

**ORDINANCE NO. 07/16/18 - 807**

AN ORDINANCE AMENDING HAYFIELD'S CITY CODE, CHAPTER 8, BUILDING AND HOUSING BY ADDING PART 7, RELATED TO THE REGISTRATION OF RENTAL UNITS TO HAYFIELD'S CITY CODE,

THE CITY COUNCIL OF THE CITY OF HAYFIELD ORDAINS AS FOLLOWS:

By adding Part 7, to Chapter 8 of Hayfield's City Code that the following is hereby ordained and adopted.

Part 7: Registration of Rental Units

**807.01 Registration Certificate Required.**

- A. No owner shall allow another person to occupy, nor shall any person let to another for occupancy, any dwelling, or any apartment in any dwelling, without first obtaining a registration certificate as provided in this Section or at such time that the registration certificate, or the right to receive such a registration certificate, is suspended or revoked. Any registration certificate obtained pursuant to this Section shall be issued in the name of the owner. In the case of a multiple unit dwelling, a registration certificate issued pursuant to this Section includes and applies to both the entire dwelling as well as each individual rental unit within the dwelling. Any suspension or revocation of the registration certificate or the right to receive a registration certificate may involve the entire dwelling or any individual unit or units within the dwelling.
- B. The occupancy or rental of any dwelling, or any apartment, or rooming unit in any dwelling for which a registration certificate is required, need not be interrupted or suspended for lack of a registration certificate if the same is due to the inability of the City Clerk to process the application in a timely manner.
- C. Exemptions would include: Assisted Living Facilities, Care Centers and a rental property owner renting homes or rooms to a relative.

**807.02 Application for Registration Certificate** - An application for a registration certification shall be filed by the owner with the City Clerk. An application for any dwelling to be converted to a use which would require a registration certificate shall be made and filed with the City Clerk at least thirty (30) days prior to such conversion.

**807.03 Application Forms.** Forms of application for registration certificates shall be supplied by the City Clerk and will be available at City Hall. Each application for registration certificate shall contain the following information:

- A. Name, residence address, telephone number, and date and signature of the owner of the dwelling. If the owner is a partnership, the name of the partnership, and the, residence address, telephone number, and date of birth of the managing partner. If the owner is a corporation, the name and address of the corporation, and the name, address and telephone number of the Chief Operating Officer. If the dwelling is being sold on a contract for deed, the name and address of the contract vendee. Where the word "owner" is used in any part of the city housing codes, it shall include all persons as outlined in this Section;
- B. Name, residence address, telephone number, date of birth and signature of any agent appointed by the owner to accept service of process and to receive or give receipt for notices;

- C. Name, residence address, telephone number, date of birth, and signature of any property manager, operator or agent actively involved in maintenance or management of said dwelling;
- D. Legal street address of dwelling;
- E. Complete details of the number and kind of units offered for rent, classified as to the type of unit on the application, and the facilities incorporated in such rental units;
- F. Any person making application for a rental registration certificate must provide proof of identification by the use of a driver's license, state issued identification card, military identification card, or such other identification as is acceptable to the city clerk. The identification provided must set forth the full name and date of birth of the person making the application;
- G. An acknowledgment that the applicant has reviewed and understands the provisions of this chapter, intends to abide by the provisions and will include reference to this chapter in any written lease used in renting the property.

**807.04. Registration Certificate Standards.** No person may be issued a registration certificate unless they satisfy the standards provided in this section. Failure to comply with any of these standards at any time shall be adequate grounds for the denial, refusal to renew, suspension or revocation of a registration certificate, or the imposition of a fine upon the licensee or applicant. Except where specifically noted, it is not necessary for a criminal conviction to exist in order to support a determination that a violation of a standard has occurred. Any suspension or revocation sanction imposed pursuant to this section must be limited to the licensee's or applicant's registration certificate, or the licensee's or applicant's right to obtain a registration certificate, for the non-compliant property.

- A. As used in this chapter, the term "licensee or applicant" means: (a) an owner of property who possesses or applies for a registration certificate; (b) an owner of property seeking to renew a registration certificate; and (c) either of those person's agents, employees or representatives.
- B. The licensee's or applicant's application form contains facts that permit issuance of the certificate in compliance with all applicable state laws and city ordinances.
- C. The licensee or applicant has paid the required license fee.
- D. The licensee or applicant has not intentionally made inaccurate or incorrect representations of material facts on the application form. The licensee or applicant has not intentionally made inaccurate or incorrect oral or written representations to a city official regarding the rental dwelling unit or the ownership of the rental dwelling unit.
- E. Rental dwelling units do not exceed the maximum number of dwelling units permitted by the Code.
- F. No rental dwelling or rental dwelling unit is over occupied or illegally occupied in violation of the Code.
- G. The licensee or applicant has not allowed weeds, vegetation, junk, debris or rubbish to accumulate repeatedly on the exterior of the dwelling so as to create a nuisance condition. The

term “repeatedly” shall refer to those situations when the City was required to abate such nuisance more than two times during a 12 month period.

- H. The dwelling complies with all federal, state and city laws and ordinances.
- I. The licensee or applicant maintains a current register of all tenants and other persons with a lawful right of occupancy to a dwelling unit and the corresponding floor number, and unit number and/or letter and/or designation of such unit within the building. The register is kept current at all times. The licensee has designated the person who has possession of the register and shall inform the city clerk of the location at which the register is kept. The register is available for review by the city clerk or his or her authorized representatives at all times.
- J. The licensee or applicant has no delinquent property taxes or assessments on the rental dwelling, and is not delinquent on any financial obligations owing to the city unless reasonable payment arrangement has been reached.
- K. The licensee or applicant is not the subject of a pending administrative or criminal proceeding initiated pursuant to this chapter.
- L. The licensee or applicant has no direct personal or financial interest in a registration certificate that is currently suspended pursuant to this chapter.
- M. The licensee or applicant has no legal or equitable interest in a person who’s right to apply and receive a registration certificate is currently suspended or revoked pursuant to this chapter.
- N. The licensee or applicant has no legal or equitable interest in two or more registration certificates revoked, suspended or any combination thereof, pursuant to this chapter, during the past five years.
- O. The licensee or applicant has not had within the past two years four violations of section 807.09.
- P. The licensee’s or applicant’s actions have not created a threat or danger to the public’s health, safety or welfare as it relates to the property.
- Q. The licensee or applicant has not allowed the dwelling to be used in such a manner as to constitute a breach of the peace, a menace to the public’s health, safety or welfare, or an unreasonable disturbance to the peace and comfort of the City’s residents as it relates to the property.
- R. The licensee or applicant has not intimidated or retaliated, or made any threat of eviction or retaliation, against a tenant solely and exclusively because the tenant made or filed, or threatened to make or file, a complaint with the City, Police or Fire Departments regarding the rental dwelling unit and any matter within either of the Department’s jurisdiction.
- S. A certificate issued by the City Clerk indicating that the dwelling’s proposed use is in compliance with all city zoning requirements must accompany every application for a registration certificate.

807.06. **Investigation.** The City Clerk, or its designee, shall investigate all applications for the registration certificate to verify that the dwellings, apartments, or rooming units that are non-owner occupied

comply with the provisions of this code, including any provision of the zoning, building, fire safety, or applicable health ordinances.

**807.07. Issuance and Posting of Registration Certificate.** Whenever the investigation of an application indicates that the dwellings, apartments, or rooming units offered for rent comply with all provisions of this code, including any provisions of the zoning, building, fire safety, or applicable health ordinances, the City Clerk must issue a registration certificate. Every registrant of a dwelling, apartment or rooming unit offered for rent shall post the registration certificate in a conspicuous place.

**807.08 Notice of Violation/Rejection of Application.** Whenever the investigation of an application for registration certificate indicated that the dwelling, apartment, or rooming unit does not comply with the provisions of the City Code, including any provisions of the zoning ordinances, the City Clerk shall return the application to the applicant stating the reasons for the rejection of the application.

**807.09 Failure to Register.** Every person required to register a dwelling, apartment, or rooming unit offered for rent under the provisions of this Section and who fails to do so, or who allows the property to be occupied when the registration certificate or right to receive such a registration certificate is revoked or suspended, shall be guilty of a violation of the City Code. Each day that a property is rented out without a valid rental registration certificate on file for that property is a separate violation. A violation of this Section shall be a misdemeanor punishable by up to \$1,000, ninety (90) days in jail, or both.

**807.10 Certificate of Renewal and Non transferability.**

- A. Registration certificates will initially be required on or before **09/01/2018**. All registration certificates shall expire on the **LAST DAY** of the year following its issuance and must be renewed annually. For the initial year, a list of occupants, registration documents, and registration fee(s) must be provided to city hall on or before 09/01/18. The initial registration will expire on 12/31/19. The next fee period and updated registration(s) will be due on or before 01/31/20. All information required by Subsection 807.03A must be submitted at the time of renewal.
- B. Every person who transfers title to property shall provide the transferor notice that the property is subject to a Registration Certificate.
- C. Every person who transfers title to property shall provide the City Clerk with the name, address, telephone number and date of the transfer of title to the new owner within ten (10) days of the date of such transfer. Within thirty (30) days of the date of such transfer, the new owner shall apply for a new registration certificate. In the case of an option contract where the holder of the option is collecting rents and/or is paying on the mortgage to the property while the option remains unexercised, the holder of the option shall be deemed to be the owner of the property for purposes of this Section and shall be required to apply for a rental registration certificate in his or her name. The date the option contract is created shall be deemed to be the date the holder of the option becomes the "owner" for purposes of this Section.
- D. Registration certificates may not be transferred or assigned.

**807.11 Suspension or Revocation of Registration Certificate.**

- A. Any registration certificate issued by the City pursuant to the provisions of this Section may be suspended or revoked upon a finding that the certificate holder, during the term of the certificate, failed to comply with any provision of this Chapter.
- B. A person's right to apply and receive a registration certificate may be suspended or revoked upon finding that the applicant has let to another for occupancy any dwelling, or any apartment or rooming unit in any dwelling, without first obtaining a registration certificate as required by this Chapter and, during such time, the premises were involved in a disorderly use as defined below.
- C. Whenever it appears to the City Council that adequate grounds may exist for the suspension or revocation of a registration certificate or the right to receive a registration certificate, the City Council shall by resolution specify the nature of the alleged grounds and order that a hearing on the matter be held as provided below.
- D. No such suspension or revocation shall be effective until the license or permit holder has been afforded an opportunity for a hearing under Minn. Administrative Procedure Act, §§ 14.57 - 14.70.
- E. Upon a finding that the registration certificate holder or applicant has violated this Section, the City Council may invoke any of the sanctions provided in this Section.

**807.12 Fees.**

- A. In addition to such other fees as may be imposed by this Code, a nonrefundable fee of \$40 for the first home/unit/dwelling and \$10.00 for each additional home/unit/dwelling shall be paid when an application for a registration certificate or renewal is filed with the City Clerk as required by this Section. If an application for renewal is not made prior to the expiration of the certificate, an additional fee of \$2.50 per day shall be charged for each day thereafter up to twenty (20) days or until the application is filed, whichever occurs first. The fees set forth above may be adjusted with the adoption of the City Fee Schedule.

**807.13 Definitions.** For the purpose of this Section, the following terms shall have the meaning ascribed to them:

- A. Appropriate action. That action which a reasonable rental property owner would take based upon the facts and circumstances of each case so as to prevent a reoccurrence of the disorderly use.
- B. Disorderly or disorderly use. That conduct occurring on the "Licensed Premises" or "Premises" which violates a provision of Subsection 807.14.
- C. License. A registration certificate or the right to receive a registration certificate as required by this Section.
- D. Licensed premises or premises. The property owned, operated or managed by a rental property owner and shall refer to an individual unit within a multi-unit complex when applicable.

- E. Rental property owner. One who holds the license or who is otherwise obligated to obtain and maintain the license as required by this Section.
- F. Relative. A parent, stepparent, child, stepchild, grandparent, grandchild, brother, sister, uncle, aunt, nephew, or niece.

**807.14 Conduct on Licensed Premises.**

- A. Any rental property owner shall be responsible to take appropriate action against persons occupying specific units in the licensed premises who conduct themselves in such a manner as to cause the premises to be disorderly in violation of the statutes listed in Subsection 807.14 B. For purposes of this Subsection, the term "persons occupying the premises" shall include tenants and those persons on the licensed premises whose presence the tenant has invited or to which the tenant has acquiesced. Violations of this Subsection apply to individual units within buildings or complexes containing multiple units when the conduct occurs within a unit. Violations of this Subsection by persons occupying specific units that occur within a common area of the licensed premises shall apply both to the individual and the common area of the licensed premises.
- B. The following ordinances and statutes are applicable to this Section:
  - 1. Minn. Stat. §§ 609.321 - 609.3241, prohibiting prostitution;
  - 2. Minn. Stat. § 609.33, which prohibits participation in a disorderly house;
  - 3. Minn. Stat. § 617.23 - 617.299, prohibiting obscenity;
  - 4. Chapter 5, Section 506.02 of the City Code, prohibiting loud parties or gatherings or other unnecessary loud noises;
  - 5. Minn. Stat. §§ 609.75 - 609.76, which prohibit gambling;
  - 6. Minn. Stat. §§ 152.01 - 152.025 and § 152.027, Subd. 1 and 2, which prohibit the unlawful sale or possession of controlled substances;
  - 7. Minn. Stat. Chapter 340A, which prohibits the unlawful sale, use or possession of alcoholic beverages;
  - 8. Minn. Stat. §§ 97B.021, 97B.045, 609.66 - 609.67 and §§ 624.712 - 624.716, which prohibit the unlawful possession, transportation, sale, or use of weapon;
  - 9. Minn. Stat. § 609.72, which prohibits disorderly conduct; or
  - 10. Minn. Stat. §§ 609.221 - 609.223, 609.2231 and 609.224, which prohibit assaults, except that domestic assaults, as the same are defined by state law, are not included herein.
- C. The Dodge County Sheriff's Department shall be charged with the responsibility of enforcing paragraph B of this Subsection.
- D. Upon determination by the Sheriff's Department that the licensed premises were involved in a disorderly use, the City shall notify the license holder by mail of such violation and direct the license holder to take appropriate action to prevent further violations. Notice shall be effective if mailed to the license holder at that person's last known address. This and subsequent notices are collectively referred to as disorderly use notices.
- E. If a second instance of disorderly use on the premises occurs within twelve (12) months of an incident for which a prior disorderly use notice was given, the license holder shall be notified of the instance of disorderly use and shall also be required to submit a written report of appropriate actions taken by the rental property owner to prevent further disorderly use of the premises. This written report shall be submitted to the City Clerk in

writing within five (5) working days from the date of the notice of disorderly use of the premises within the preceding twelve (12) months. Failure to submit the written report as required herein shall be a basis for the imposition of a fine and the revocation or suspension of the license or right to receive the license for the specific unit or units located on the licensed premises as otherwise provided for in this Subsection.

- F. If a third instance of disorderly use of the premises occurs within twelve (12) months of two (2) or more prior disorderly use notices, the license or right to obtain such license may be revoked or suspended for a specific unit or units located on the licensed premises. If the notice of violation has been issued with respect to a common area of a building or complex of buildings then the license or right to obtain such license as to all units in such building or complex may be suspended or revoked.
- G. If another instance of disorderly use of the premises occurs within twelve (12) months of the expiration of a prior suspension issued pursuant to the provision of this Section, the license or right to obtain such license may be revoked or suspended for the specific unit or units located on the licensed premises. If the notice of violation has been issued with respect to a common area of a building or complex of buildings then the license or right to obtain such license as to all units in such building or complex may be suspended or revoked.
- H. No suspension or revocation or other sanctions shall be imposed where one (1) or more of the three (3) required disorderly use notices were mailed or delivered to the landlord after the rental property owner has filed an eviction action (unlawful detainer action) with the District Court for the particular unit or units identified in the disorderly use notice. Calls to the Sheriff's Department made by rental property owners shall not be considered incidents of disorderly use in the implementation of this Subsection (D through G). The initiation of an eviction action (unlawful detainer action) shall not be a bar to sanctions, however, unless the action is diligently pursued by the rental property owner. Notice of and a copy of the eviction action (unlawful detainer action) shall be delivered to the city clerk. A determination that the licensed premises have been involved in a disorderly use as described in paragraph B of this Subsection shall be made upon a preponderance of the evidence. It shall not be necessary that criminal charges be brought to support a determination of disorderly use, nor shall the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this Subsection.
- I. This Subsection applies to all leases, whether written or oral, and a landlord may consider any tenant's conduct listed in paragraph B of this Subsection to be both a material breach of the lease and grounds for termination of such lease. Additionally, all written leases executed after August 31, 2018 shall contain a clause providing that conduct that violates paragraph B of this Subsection constitutes both a material breach of the lease and grounds for termination of such lease.
- J. This Section is not intended to supersede criminal sanctions that may be applied to the individual who violates the statutes and local legislation listed in paragraph B of this Subsection.

#### **807.15 License Suspension and Revocation.**

- A. Upon a determination that a license or right to obtain such license may be suspended or revoked or that a fine or other sanctions may be imposed, a public hearing shall be held before

the City Council. The City Council shall consist of the Mayor, one (1) City Council Member, and one (1) member of the Sheriff's Department and two (2) members who shall be rental property owners. All members of the Rental Housing Complaint Board shall be appointed annually by the City Council. All parties shall be offered an opportunity to appear at such hearing after receiving reasonable notice. The notice shall state the time, place and issues involved. At this hearing, rental property owners may present evidence of mitigating circumstances showing the absence of any need for a public hearing before the City Council to consider the revocation or suspension of the license or right to receive such a license, or the imposition of fines or other sanctions. The Board shall in good faith hear and consider this evidence in making a determination regarding whether or not to hold a public hearing. At the conclusion of the hearing, the Board shall make a recommendation to the City Council regarding whether a need exists for a public hearing. The Board's recommendation must be submitted to the City Council for consideration. If the City Council determines to call for a public hearing to consider the issue of suspension or revocation, or the imposition of a fine, the City Council shall follow the procedures described in paragraph B of Subsection 807.15.

- B. No suspension or revocation shall be effective until the rental property owner has been afforded an opportunity for a hearing under Minn. Administrative Procedure Act §§ 14.57 - 14.70. Should the City Council hold a public hearing pursuant to the recommendation of the Rental Housing Complaint Board, all parties shall be afforded an opportunity to appear at such hearing after receiving reasonable notice. The notice shall state the time, place, and issues involved. At this hearing, license holders may present evidence of mitigating circumstances that would allow a rental property owner to retain his or her license or the right to obtain such a license. The City Council shall in good faith hear and consider this evidence in making a determination to revoke or suspend the license or right to receive a license, impose civil penalties, or impose other reasonable conditions based upon violations of this Section. The City Council may postpone or discontinue such proceedings if it appears that the licensee has taken appropriate measures that will prevent further instances of disorderly use.
- C. The City Council reserves the right to impose any of the following sanctions for violations of Subsection 807.14:
  - 1. Suspend the license or right to receive a license for up to sixty (60) days;
  - 2. Revoke the license or right to receive a license and establish the time period after which an application for a new certificate for the premises may be made;
  - 3. Impose a civil fine not to exceed an amount equal to one (1) month's rent for each violation found as a result of the hearings;
  - 4. Impose other reasonable conditions intended to limit future incidents of disorderly use (including but not limited to requiring the property owner(s) and manager(s) to attend the Crime Free Housing sessions;
  - 5. Upon expiration of the suspension or revocation period, a license holder shall pay to the City a reinstatement fee of \$100. This fee may adjusted with the annual fee schedule.

**807.16 Prospective Tenant Background Investigations.** The City Council has determined that there are persons residing in rental property, who engage in disorderly conduct, which results in a hostile environment for other citizens living in or close to the rental property. It is the declared purpose and intent of this Section to protect and reserve this City's neighborhoods and the public health, safety,

welfare and morals of its citizens by requiring that all landlords conduct a criminal history/background investigation of prospective tenants. If a violation occurs as stated under Subsection 807.14 and the licensee cannot prove a background check was completed on the renter, the City may suspend or revoke the license.

This ordinance becomes effective from and after its passage and publication.

Rich Fjerstad, Mayor  
Lori Kindschy, City Clerk-Treasurer