dwelling unit premises or otherwise.
- e. VIOLATION OF THE ABOVE PROVISIONS SHALL BE A MATERIAL VIOLATION OF THE LEASE AND GOOD CAUSE FOR TERMINATION OF TENANCY. *A single violation of any of the provisions of this agreement shall be deemed a serious violation and material non-compliance with the lease.*

Disorderly Conduct.

- a. Resident, members of the resident’s household, guests, or other persons under the resident’s control shall not engage in the following Disorderly Conduct activities: violations of state law relating to alcoholic beverages, trespassing or disorderly conduct; violations of the Wayzata City code; violations listed in Section 815.16 of the Rental Dwelling License Ordinance.
- b. THREE DISORDERLY CONDUCT VIOLATIONS INVOLVING THE SAME TENANCY WITHIN A CONTINUOUS TWELVE MONTH PERIOD SHALL BE SUBSTANTIAL AND MATERIAL VIOLATION TO THE LEASE AND GOOD CAUSE FOR TERMINATION OF THE TENANCY.

Non-exclusive Remedies.

The Crime Free/Drug Free and Disorderly Conduct provisions are in addition to all other terms of the lease and do not limit or replace any other provisions.

815.19. Disorderly Conduct Prohibited. Disorderly conduct is prohibited on all licensed premises. It shall be the responsibility of the license holder to take appropriate action to prevent disorderly conduct by rental dwelling tenants and their guests on the licensed premises. For the purposes of this subchapter, a violation of any of the following statutes or ordinances shall be deemed disorderly conduct:

- (1) Minn. Stat. §609.75 through Minn. Stat. §609.76, which prohibit gambling;
- (2) Minn. Stat. §609.321 through Minn. Stat. §609.324, which prohibit prostitution and acts relating thereto;
- (3) Minn. Stat. §152.01 through Minn. Stat. §152.025, and Minn. Stat. §152.027, Subd. 1 and 2, which prohibit the unlawful sale or possession of controlled substances;
- (4) Minn. Stat. §340A.401, which prohibit the unlawful sale of alcoholic beverages;
- (5) Minn. Stat. §340A.503, which prohibit the underage use of alcoholic beverages;
- (6) Chapter 720 Wayzata City Code, which prohibit nuisances;
- (7) Minn. Stat. §97B.021, Minn. Stat. §97B.045, Minn. Stat. §609.66 through Minn. Stat. §609.67 and Minn. Stat. §624.712 through Minn. Stat. §624.716, and Chapter 704 of Wayzata City code, which prohibit the unlawful possession, transportation, sale or use of a weapon;
- (8) Minn. Stat. §609.72, which prohibit 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;
- (9) Minn. Stat. §609.185, Minn. Stat. §609.19, Minn. Stat. §609.195, Minn. Stat. §609.20, and Minn. Stat. §609.205 which prohibit murder and manslaughter;
- (10) Minn. Stat. §609.221, Minn. Stat. §609.222, Minn. Stat. §609.223, and Minn. Stat. §609.2231 which prohibit assault;
- (11) Minn. Stat. §609.342, Minn. Stat. §609.343, Minn. Stat. §609.344, Minn. Stat. §609.345, and Minn. Stat. §609.3451 which prohibit criminal sexual conduct;
- (12) Minn. Stat. §609.52 which prohibit theft;
- (13) Minn. Stat. §609.561, Minn. Stat. §609.562, Minn. Stat. §609.563, Minn. Stat. §609.5631, and Minn. Stat. §609.5632 which prohibit arson;
- (14) Minn. Stat. §609.582 which prohibit burglary;
- (15) Minn. Stat. §609.595 which prohibit damage to property; and
- (16) Chapter 708 of Wayzata City code, which prohibits offences against public peace and safety.

(Ord. 685 [6-4-2008])

815.20. Disorderly Conduct and Crime Free/Drug Free Violations.

- a. Upon determination by the Police Department that a licensed premises or unit within a licensed premise was used in violation of the Crime Free/Drug Free provisions of this subchapter, the Police Department shall cause notice to be made to the owner and

property manager of the violation. The owner or property manager shall notify the tenant or tenants within ten days of the notice of violation of the Crime Free/Drug Free lease language and proceed with termination of the tenancy of all tenants occupying the unit. The owner shall not enter into a new lease for a unit located in the licensed property with an evicted tenant for a period of one year after the eviction.

b. Upon determination by the Police Department that a licensed premises or unit within a licensed premises was used for disorderly conduct activities as set forth in Section 815.19, the Police Department shall cause notice to be made to the owner and property manager of the violation and direct the owner and property manager to take steps to prevent further disorderly conduct violations.

c. If a second disorderly conduct violation as determined by the Police Department occurs within a continuous twelve month period involving the same tenancy, the Police Department shall cause notice to be made to the owner and property manager of the second violation. The owner or property manager shall respond in writing within ten (10) days of receipt of the notice with a written action plan to prevent further disorderly conduct violations.

d. If a third disorderly conduct violation as determined by the Police Department occurs within a continuous twelve month period involving the same tenancy, the Police Department shall cause notice to be made to the owner and property manager of the third violation. The owner or property manager shall notify the tenant or tenants within ten days of the notice of disorderly conduct violation of the Crime Free/Drug Free lease language within the lease and proceed with termination of the tenancy of all tenants occupying the unit. The owner shall not enter into a new lease for a unit located in the licensed premises with an evicted tenant for a period of one year after the eviction.

e. The provisions of Subsections (a), (b), (c), and (d) herein do not apply if the determination that the licensed premises have been used in violation of the Crime Free/Drug Free provisions of Subsections (a)(1) and (a)(2) herein originates from a call from or at the request of one or more of the tenants occupying the licensed premises for police or emergency assistance, or in the case of domestic abuse, from a call for assistance from any source. The term “domestic abuse” has the meaning given in Minn. Stat. § 518B.01, subd. 2.

f. If the City Manager determines that the owner has proceeded in good faith to secure termination of the tenancy in accordance with this subsection, but was unsuccessful for reasons beyond the owner’s reasonable control, than the owner shall not be subject to the penalties in subsection 815.21.

815.21 **Administrative License Violation Fee.** An owner failing to proceed with an action to terminate the tenancy after Police Department notification in accordance with a Crime Free/Drug Free violation or the third Disorderly Conduct violation shall pay an administrative license violation fee of \$750.00 for each calendar month that the owner fails to proceed. Any outstanding fees must be paid prior to the City renewing a rental license for the licensed premises.

(Ord. 685 [6-4-2008])

815.22. Determining Disorderly Behavior. A determination that a licensed premises or any particular unit has been the location of a third disorderly conduct violation shall be made upon a finding of fact by the City Council to support such a determination. It shall not be necessary that criminal charges be brought in order to support such finding, nor shall the dismissal or acquittal of such a criminal charge operate as a bar to any action under this subchapter.

(Ord. 685 [6-4-2008])

815.23. Multiple Violations. If two or more units in a licensed premises are in violation of the Crime Free/Drug Free and Disorderly Conduct Lease Requirements of this within a 12 month period, fines specified in section 815.21 may be doubled.

(Ord. 685 [6-4-2008])

815.24. Penalties. A person who violates the provisions of this subchapter may be charged with a misdemeanor, and upon conviction is subject to a fine and imprisonment as prescribed by state law. Each day of each violation constitutes a separate offense. The compliance official may affix to the rental dwelling appropriate signs or notices prohibiting occupancy and may act to cause the rental dwelling to be vacated or remain vacant until all violations under this subchapter are remedied.

(Ord. 685 [6-4-2008])

815.25. No Retaliation.

- a.** A license holder may not: (1) bar or limit a tenant's right under state law to call for police or emergency assistance in response to domestic abuse or any other conduct; or (2) impose a penalty on a tenant for calling for police or emergency assistance in response to domestic abuse or any other conduct.
- b.** A tenant may not waive and a license holder may not require the tenant to waive the tenant's right under state law to call for police or emergency assistance.

(Ord. 685 [6-4-2008])

815.26. No Warranty by City. By enacting and undertaking to enforce this subchapter, the City, City Council, its agents, and employees do not warrant or guaranty the safety, fitness or suitability of any rental dwelling in the City. Owners and occupants of rental dwellings should take whatever steps they deem appropriate to protect their interests, health, safety and welfare.

(Ord. 685 [6-4-2008])

815.27. Applicable Laws. Licenses shall be subject to all of the ordinances of the City and the laws of the State of Minnesota relating to rental dwellings; this subchapter shall not be construed or interpreted to supersede or limit any other such applicable law.

(Ord. 685 [6-4-2008])

Section 2. Effective Date

2.1 This Ordinance will become effective upon passage and publication.

Adopted by the City Council this ____ day of _____, 2012.

Ken Willcox
Mayor

ATTEST:

Allan Orsen
City Manager

First Reading:
Second Reading:
Publication:

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