

ORDINANCE NO. 892
STATE OF MINNESOTA
COUNTY OF RAMSEY
CITY OF NEW BRIGHTON

**AN ORDINANCE AMENDING CHAPTER 13 OF THE NEW BRIGHTON CITY CODE
TO UPDATE RENTAL LICENSING REQUIREMENTS FOR RESIDENTIAL
HOUSING UNITS THROUGHOUT THE CITY**

THE CITY OF NEW BRIGHTON ORDAINS:

SECTION 1. Chapter 13 of the Code of Ordinances of the City of New Brighton, Minnesota, is hereby amended as follows:

Article 1, Sections 13-1 through 13-2 are restated and incorporated herein unchanged.

Sec. 13-3. Definitions.

Terms not defined in this Section shall be as defined in the Building Code or Zoning Code. Further, terms not defined in this Section nor in the Building Code or Zoning Code shall have the ordinary and accepted meanings as the context shall require.

The definitions in this Section shall apply when these words and phrases are used in this Chapter.

(1) **Approved.** As applied to a material, device, or method of construction as approved by the Enforcement Officer under the provisions of this Chapter or approved by another authority designated by law to give approval in the matter in question.

(2) **Basement.** The portion of a building between floor and ceiling which is partly below and partly above grade but so located that the vertical distance from grade to floor below is less than the vertical distance from grade to ceiling.

(3) **Building Code.** The Building Code of the City including any future amendments, the Electrical Code, Plumbing Code, Heating Code, Fire Code, and Zoning Code.

(4) **Cellar.** The portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance from grade to floor below is equal to or greater than the vertical distance from grade to ceiling.

(5) **City Manager.** The City of New Brighton City Manager or his or her designee.

~~(5)~~ **(6) Dwelling.** ~~Any building or portion thereof which is designed or used primarily for residential purposes.~~
Dwelling means a building or one or more portions of a building occupied or intended to be occupied for residential purposes.

~~(6)~~ **(7) Dwelling Unit.** A residential accommodation which includes a complete and permanently installed kitchen facility which is arranged, designed, used, or intended for use primarily as living quarters for one family and not more than an aggregate of two roomers or boarders.

~~(7)~~ **(8) Enforcement Officer.** Representative of the City responsible for the enforcement of the provisions of this Chapter.

~~(8)~~ **(9) Exterior Property Areas.** Open space on the premises under the control of the owners or operators of the premises.

~~(9)~~ **(10) Extermination.** The control and elimination of insects, rodents, or other pests by:

- A. Eliminating their harborage places.
- B. Removing or making inaccessible materials that may serve as their feed.
- C. Poison spraying, fumigating, trapping, or another recognized and legal pest elimination method.

~~(10)~~ **(11) Family.** A group of one or more persons occupying a premises and living as a single housekeeping unit as distinguished from a group occupying a boardinghouse, lodging house, hotel, or motel.

~~(11)~~ **(12) Grade.** The surface of the ground or surface ground after completion of any change in contour.

~~(12)~~ **(13) Gross Floor Area.** The sum of the horizontal areas of the several floors of all buildings on a lot as measured from the exterior faces of exterior walls or from the center line of walls separating two buildings.

~~(13)~~ **(14) Habitable Room.** A room occupied by one or more persons used or intended for living, cooking, eating, or sleeping purposes. This definition does not include bathrooms, closets, water closet compartments, laundries, serving and storage pantries, corridors, cellars, and spaces that are not used frequently or during extended periods.

~~(14)~~ **(15) Infestation.** The presence of insects, rodents, vermin, or other pests within or contiguous to a multiple dwelling, dwelling unit, rooming house, rooming unit, or premises.

(16) Let or rent. To permit possession or occupancy of a dwelling or portion of a dwelling by a person who is not the legal owner of record thereof, pursuant to the terms of a written or unwritten lease.

(17) Licensee. An owner that operates a rental dwelling and is required to be licensed under this chapter.

~~(18)~~ **Manager.** Any person who has charge, care, or control of a rental dwelling. A designated manager of a rental unit shall maintain their permanent residence and office space within the Twin Cities metropolitan service area to ensure adequate response time to issues as they arise.

~~(15)~~ ~~(19)~~ **Multiple Dwelling.** A building or portion thereof containing three or more dwelling units.

~~(16)~~ ~~(20)~~ **Occupant.** ~~Any person over one year of age living and sleeping in a dwelling unit or having actual possession of the dwelling or rooming unit.~~ occupying, living, or sleeping or having possession of a space within any dwelling.

~~(17)~~ ~~(21)~~ **Openable Area.** That part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

~~(22)~~ **Operate.** To charge or receive a rental charge, fee or other form of monetary or non-monetary compensation for the use of a rental dwelling.

~~(18)~~ ~~(23)~~ **Operator.** Any person who has charge, care, or control of a multiple residence or rooming house in which dwelling units or rooming units are let or offered for occupancy.

~~(19)~~ **Owner.**

- ~~A. Owner or owners of the freehold of the premises or lessor estate therein;~~
- ~~B. A mortgagor or vendee in possession, assignee of rents, receiver, executor, trustee, lessee; or~~
- ~~C. Other person in control of a building, including their managers and agents.~~

~~(24)~~ **Owner.** A person or person holding title to a property or otherwise having control of the property, as recorded in the official state, county, or city records.

~~(25)~~ **Person.** An individual, corporation, firm, association, company, partnership, organization or any other group acting as a unit.

~~(20)~~ ~~(26)~~ **Plumbing or Plumbing Fixtures.** Water heating facilities, water pipes, gas pipes, garbage disposal units, water closets, waste pipes, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machine, or other similar equipment, catch basins, drains, vents, or other similarly supplied fixtures, together with all connections to water, gas, sewer, or vent lines.

~~(21)~~ ~~(27)~~ **Premises.** A lot, plot, or parcel of land including the building or structures thereon.

~~(28)~~ **Qualifying relative.** The owner's parent, stepparent, child, stepchild, grandparent, grandchild, brother, sister, uncle, aunt, nephew or niece. This relationship may be either by blood, marriage, or persons involved in a significant romantic relationship or who share a child.

~~(29)~~ **Rental dwelling.** Any building or portion of a building which is let or rent to one or more persons who are not the owner or qualifying relative.

~~(22)~~ ~~(30)~~ **Residence Building.** A building in which sleeping accommodations or sleeping accommodations and cooking facilities as a unit are provided.

~~(23)~~ ~~(31)~~ **Rooming House.** A residence building or any part thereof containing one or more rooming units in which space is let by the owner or operator to three or more persons who are not the husband, wife, son, daughter, mother, father, sister, or brother of the owner or operator.

~~(24)~~ ~~(32)~~ **Rooming Unit.** Any room or group of rooms forming a single habitable unit which is used or intended to be used for living and sleeping but not for cooking or eating purposes.

~~(25)~~ ~~(33)~~ **Short Term Rental.** A dwelling unit or portion of a dwelling unit rented for a period of fourteen (14) consecutive days or less.

~~(26)~~ ~~(34)~~ **Supplied.** Installed, furnished, or provided by the owner or operator.

~~(35)~~ **Tenant.** Any person occupying a dwelling unit or having possession of a space within a dwelling unit who provides consideration, in any form, for the right to occupy such space or who has a leasehold right to occupy the dwelling unit.

~~(36)~~ **Twin Cities metropolitan service area.** Means the seven-county area comprised of Ramsey, Hennepin, Anoka, Washington, Dakota, Scott, and Carver Counties.

~~(27)~~ ~~(37)~~ **Workmanlike state of maintenance and repair.** Maintenance and repair shall be made in a reasonably skillful manner.

~~(28)~~ ~~(38)~~ **Yard.** All ground, lawn, court, walk, driveway or other open space constituting part of the same premises as a residence building.

~~(29)~~ ~~(39)~~ **Ventilation.** The process of supplying and removing air by natural or mechanical means to or from any space.

Article 1, Sections 13-4 through 13-29 are restated and incorporated herein unchanged.

Article 2 is restated and incorporated herein unchanged.

Article 3, licenses, is eliminated in its entirety and is replaced with the following:

ARTICLE 3. Licenses

Sec. 13-154. Purpose

It is the purpose of this Article to protect the public health, safety, and welfare of the city by adopting a rental dwelling licensing, inspection, and maintenance program that corrects substandard conditions, maintains standards for existing and newly constructed rental dwellings, protects the safety of residents and the community, and ensures neighborhood stability in the city. The operation of rental properties is a business enterprise that includes certain responsibilities. Rental dwelling owners and managers are responsible to take reasonable steps as necessary to ensure that residents who occupy rental units, as well as those on neighboring properties, may pursue the quiet enjoyment of the normal activities of life in surroundings that are safe, secure, sanitary, free from noise, nuisances and annoyances, and free from unreasonable fears about safety of persons and property.

Sec. 13-155. License Required

- (1) *In General.* No person may operate a rental dwelling in the city without a license from the city.
- (2) *Exemptions.* Rental licensing requirements do not apply to residential dwellings in the following circumstances:
 - (A) The dwelling is occupied by the owner or the owner's qualifying relatives.
 - (B) The dwelling is rented for a period of less than 120 consecutive days and the owner occupies the property during the remainder of the year.
 - (C) The dwelling has been sold on a contract for deed provided the buyer occupies the property and the sale document used to memorialize the sale is a Minnesota uniform conveyancing blank or is recorded with the Ramsey County Recorder's office and a copy is provided to the City upon request.
 - (D) The dwelling qualifies as a short term rental and is therefore governed by the regulations in Chapter 13, Article 7.
 - (E) The dwelling is already licensed and inspected by another government agency for uses including but not limited to a rest home, convalescent care facility, group home, nursing home, hotel, motel, etc.
- (3) *What the Rental License Covers.* A rental license shall be applicable to an individual unit, or to all units under the same ownership within a building on a single premises containing two or more rental dwellings. The City shall have authority to exercise its licensing powers under this Article, including the power to issue, renew, deny, revoke, provisionally amend, and suspend rental licenses, with respect to an entire building or only a portion of a building.

- (4) *Application requirements.* Applications for a rental license shall be submitted on the appropriate official application form identified and provided by the city. At a minimum, applications must include the following to be considered complete:
- (A) The name, address, telephone number, 24-hour cell number (if different), e-mail address, and date of birth of the property owner seeking a rental license. If the owner identified in the application is a legal entity, the applicant shall submit the name, address, e-mail address, and phone number for all partners, shareholders, or interest holders.
 - (B) The following specific information regarding the rental:
 - 1. The legal address of the rental dwelling(s)
 - 2. The number of units and types of units (condominium, apartment, townhome, etc.) owned by the applicant on the premises for which a rental license is sought.
 - 3. The total area provided on the premises for off-street parking specific to the unit(s) being licensed.
 - 4. If applicable, the number of toilet and bath facilities shared by the occupants of two or more units.
 - (C) If the identified owner resides at a location outside of the Twin Cities metropolitan service area or will not be acting as the 24-hour manager of the property, the application must also include at least one of the following:
 - 1. The name, address, telephone number, 24-hour cell number (if different), e-mail address, and date of birth of a designated local manager who must reside in the Twin Cities metropolitan service area.
 - 2. If the owner uses a property management company, the name and contact information of the person at the property management company responsible for managing the rental dwelling(s) for which a rental license is sought.
 - (D) *Fees.* The required licensing fee(s) as established by the city's fee schedule. All fees and fines shall be charged to and payable by the owner.
- (5) *Inspection Required.* Every rental unit for which a rental license is sought or for which a rental license has been previously issued is at all times subject to inspection by authorized City officials to determine whether the rental unit is in compliance with City Code and State or Federal standards as may be applicable. The City Manager will adopt an inspection policy for rental dwellings to be followed by his/her staff which takes into account the property's inspection history; history of compliance with federal, state, and local law; and the history of inspections, property maintenance violations, and other code enforcement violations at the property.

- (6) *Access for Inspection.* Officials as designated by the City Manager or their respective representatives are authorized to make inspections deemed reasonably necessary to enforce this chapter. All authorized inspectors have the authority to enter any rental dwelling at all reasonable times. Pursuant to Minn. Stats. § 504B.211, the licensee is responsible for scheduling the inspection and notifying any existing tenant of the inspection. The licensee must provide access to the requesting city official at the date and time of the scheduled inspection. Failure to provide access for any reason may result in a re-inspection fee, in addition to any other sanctions imposed for noncompliance.
- (7) *Access by occupant.* Each occupant of a rental dwelling shall give the licensee, manager, or authorized city official access to any part of the rental dwelling at reasonable times for the purpose of inspection, maintenance, repairs, or alterations as are necessary to comply with the provisions of this Chapter.
- (8) *License Issuance and Posting.*
 - (A) Applications for a rental license which are complete, and for which all rental units have been authorized for occupancy following the required inspection, will be issued a rental license provided that all real estate taxes and municipal utility bills for the premises have been paid. Real estate taxes will not be considered to be due and unpaid for purposes of this Section while a proper and timely appeal of such taxes is pending and is diligently pursued to completion by the landowner.
 - (B) The rental license shall be conspicuously posted (in a frame with a glass covering), in a common area, hallway, or lobby of a multiple dwelling building if such an area exists. For all other rental dwellings or in a multiple dwelling building without common areas, each rental dwelling shall have a copy of the rental license on the premises.
- (9) *Changes in Information.* It is the responsibility of the licensee to inform the City within 30 days of any changes to the information provided on the application and/or license. Depending on the change and the policy set by the City Manager, the licensee may be required to file an application to amend the rental license and the City may require a new property inspection.
- (10) *Changes in Ownership.* A rental license is non-transferable. If there is a change in the ownership of the rental dwelling, the license automatically expires. The new owner must apply for a license under this Article prior to the change in ownership.
- (11) *Applicable Laws.* Rental licenses shall be subject to the applicable provisions of Local, State, and Federal laws related to rental dwellings including but not limited to City Code, the Minnesota Human Rights Act, and the Fair Housing Act.
- (12) *Duration of License.* Licenses issued under this Article shall have a duration period of one year unless otherwise specifically stated on an officially issued rental license or in this Article.
- (13) *Renewal.* A license renewal application must be submitted to the city prior to the expiration date of an existing license. By policy as set by the City Manager, failure to initiate renewal prior to expiration of the existing permit may require a licensee to secure a new license and may trigger a new property inspection.

Sec. 13-156. General Licensee Obligations

(1) *Written Tenant Application and Lease Agreement Required*

- (A) Prospective tenants shall be required to fill out an application and enter into a lease agreement in accordance with the following minimum standards:
1. The licensee must utilize a written application for prospective tenants.
 2. The licensee must use a written lease agreement for all tenants.
 3. The written tenant application(s) and written lease agreement(s) for each tenant must be maintained within the licensee's files.
- (B) All written lease agreements shall include the following language with the correct contact information specific to the rental property:

“City of New Brighton Notice. If you identify issues with the living conditions of this unit during your lease, please contact <manager’s name> at <manager’s phone number> to report the problem. If the reported issues are not satisfactorily resolved within a reasonable time frame, please call City Hall at 651-638 2100.”

- (C) Upon request, the licensee must show proof, satisfactory to the city, that the licensee is maintaining the documents required by Section 13-156(1)(A) above. Failure to use, maintain, or provide these documents to the city upon request is a violation of this Article.

(2) *Notification requirements for public hearings*

The licensee must, as a continuing obligation of the license, provide written notice to tenants or in the alternative, post the written notice in the lobby or common area of the rental dwelling for any public hearing notice received by the licensee that pertains to the rental dwelling, the property on which the rental dwelling is located, or any adjacent rights of way.

(3) *Compliance with Minn. Stats. § 211B.20.*

Licensee must comply with the requirements of Minn. Stats. § 211B.20 and allow access to candidates who have filed for election to public office and seek admittance to the rental dwelling solely for the purpose of campaigning.

(4) *Responsibility for acts of manager*

Licensees are responsible for the acts or omissions of their managers as it pertains to the rental dwelling.

Sec. 13-157. Maintenance standards.

- (1) *In General.* It is the responsibility of the licensee to assure that every rental dwelling is maintained in compliance with all city ordinances and state and federal laws. A violation of any City Code titles or Zoning Code provisions constitutes a violation of this Article and a public nuisance, and may be abated under the provisions of the Nuisances Chapter 17.
- (2) *Snow and ice removal.*
 - (A) Rental dwellings containing three or more dwelling units shall:
 1. Remove snowfalls of one inch or more, or successive snowfalls accumulating to a depth of one inch or more, from all walkways, sidewalks and steps within 12 hours of cessation of the snowfall.
 2. Remove snowfalls of three inches or more, or successive snowfalls accumulating to a depth of three inches or more from parking aisles, parking areas, and drives within 72 hours of cessation of the snowfall.
 - (B) Rental dwellings containing one or two dwelling units shall adhere to all general City Code requirements regarding snow removal from residential properties.
- (3) *Solid waste.* All rental dwellings shall comply with the Garbage and Trash Chapter of City Code (Chapter 11) for trash and recycling collection.
- (4) *Recycling Services Required.* Owners of multiple dwellings licensed under this Article shall provide recycling collection services to all residents of the dwelling. Such collection services must include acceptance of all materials designated as “recyclable” as defined in City Code Section 11-1. Licensees must ensure that all recyclables are delivered to a recycling facility for the purpose of recycling. Licensees must provide information regarding recycling collection services as required by the City sanitarian.
- (5) *Inspections.* Inspections to enforce this Chapter shall be allowed by the licensee in accordance with the provisions of Section 13-155(6).
- (6) *Access by occupant.* Access to rental units for inspections shall be allowed by each occupant of a rental dwelling in accordance with the provisions of Section 13-155(7)

Sec. 13-159. Summary action.

- (1) *Emergency.* The Building Official has authority, under the Minnesota State Building Code, to summarily condemn or close areas of a rental dwelling as the Building Official deems necessary, or may take other actions to protect the residents and general public as deemed necessary, when an emergency state exists. For the purposes of this Section, an emergency state shall include condition of the licensed property; that gives rise to a nuisance, fire hazard, or other unsafe or dangerous condition that poses and imminent threat to the public health, sanitation, safety, or general welfare of the community.

- (2) *Notice.* Upon determination that a Summary Action will be taken, the Building Official will immediately contact the Manager by the telephone number provided in the application and by email. Notice of summary action is also to be mailed to the licensee by certified mail and posted at the dwelling units or areas affected, and must describe the dwelling units or areas affected. No person shall remove the posted notice other than the Building Official or their designated representative. The Notice shall include:
- a. That the premises must be immediately vacated.
 - b. The basis and supporting evidence for the summary action.
 - c. The reason emergency action was necessary.
 - d. A list of any steps that may be taken in order to re-occupy.
 - e. The right, method, and timeline to request a hearing.
- (3) *Posted to prevent occupancy.* Whenever any rental dwelling is found to be in an emergency state, it shall be posted by the Building Official or their designated representative on the door of the rental dwelling to prevent further occupancy. No person, other than the Building Official or their designated representative, shall remove or alter any posting. The Building Official or their designated representative will post the date the rental dwelling shall be vacated and no person shall reside in, occupy, or cause to be occupied that rental dwelling until the Building Official or City Council permits it.
- (4) *Costs.* The costs of any services performed by the city to address a condition which poses an immediate and serious hazard to the public health, safety or welfare, will be billed to the Owner and the amount shall be immediately due and payable. If the Owner fails to pay the bill, the total charges may be specially assessed in accordance with Minnesota Statutes Sections 429.101 and 429.061, whichever may be applicable.
- (5) *Appeal.* Any person aggrieved by a summary action of the Building Official shall be entitled to appeal to the City Council by filing a notice of appeal with the City Manager or their designated representative within five days of the summary action. The City Manager or their designated representative must schedule a date for a hearing before the City Council and notify the aggrieved person of the date. The hearing will be conducted pursuant to the provisions of Section 13-165.

Sec. 13-160. No Retaliation.

No licensee shall evict, threaten to evict, or take any other punitive action against any tenant by reason of good faith calls made by such tenant to law enforcement agencies relating to criminal activity, suspected criminal activity, suspicious occurrences, or public safety concerns. This Section shall not prohibit the eviction of tenants from a dwelling unit for unlawful conduct of a tenant or invitee or violation of any rules, regulations, or lease terms other than a prohibition against contacting law enforcement agencies.

Sec. 13-161. Falsely reporting violations.

No person shall report a violation of this Article knowing or having reason to know that the report is false with the intent to affect the licensing status or inspection schedule of the rental dwelling.

Sec. 13-162. Violations.

In addition to any other sanctions or administrative penalties imposed, any violation of this Article shall constitute a misdemeanor offense, punishable as defined by state law. Each day of violation constitutes a separate offense.

Sec. 13-163. Conduct on a Licensed Premises.

- (1) *Disorderly Premises.* All licensees (single-family homes, duplexes, multiple dwellings, and rooming houses) shall be responsible for ensuring that persons occupying the licensed premises conduct themselves in such a manner as not to cause the premises to be disorderly. For purposes of this Section, a premises is disorderly at which any of the following activities occur:
 - (A) Violation of laws relating to the possession of controlled substances as defined in Minnesota Statutes Section 152.01, Subdivision 4.
 - (B) Violation of Section 18-3 (Disorderly Conduct) of the City Code or Minnesota Statutes, Section 609.72.
 - (C) The unlawful sale of intoxicating liquor or 3.2 percent malt liquor.
 - (D) Violation of laws relating to gambling.
 - (E) Violation of laws relating to prostitution as defined in Minnesota Statutes, Section 609.321, Subdivision 9, or acts relating to prostitution.
 - (F) Unlawful use or possession of a firearm or weapon in violation of Chapter 18, Article 2 of the city Code or Minnesota Statutes, Section 609.66, Subdivision 1a, 609.67 or 624.713.
 - (G) Violation of Section 18-2 of the City Code (Threatening a Public Officer).
 - (H) Violation of Minnesota Statutes, Section 609.705 (Unlawful Assembly).
 - (I) Violation of Minnesota Statutes, Section 609.71 (Riot).
 - (J) Violation of Minnesota Statutes, Section 609.713 (Terrorist Threat).
 - (K) Violation of Minnesota Statutes, Section 609.715 (Presence at Unlawful Assembly).
- (2) *Evidence of Disorderly Manner.* Determination that a licensed premises has been used in a disorderly manner as described in Section 13-163(1) shall be made upon substantial evidence to support the determination. It shall not be necessary that criminal charges be brought in order to support a determination of disorderly use, nor shall the fact or dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this Section.

- (3) *Notice of Violation.* Upon determination by the City that a licensed premises was used in a disorderly manner as outlined in Section 13-163(1), notice of the violation(s) shall be given to the licensee. The notice shall include a directive for the licensee to take steps to prevent further violations.
- (4) *Repeat Violations.* For the purposes of subsections (5) and (6) below, the following will be considered repeat violations:
 - (A) Incidents occurring at the same rental unit;
 - (B) Incidents involving tenants at the same rental unit;
 - (C) Incidents involving guests or invitees at the same rental unit;
 - (D) Incidents involving guests or invitees of the same tenant;
 - (E) Incidents involving the same tenant.
- (5) *Second Violation Notice.* If a repeat violation occurs within three months of the initial notice given under Section 13-163(3), the City shall notify the licensee of the latest violation(s) and shall 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 Public Safety Department within five days of receipt of the second violation notice, and shall detail all actions taken by the licensee in response to all notices of disorderly use of the premises within the preceding three months.
- (6) *Third Violation.* If a repeat violation occurs a third time within three months of the initial notice given under Section 13-163(3), staff shall initiate the procedures of Section 13-165 to give Council authority to suspend or revoke the rental license, or take other actions with respect to a licensee, a tenant, or the licensed premises as may be authorized by the City Code or State Law, subject to the following:
 - (A) *Eviction Proceedings.* 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 thirty days of notice given by the licensee to a tenant to vacate the premises where the disorderly use was related to conduct by that tenant or by other occupants or guests of the tenant's unit. Eviction proceedings shall not be a bar to adverse license action unless such proceedings are diligently pursued by the licensee. Further, an action to deny, revoke, suspend, or not renew a license based upon violations of this Section may be postponed or discontinued at any time if it appears that the licensee has taken appropriate measures which will prevent further instances of disorderly use.
 - (B) *Council Action Not Exclusive.* Enforcement actions provided in this Section shall not be exclusive. The City Council may take any action with respect to a licensee, a tenant, or the licensed premises as is authorized by the City Code or State law.

Sec. 13-164. Provisional License – Licensed Multiple Dwellings (3+ units)

- (1) *Transition Required.* Licensed multiple dwellings that have generated an average of over 0.5 police or fire calls per dwelling unit in a preceding six month period as specified in this Section shall be required to transition to a provisional license.
- (A) *Qualifying police and fire calls.* Police and fire calls that are counted in determining whether a provisional license is required include the following types of calls or events:
1. Violations which indicate the rental constitutes a disorderly premises as outlined in Section 13-163(1);
 2. Calls or events categorized as part one crimes in the Uniform Crime Reporting System, including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft and arson.
 3. Calls or events categorized by the Public Safety Department: miscellaneous juvenile status crimes, liquor offenses or curfew violations, disturbing the peace or harassing communications, property damage, criminal damage to property or trespass, domestic incidents, fire alarms, public disturbance or disorderly conduct, loud party or noise complaints, disorderly juveniles, assault in the fifth degree, or non-domestic related assaults. The Director of Public Safety shall maintain for public inspection a description of the coding system and a list of the codes and crimes included within each of these categories of calls or events.
 4. The Director of Public Safety may use discretion to determine that multiple incidents be counted as a single call in appropriate cases.
- (B) *Exemptions.* Calls will not be counted for purposes of triggering a provisional license where the victim and suspect are “Family or household members” as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subdivision 2(b) and where there is a report of “Domestic Abuse” as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subdivision 2(a).
- (C) *Timeframes.* The periods of time used to determine whether a provisional license is required for buildings with three or more units shall be the six month period between January 1st and June 30th of each calendar year, and the six month period between July 1st and December 31st of each calendar year.
- (D) *Status Reports.* The Public Safety Department will provide, by mail, a monthly status report of police and fire calls described in Section 13-164(1)(A) above.
- (2) *Licensee Action Required.* Upon being notified by the Public Safety Department that transition to a provisional license has been triggered, and subject to the licensee’s right to request a hearing, the licensee shall submit an application for a provisional license within seven (7) calendar days or by a specific deadline established by the Public Safety Department. Failure to apply for a provisional license by the applicable deadline will be grounds for revocation or suspension of the license pursuant to the provisions of Section 13-165.

- (3) *Provisional License Prerequisites.* The following minimum standards must be met by all multiple dwellings applying for a provisional license:
- (A) *Resident Manager.* Provisional licenses shall only be issued for facilities that have a manager or managers certified in accordance with subsection (B) below. Managers must be resident managers or on site managers who are on-site or available 24 hours a day.
 - (B) *Manager Certification.* The applicant must provide and maintain at least one resident manager or on-site manager(s) who are on-site or available 24-hours a day who successfully complete a training program provided by the City or specified by the City. A provisional license may be granted to an applicant who does not currently have a certified resident or on site manager, and a license may continue in effect following the departure of a certified resident manager, provided the resident manager or on site manager shall register for and complete the training program within a timeframe as agreed to with the Department of Public Safety.
- (4) *Provisional License Application.* Applications for a provisional rental license shall be submitted on the appropriate official application form identified and provided by the city. At a minimum, applications must include the following to be considered complete:
- (A) The name, address, telephone number, 24-hour cell number (if different), e-mail address, and date of birth of the property owner seeking the provisional rental license. If the owner identified in the application is a legal entity, the applicant shall submit the name, address, e-mail address, and phone number for all partners, shareholders, or interest holders.
 - (B) The name, address, telephone number, 24-hour cell number (if different), e-mail address, and date of birth of a designated local manager who resides on the property or at a location within the Twin Cities metropolitan service area, who is on-site or is available 24 hours a day, and who is willing and able to go through required manager certification.
 - (C) A mitigation plan indicating how the license will be brought out of provisional status. The mitigation plan shall describe steps proposed by the applicant to reduce the number of qualifying police and fire calls to a level that qualifies for a regular license. The mitigation plan may include but is not limited to actions amending tenant screening procedures, changes in lease terms, addition of security measures, adoption of rules and regulations for tenant conduct, and hiring of security personnel.
 - (D) The required provisional licensing fee as established by the city's fee schedule.
- (5) *Review by the City Council.* The provisional license application and proposed mitigation plan shall be presented to the City Council together with a disposition recommendation by the City Manager following notice and hearing requirements outlined in Section 13-165. After giving the applicant an opportunity to be heard and present evidence, the City Council shall approve, approve with conditions, or deny the provisional license application and mitigation plan. If the City Council denies the provisional license or approves it with conditions, it shall state its reasons for so doing in writing via resolution that day or at a subsequent meeting. Denial of a requested provisional license may immediately allow Council to proceed to revocation or suspension of the rental license subject to the provisions of Section 13-165 without the need for an additional hearing.

- (6) *Approved Provisional License.* Approval of a provisional license shall require the licensee to:
- (A) Comply with the approved mitigation plan; and
 - (B) No later than the tenth day after each calendar month, the licensee shall mail or deliver to the City a written report describing all steps taken in furtherance of the mitigation plan during the preceding month.

Sec. 13-165. License denial, suspension, or revocation.

- (1) *Grounds for denial, suspension or revocation.* The City Manager or their designated representative may deny or not renew a license application, and the City Council may revoke or suspend an issued license for any of the following reasons that shall also constitute a violation of this Article:
- (A) The property does not conform to City Code;
 - (B) The property does not comply with a health, building, maintenance, or other provision of the City Code or state law;
 - (C) The licensee has failed to pay the license fee, inspection fees, or a fine that has been imposed;
 - (D) The licensee has made fraudulent statements, misrepresentations, or false statements in the application or investigation or in any information required by this chapter;
 - (E) The licensee has been convicted of a background check crime as defined in Minn. Stats. § 299C.67, subd. 2, as may be amended from time to time, or any crime related to the licensed business, and failure to show, by competent evidence, rehabilitation and present fitness to perform the duties of the business;
 - (F) Operating or allowing the rental property to be used in such a manner as to constitute a breach of the peace; a menace to the health, safety, and welfare of residents or the public; or a disturbance of the peace, comfort or safety of the residents or the public, upon recommendation of the Public Safety Director;
 - (G) Actions unauthorized or beyond the scope of the license granted;
 - (H) The licensee's rental license to operate another rental dwelling in the City of New Brighton or in another jurisdiction has been denied, revoked, or suspended within the past two years;
 - (I) Failure to schedule or allow inspections of the licensed premises for the purpose of ensuring compliance with rental licensing requirements, City Code requirements, state building codes, or other applicable state or federal law;
 - (J) Failure to continuously comply with all conditions required in the approval of the license;
 - (K) Real estate taxes or city fees for the property are delinquent;

- (L) Violation of any regulation or provision of the City Code applicable to the activity for which the license has been granted, or any regulation or state or federal law that may be applicable;
- (M) Failure to remedy a disorderly premises under the provisions of Section 13-163;
- (N) Excessive calls for service as determined by the Public Safety Director which mandate that provisional license requirements and procedures of Section 13-164 be followed;
- (O) Failure of the licensee to provide a copy of the lease or otherwise cooperate with the City Manager or their designated representative in identifying individuals with a lawful right to occupy a rental dwelling or to be present on the rental property; or
- (P) Other good cause as determined by the City Council after conducting a public hearing.

(2) *Revocation and Suspension Options.*

- (A) The City Council may revoke a license or suspend a license for a set period of time, or until violations of all applicable laws are corrected.
- (B) The City Council may temporarily suspend a license when, in its judgment, the public health, safety, and welfare is endangered by the continuance of the licensed activity.

(3) *Notice.* Before suspending or revoking a rental license, the city must provide written notice informing the licensee of the right to a hearing. The notice must provide at least 10 calendar days' notice of the time and place of the hearing and must state the grounds for the proposed suspension or revocation of the license. The notice may be served upon the licensee personally, by leaving the notice at the licensed premises with the designated manager, or by certified mail to the address listed on the license application. If none of the identified methods of service is anticipated to provide notice, the City may post notice of the hearing in a conspicuous place on the licensed premises.

(4) *Hearing.* A hearing will be conducted before the City Council at a public meeting. A hearing in this context is not an official public hearing subject to the requirements of Minn. Stats. § 394.26. The licensee shall have the right to be represented by counsel, the right to respond to the charged violations, and the right to present evidence through witnesses. The rules of evidence do not apply to the hearing and the City Council may rely on all evidence it determines to be reasonably credible. The determination to suspend or revoke the license shall be made upon a preponderance of the evidence. It is not necessary that criminal charges be brought in order to support a suspension or revocation of a license violation, nor does the dismissal or acquittal of such a criminal charge operate as a bar to suspension or revocation.

- (5) *Final decision.* Following the hearing, the council may revoke or suspend the license for all or any part of the licensed premises, may stay the revocation or suspension upon such terms and conditions as it deems reasonable and necessary to accomplish the purposes of this Article, or grant or continue the license. If the Council suspends or revokes the rental license, the Council may also order that any rent payable during the suspension or revocation period be paid into an escrow account to be maintained by the city. The city may use the escrowed funds to pay for the cost of abating violations at the property. Funds that remain in the escrow account after paying for abatement items shall be returned to the licensee upon the licensee receiving a valid rental license or upon the sale of the rental to an unrelated purchaser and after the rental dwelling has been brought into full compliance with City Code. The decision by the City Council following a hearing is final. Upon a decision to suspend a license, no new application from the current licensee for the same rental dwelling will be accepted for a period of time specified in the council's decision, not exceeding one year. A decision to revoke a license will result in no new application being accepted from the same licensee for a minimum of one year.
- (6) *Appeal of decision to deny or not renew license.* If the City Manager or their designated representative denies or does not renew a license, the licensee shall be notified in writing, specifying the reasons for denying or not renewing the license. If the licensee corrects the conditions leading to the denial or non-renewal within seven days, the City Manager or their designated representative shall issue the license. A licensee whose license has been denied or not renewed may appeal the decision by filing with the City Manager or their designated representative a written notice of appeal within seven days of receiving notice of the City Manager or their designated representative decision. The hearing will be conducted pursuant to the provisions of Section 13-165.
- (7) *Notification to tenants / No new rentals.* Upon denial, suspension, revocation or other enforcement action of a license, the city will notify all affected tenants of the action against the license. If the license is revoked or suspended, the licensee may not let, rent, or allow to be occupied any vacant dwelling units, or dwelling units that become vacant during the revocation or suspension period. Revocation, suspension, or non-renewal of a license shall not excuse the owner from compliance with all terms of this Article for as long as any units in the facility are occupied.
- (8) *Failure to Comply.* If an Owner allows occupancy of a Rental Dwelling during the term of a revocation, suspension, or non-renewal of that rental dwelling, then, notwithstanding the term specified in the City Council's written decision or in Section 13-165(5), the Council may extend the term of such revocation, suspension, or non-renewal.

Sec. 13-166. No warranty by city.

By enacting and undertaking to enforce this Article, neither the city nor its council, agents or employees warrant or guaranty the safety, fitness or suitability of any rental dwelling in the city. Licensees and occupants should take appropriate steps to protect their interests, health, safety and welfare.

Sec. 13-167. Enforcement Authority.

The City Manager shall be responsible for enforcement and administration of this Article. Authority to take any action authorized by this Article may be delegated by the City Manager to an authorized designee.

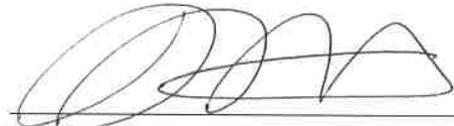
Sec. 13-168. Rules, policies, and procedures.

By resolution the City Council may adopt, from time to time, rules, policies, and procedures for the implementation of this chapter. Violation of any such rule, policy, or procedure by a property owner shall be considered a violation of this article.

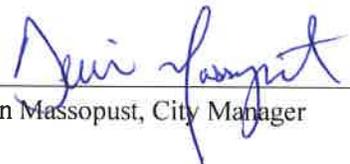
SECTION 3. Effective Date

This ordinance shall take effect upon its adoption by the City Council, its publication in the City's official newspaper.

ADOPTED this 27th day of September 2022, by the New Brighton City Council with a vote of 5 ayes and 0 nays.



Kari Niedfeldt-Thomas, Mayor



Devin Massopust, City Manager

ATTEST:



Terri Spangrud, City Clerk