

**CITY OF FRAZEE
MINNESOTA
ORDINANCE NO. 151**

**AN ORDINANCE OF THE CITY OF FRAZEE, MINNESOTA, AMENDING CODE OF
ORDINANCES TITLE 9, CHAPTER 2**

SECTION 1. PURPOSE:

The City Council of the City of Frazee, Minnesota finds that it needs to update certain regulations governing rental units within the city.

SECTION 2. REPEAL:

NOW BE IT ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF FRAZEE that Title 9, Chapter 2 of the Frazee City Code is hereby repealed in its entirety.

SECTION 3. REPLACEMENT BY NEW SECTIONS 9-2-1 – 9-2-23 OF THIS CHAPTER. NOW BE IT ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF FRAZEE that Title 9, Chapter 2 shall now read as follows:

9-2-1: FINDINGS AND PURPOSE:

- A. The city council finds that the operation of residential rental units is a business enterprise and rental unit owners are responsible to take such reasonable steps as are necessary to ensure that the citizens who occupy such rental units, as well as neighboring properties, may pursue the quiet enjoyment of the normal activities of life in surroundings that are safe, secure and sanitary, free from nuisances and annoyances, and free from unreasonable fears about safety of persons and property.
- B. The city council finds that there is a need for periodic municipal inspection of residential rental units in the city to ensure that such units meet city and state safety, health, fire and zoning codes and to promote the public health, safety and welfare of the community at large and the residents of rental units within the city.
- C. The city council finds that a municipal registration program is appropriate to effectively enforce residential rental unit maintenance standards and correct or prevent law violations, nuisances and other disturbances and disorders involving residential rental units within the city.
- D. The city council finds that an effective means of implementing the foregoing findings is registration of all residential rental units within the city and inspection of such units from time to time as determined appropriate in the exercise of discretion by the administrator and in response to complaints involving such units.

9-2-2: DEFINITIONS:

For purposes of this chapter, the following definitions shall apply:

ADMINISTRATOR: The Frazee city council, or such person as the city council designates, in writing, to carry out the responsibilities of the administrator as provided by this chapter.

DWELLING: Any building or other permanent or temporary structure, including a manufactured or mobile home, which is wholly or partly used, or intended to be used, for living or sleeping by human occupants.

LOCAL PROPERTY MANAGER: A natural person residing within fifty (50) miles of the city who is authorized by the rental unit owner to make decisions for the owner about rental, occupancy and maintenance of the rental unit.

REGISTRATION HOLDER: A person or entity to whom registration for a rental unit is issued under this chapter.

RENT, LEASE, LET OR SUBLET: The leasing of a rental unit to a nonowner for a fixed or nonfixed period of time, and shall include lease to buy, unrecorded contract for deed, installment sales, purchases and other similar arrangements whereby nonpayment of a periodic payment means the occupants may be evicted without the necessity of either a statutory mortgage foreclosure procedure, a statutory termination of contract for deed procedure, or a statutory repossession procedure.

RENTAL UNIT OR RESIDENTIAL RENTAL UNITS: Any house, apartment, condominium, townhouse, manufactured home, mobile home, mobile or manufactured home lot, room, or group of rooms constituting or located within a dwelling and forming a single habitable unit.

RENTAL PROPERTY: Any rental unit and the real property upon which it is located.

SHALL AND MUST; SHOULD AND MAY: "Shall" and "must", as used in this chapter, are each mandatory. "Should" and "may", as used in this chapter, are each permissive or directory.

9-2-3: REGISTRATION REQUIRED:

- A. No person or entity may hereafter occupy, allow to be occupied or rent, lease, let or sublet a rental unit to another person or entity for occupancy unless that rental unit is registered for occupancy pursuant to a valid and current rental unit registration issued by the city council or administrator.
- B. No person or entity may charge, accept, or retain rent for any rental unit unless the rental unit has a valid and current registration.
- C. An unregistered rental unit shall be considered a new rental unit and must comply with all applicable federal, state and local codes and ordinances to be eligible for a registration.
- D. Any person or entity having an ownership interest in any rental unit, upon a second violation of this section, shall be ineligible to hold or have an interest in a rental unit registration for a period of two (2) years.

9-2-4: APPLICATION FOR REGISTRATION:

Any person or entity desiring to rent, let, lease or sublet any rental unit shall apply for registration by using forms furnished by the administrator for that purpose. The forms must provide information required by the administrator, including the following:

- A. Name, address, phone number (and email and fax number, if available) of the property owner.
 - 1. All partnerships, corporations, limited liability companies or other recognized business associations that own a rental unit to be registered under this chapter shall submit, upon the request of the administrator, the name and address of all partners, shareholders or interest holders. If requested by the administrator, information regarding the names and addresses of all partners, shareholders or interest holders must be submitted in a sworn affidavit.
- B. Name, address, phone number (and email and fax number, if available) of a designated local property manager, if applicable.
- C. The street address of the rental property.
- D. The number of sleeping rooms within the rental unit.
- E. The name, address, phone number (and email and fax number, if available) of the person authorized to make, or order made, repairs or services for the property if in violation of city or state codes, if the person is different than the owner or local property manager.
- F. No rental registration shall be issued or renewed unless the owner has paid all property taxes assessed to the rental property and the rental property is not delinquent in any other obligations to the city.

9-2-5: ANNUAL REGISTRATION; RENEWALS:

- A. Registration shall be required annually and be issued prior to the renewal date. The city will annually mail registration renewal forms to rental unit owners or their designated local property managers at least ninety (90) days prior to expiration. Failure of the city to mail a renewal form and failure of an owner or local property manager to receive a renewal form does not excuse or waive the registration required by this chapter. Completed registration renewal forms, containing all required information, must be delivered to the administrator at least sixty (60) days prior to expiration of the existing registration. The city may issue registration renewals prior to the renewal date of each successive year. If by the renewal date a registration has not been renewed, a reinstatement fee for each rental unit will be charged.
- B. A person or entity who is operating a rental unit after the registration has expired is operating an unregistered rental unit.

9-2-6: BACKGROUND INVESTIGATIONS FOR PROSPECTIVE TENANTS

The police department may conduct criminal history/background investigations on prospective tenants upon request by the owner or local property manager of the rental unit. Each request must be on a form approved or provided by the police department.

9-2-7: CRIME-FREE LEASE ADDENDUM

The Minnesota Crime-Free Lease Addendum, or its equivalent, should be used as part of all rental agreements or leases.

9-2-8: FEES:

- A. The fees for rental unit registration, registration renewal, reinstatement and inspection shall be in the amount as established by the city's fee schedule.
- B. No registration shall be issued for a rental unit unless all required fees have been paid.

9-2-9: POSTING REGISTRATION:

Each rental unit registration holder must post the rental unit registration in a conspicuous spot near the front entry to the rental unit in a public corridor, hallway or lobby; must retain a copy of the rental unit registration on file; and must be able to produce said copy upon demand. Failure to post the registration and keep the registration posted is a misdemeanor, but is not grounds for termination of registration.

9-2-10: TRANSFER OF PROPERTY:

Every new owner of a rental unit, whether fee owner or contract purchaser, shall furnish to the administrator the new owner's name, address, phone number (and email and fax number, if available) and the name, address, phone number (and email and fax number, if available) of the new owner's designated local property manager before taking possession of the rental property upon closing the transaction. No new registration fee is to be required of the new owner during the year in which such possession takes place; provided, that the previous owner has paid all registration fees and has complied with all requirements of this chapter and any violations of health, zoning, fire or safety codes of the city. If the new owner contemplates any change in the type of occupancy as originally registered, a new registration application will be required.

9-2-11: LOCATION OF OWNER OR MANAGER:

Each rental unit must have an owner, or local property manager designated by the owner, who resides within fifty (50) miles of the city.

9-2-12: OCCUPANCY REGISTER REQUIRED:

Every registration holder shall keep, or cause to be kept, a current register of occupancy for each rental unit that provides the legal names of all adult occupants and the number of occupants under eighteen (18) years of age. The register shall be available for review by the administrator or their authorized representatives at all reasonable times.

9-2-13: MAINTENANCE STANDARDS:

Every rental unit must be maintained in compliance with the building code, dwelling maintenance standards, nuisance ordinance and noise ordinance of the city, state nuisance statutes, state building codes, state fire code, respectively, as now in force and hereafter amended, revised or replaced, and in compliance with all other standards, ordinances, laws and regulations governing use, occupancy, construction and maintenance of property and conduct of persons on that property. Rental unit registration does not constitute certification of compliance with such codes, standards, ordinances or statutes by the city.

9-2-14: INSPECTIONS; ACTION:

- A. Authority: Personnel directed by the administrator are hereby authorized to make inspections reasonably necessary for the enforcement of this chapter.
- B. Right of Access: All persons authorized herein to inspect shall have the authority to enter, at all reasonable times, any rental property, registered or required to be registered, for the purpose of enforcing this chapter. Such inspections shall be made at such frequencies as the administrator shall deem appropriate and necessary. All registration holders shall, as a condition of registration, consent to such inspections.
- C. Rental Unit Inspections: The city shall provide reasonable advance notice to the owner, or the local property manager, prior to entry into any rental unit for the purpose of inspection. The owner shall be responsible for scheduling the inspection and notifying any existing tenant of the rental unit inspection. The owner of the rental unit or their representative shall have the right to be present at the inspection. All registration holders shall, as a condition of registration, consent to such entries for inspection. If any owner, local property manager or tenant fails or refuses to permit entry to a rental unit under its control for an inspection pursuant to this section, the city may pursue any remedy at law or under the city code, including, but not limited to, securing an administrative search warrant for the rental unit, denying a registration application, revoking or suspending a registration, or denying a renewal registration. Upon completion of a rental unit inspection, the city shall provide a completed copy of the inspection report to the rental unit owner or their designated local property manager.
- D. Notice of Violation: Written notice of a violation of this chapter may be given to the registration holder by first class mail directed to the address of the registration holder as shown by the administrator's registration application file. Said notice may contain a compliance order stating that compliance with this chapter shall be made immediately, and in that case, the notice shall advise the registration holder that the property may be reinspected in not less than fifteen (15) days.
- E. Appeals: A registration holder may appeal to the city council the requirements of any compliance order. Such appeal shall be requested by submitting a written notice of appeal to the administrator within fifteen (15) days of the date of issuance of the compliance order. Enforcement of the compliance order shall be stayed during the appeals process. The appeal will be heard by the city council at its next meeting, occurring at least fifteen (15) days after the filing of the notice of appeal, at which time the registration holder, local property manager for the registration holder, or an attorney representing them, may appear and make a presentation to the city council. After the

hearing, the council may uphold, reverse, or modify the requirements of the compliance order based upon the provisions of this chapter and upon the protection of the public health, sanitation, safety or general welfare of the community at large or the residents of rental units within the city. The city council shall issue written findings and determination within thirty one (31) days of the hearing.

- F. No rental registration shall be issued or renewed by the city unless the rental property complies with all applicable federal, state and local codes, ordinances and regulations.

9-2-15: CONDUCT ON REGISTERED PREMISES:

- A. Disorderly Premises: It is the responsibility of the registration holder to require and ensure that occupants of the registered premises conduct themselves in such a manner as to not cause the premises to be disorderly or to be used, occupied or maintained in violation of law, code, statute or ordinance. For purposes of this section, a rental unit is disorderly and in violation of law, code, statute or ordinance when any of the following activities occurs in, on or at the registered premises:
 - 1. Drug-related illegal activity occurring in or near the rental dwelling unit. Drug-related illegal activity means the illegal possession or constructive possession, manufacture, sale, distribution, purchase, use or possession with intent to manufacture, sell or distribute a controlled substance, as defined in the Controlled Substance Act (21 U.S.C. § 802), or possession of drug paraphernalia per Minn. Stat. § 152.092.
 - 2. Any act of violence or threat of violence including, but not limited to, the discharge of firearms, prostitution, intimidation or any other act that otherwise jeopardizes the health, safety or welfare of the owner, agent, manager, other tenants, tenant's family members, guests or neighboring property owners.
 - 3. Minnesota Statutes, § 609.75 through § 609.76 (prohibiting gambling).
 - 4. Minnesota Statutes, § 609.321 through § 609.324 (prohibiting prostitution and acts relating thereto).
 - 5. Minnesota Statutes, § 152.01 et seq., which prohibits the unlawful sale or possession of controlled substances.
 - 6. Minnesota Statutes, § 340A.401, which prohibits the unlawful sale of alcoholic beverages.
 - 7. Minnesota Statutes, § 340A.503, which prohibits the underage use of alcoholic beverages.
 - 8. Frazee City Code, title 4, chapter 1, which prohibits nuisances.
 - 9. Minnesota Statutes, § 97B.021, Minnesota Statutes, § 97B.045, Minnesota Statutes, § 609.66 through § 609.67 and Minnesota Statutes, § 624.712 through § 624.716 prohibiting the unlawful possession, transportation, sale or use of a weapon.

10. Minnesota Statutes, § 609.72, which prohibits disorderly conduct, when the violation disturbs the peace and quiet of the occupants of at least one unit on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation.
11. Minnesota Statutes, § 609.185 through § 609.205, which prohibit murder and manslaughter.
12. Minnesota Statutes, § 609.221 through § 609.2231, which prohibit assault.
13. Minnesota Statutes, § 609.342 through § 609.3451, which prohibit criminal sexual conduct.
14. Minnesota Statutes, § 609.52, which prohibits theft.
15. Minnesota Statutes, § 609.561 through § 609.5632, which prohibit arson.
16. Minnesota Statutes, § 609.582, which prohibits burglary.
17. Minnesota Statutes, § 609.595, which prohibit damage to property.
18. Laws relating to contributing to the need for protection or services or delinquency of a minor as defined in Minnesota Statutes, Section 260C et seq.
19. Minnesota Statutes, Section 609.33, relating to owning, leasing, operating, managing, maintaining or conducting a disorderly house or inviting or attempting to invite others to visit or remain in a disorderly house.
20. Minnesota Statutes, § 609.50, which prohibits obstructing the legal process.
21. Minnesota Statutes, § 609.713, which prohibits terroristic threats.
22. Minnesota Statutes, § 609.715, which prohibits presence of unlawful assembly.
23. Minnesota Statutes, § 609.71, which prohibits riot.
24. Minnesota Statutes, §§ 609.226, 347.52, 347.542, relating to dangerous dogs.
25. Minnesota Statutes, § 609.78, which prohibits interfering with "911" phone calls.
26. Minnesota Statutes, § 243.166 (Predatory Offender Registration).
27. Minnesota Statutes, § 609.229 (Crime committed for benefit of a gang).
28. Minnesota Statutes, § 609.26, subdivision 1(8) (causing or contributing to a child being a runaway).
29. Minnesota Statutes, § 609.903 (Racketeering).

30. Minnesota Statutes, § 609.53 (Possession of Stolen Property).
 31. Minnesota Statutes, § 609.749 which prohibits a violation of a restraining order or order for protection.
 32. Minnesota Statutes, § 609.255 (False Imprisonment) and Minnesota Statutes, § 609.25 (Kidnapping).
 33. Conduct which constitutes a violation of any other federal, state or local code, ordinance or regulation which is reasonably likely to annoy, harass or threaten the tenants, occupants, guests or visitors of rental units, or residents, occupants, guests or visitors of neighboring properties.
- B. Personnel directed by the administrator shall be responsible for the enforcement and administration of this section.
- C. Violations:
1. Upon determination that a registered premises was involved in a violation of subsection A of this section, the city shall notify the registration holder by first class mail of the violation, direct the registration holder to take steps to prevent further violations, and issue a fine of up to \$200 to the registration holder. The fine shall be paid within fifteen (15) days after notification is issued. If the registration holder fails to pay the fine, the registration for the individual registered premises may be denied, revoked, suspended, or not renewed by the city council, as provided in section 9-2-17. The registration holder may appeal the violation determination, as provided in subsection C4 of this section.
 2. Upon a second violation within twelve (12) months of subsection A of this section involving the registered premises, the city shall notify the registration holder by first class mail of the violation and require the registration holder to submit a written report of the action taken to prevent further violations on the premises, as well as issue a fine of up to \$400 to the registration holder. The written report shall be submitted to the administrator within fifteen (15) days of request of the report and shall detail all actions taken by the registration holder in response to all notices regarding violations to subsection A of this section within the preceding twelve (12) months. The fine shall be paid within fifteen (15) days after notification is issued. If the registration holder fails to comply with the requirements, the registration for the individual registered premises may be denied, revoked, suspended, or not renewed by the city council, as provided in section 9-2-17. The registration holder may appeal the violation determination, as provided in subsection C4 of this section.
 3. If a third or subsequent violation of subsection A of this section occurs at the registered premises within twelve (12) months after any two previous instances for which notices were sent to the registration holder regarding the same registered premises, the registration for the individual registered premises may be denied, revoked, suspended, or not renewed by the city council, as provided in section 9-2-17. The registration holder may appeal the violation determination, as provided in subsection C4 of this section.

4. Any registration holder aggrieved by a violation of this section shall have the right to appeal the determination to the city council. Such appeal shall be requested by submitting a written notice of appeal to the administrator within fifteen (15) days after notification is issued. During the appeals process, the deadline for any requirements shall be stayed. The appeal will be heard by the city council at its next meeting, occurring at least fifteen (15) days after the filing of the notice of appeal, at which time the registration holder, local property manager for the registration holder, or an attorney representing them, may appear and make a presentation to the city council. After the hearing, the council may uphold, reverse, or modify the determination based upon the provisions of this chapter and upon the protection of the public health, sanitation, safety or general welfare of the community at large or the residents of rental units within the city. The city council shall issue written findings and determination within thirty one (31) days of the hearing. If the city council upholds the original determination, the registration holder shall be notified by first class mail of any outstanding requirements and be provided fifteen (15) days from the date of the notification to complete said requirements. If the registration holder fails to comply with the requirements, the registration for the individual registered premises may be denied, revoked, suspended, or not renewed by the city council, as provided in section 9-2-17.
5. No adverse registration action may be imposed where the violation of this section occurred during the pendency of unlawful detainer eviction proceedings brought under Minnesota Statutes, § 504B, within thirty (30) days of notice given by the registration holder to a tenant to vacate the premises at which the violation occurred, or when a court has refused to order a tenant's eviction. Unlawful detainer eviction proceedings or a notice to vacate the premises will not, however, bar adverse registration action unless diligently pursued by the registration holder. Action to deny, revoke, suspend or not renew registration for violation of this section may be postponed or dismissed by the city council at any time if it appears to the council that the registration holder has taken appropriate remedial action.
6. The standard of proof to be used in determinations as to conduct constituting violations under this section is a fair preponderance of evidence in support of such a determination. It is not necessary that criminal charges be brought to support a determination of violation of this section, nor shall the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse registration action.
7. For the purpose of this chapter, a violation under this section includes violations by the rental unit renters or occupants, or by their visitors or guests, in or at the rental property, including anywhere on the property grounds and premises of an apartment building, home or mobile home park at which the rental unit is situated.

9-2-16: TENTANT'S RIGHT TO SEEK POLICE AND EMERGENCY ASSISTANCE:

The registration holder or registration holder's agents, representatives or employees shall not bar or limit a tenant's right to call for police or emergency assistance.

9-2-17: FAILURE TO GRANT REGISTRATION; REVOCATION, SUSPENSION OR FAILURE TO RENEW REGISTRATION:

A. City Rights:

1. The city reserves the right to not register a rental unit unless it complies with the requirements of this chapter.
2. Any registration issued under this chapter is subject to the right, which is hereby expressly reserved by the city, to deny, suspend, revoke or not to renew the same should the registration holder or his agents, employees, representatives or lessees, directly or indirectly, fail to comply with the requirements of this chapter or operate or maintain the rental property contrary to the provisions of this chapter or any other ordinance of the city or any special permit issued by the city, or the laws of the state. Provided, however, registration shall not be denied, suspended, revoked or not renewed if the registration holder complies with a compliance order or orders in a reasonably timely manner as determined by the city council.

B. Notice Requirements: The city council shall notify the applicant that registration has been denied, or the registration holder that registration is being suspended, revoked or not renewed. The suspension, revocation or nonrenewal shall occur thirty five (35) days after the date of the notification order, or at such later date as set out in the notification.

C. Vacation of Affected Rental Units. When a rental unit registration has been denied, suspended, revoked, or not renewed, the city council shall order the affected rental units vacated, giving occupants a reasonable time to arrange new housing and to move their possessions. A notice of the order shall be mailed to each of the occupants and prominently posted at the affected rental units. The notice shall clearly indicate the date upon which occupants must vacate.

D. Appeals:

1. A determination by the city council to deny, suspend, revoke or not renew registration of a rental unit may be appealed to the city council by filing with the administrator a written notice of appeal within fifteen (15) days of the date on which the city council mails such determination to the applicant or registration holder. In that event, the appeal will be heard by the city council at its next meeting occurring at least fifteen (15) days after the filing of the notice of appeal.
2. At any appeal of a determination by the city council under this chapter, the registration holder or applicant, local property manager for the registration holder or applicant, or an attorney representing them, may appear and make a presentation to the city council. After the hearing, the council may uphold, reverse or modify the decision based upon the provisions of this chapter and upon the protection of the public health, sanitation, safety or general welfare of the community at large or the residents of rental units within the city. The city council shall issue written findings and determination within thirty one (31) days of the hearing.

E. Effect of Revocation:

1. Any person or entity who has had an interest in a registration revoked pursuant to this section shall be ineligible from obtaining any new rental unit registrations for a period of three (3) years.

2. Any person or entity who has had an interest in two (2) or more registrations revoked pursuant to this section shall be ineligible to hold or have an interest in a rental unit registration for a period of five (5) years.

9-2-18: SUMMARY ACTION:

As a condition of receiving rental unit registration, each registration holder is presumed to agree and consent that when the conduct of any registration holder or registration holder's agent, representative, employee or lessee, or the condition of the rental unit or the property in or on which it is located, is detrimental to the public health, sanitation, safety and general welfare of the community at large or residents of the rental units so as to constitute a nuisance, fire hazard, or other unsafe or dangerous condition and thus give rise to an emergency, the city council shall have the authority to summarily condemn or close individual rental units or such areas of the rental dwelling as the council deems necessary. Notice of summary condemnation shall be posted at the units or areas affected and shall describe the units or areas affected. No person shall remove the posted notice, other than personnel directed by the administrator. Any person aggrieved by the decision shall follow the procedure set out in this chapter; however, the date of the hearing may be expedited with the consent of the registration holder.

9-2-19: PUBLIC RECORDS:

All records, files and documents pertaining to rental unit registration and rental unit inspections may be obtained by the administrator and will be available to the public as allowed, permitted or required by state law or city ordinance.

9-2-20: NOTICES:

Whenever a notice is required to be sent to or served upon the registration holder or occupants of a rental unit under this chapter, notice shall be deemed sufficient if sent by first class mail to the address listed in the most recent registration application for the rental unit.

9-2-21: APPLICABLE LAWS:

Registration holders are subject to all of the ordinances of the city and state relating to rental dwellings, and this chapter shall not be construed or interpreted to supersede or limit any other applicable ordinance or law.

9-2-22: EXEMPTIONS:

This chapter does not apply to campus dormitory and campus residence units owned, operated or managed by a governmental entity or agency, hospital units or rooms, nursing homes, retirement homes or other similar rental spaces which are otherwise registered by the state or the city.

9-2-23: ENFORCEMENT; MISDEMEANOR VIOLATION; PENALTIES:

- A. Nothing in this chapter prevents the city from taking enforcement action under any of its fire, housing, zoning, health, safety or other codes or ordinances and state laws for violations thereof, or from seeking injunctive relief and criminal prosecution for violations of any ordinance, code or law.

- B. Nothing contained in this chapter prevents the city from seeking injunctive relief against a property owner or designated property manager who fails to comply with the terms and conditions of this chapter or from obtaining an order closing such rental units for violations of this chapter.
- C. Violation of this chapter is a misdemeanor. Each separate day on which a continuing violation occurs is a separate violation. Administrative penalty provisions of title 1, chapter 4, article B of this code also apply.