

FIRST READING

AMENDING CHAPTER 18 – BUILDINGS AND BUILDING REGULATIONS ARTICLE VIII. – RESIDENTIAL MAINTENANCE CODE AND ARTICLE X. – LICENSES FOR RENTAL DWELLINGS, REASONABLE ACCOMODATIONS FOR SOBER LIVING HOMES, OF THE CODE OF ORDINANCES OF THE CITY OF BLAINE

THE CITY OF BLAINE DOES ORDAIN: (Added portions are underscored and deleted portions are shown in brackets with overstrike.)

ARTICLE VIII. - RESIDENTIAL MAINTENANCE CODE

DIVISION 1. - GENERALLY

Sec. 18-301. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Whenever the terms "dwelling," "dwelling unit," "premises" or "structure" are used in this article, they shall be construed as though they were followed by the words "or any part thereof."

Safety means the condition of being free from danger and hazards which may cause accidents or disease.

Sober Living Home A dwelling unit occupied by more than four (4) unrelated individuals with all individuals residing in recovery from chemical dependency and considered disabled under the Federal Fair Housing Act Amendments of 1988. This definition does not include group facilities that are licensed by other governmental agencies or otherwise considered permitted uses as defined by Minnesota Statute.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

ARTICLE X. - LICENSES FOR RENTAL DWELLINGS

Sec. 18-501. - License required; definitions.

- (a) *License*. No person shall allow to be occupied or let to another for occupancy a unit or units in a rental dwelling for which a license has not been granted by the city.
- (b) *Definitions*. Unless otherwise expressly stated, the following terms shall, for the purposes of this article, have the following meanings:

Rental dwelling means any structure or portion thereof which is designated or used for residential occupancy by one or more persons who are not the owner or a member of the owner's family. Rental dwelling includes commercial living facilities, not governed by state licensing requirements.

Sober living home A dwelling unit occupied by more than four (4) unrelated individuals with all individuals residing in recovery from chemical dependency and considered disabled under the Federal Fair Housing Act Amendments of 1988. This definition does not include group facilities that are licensed by other governmental agencies or otherwise considered permitted uses as defined by Minnesota Statute.

Sec. 18-509. - Licensing and standards for sober living homes.

(a) Purpose and Intent

The purpose of this Section is to establish process and standards to assure that sober living homes are habitable, safe and is operated and maintained as to not detract from the neighborhood or to become an influence that fosters blight, deterioration or disincentive to reinvestment in the community. It is the intent to establish standards that are applicable to all sober living home dwellings in the City. Any inconsistencies between various sections contained elsewhere in Article X and this Section shall be resolved in favor of Section 18-511.

The provisions of this Article are in addition to those requirements set forth in Article VIII, Residential Maintenance Code and Article X, Licenses for Rental Dwellings.

(b) Definitions

Sober living home A dwelling unit occupied by more than four (4) unrelated individuals with all individuals residing in recovery from chemical dependency and considered disabled under the Federal Fair Housing Act Amendments of 1988. This definition does not include group facilities that are licensed by other governmental agencies or otherwise considered permitted uses as defined by Minnesota Statute.

(c) License Required

(1) No person, firm or corporation shall operate a sober living home until a sober living home license has been applied for and issued by the city.

(2) The city may issue a license in its discretion if the building and the application are found to be in compliance with the provisions of this article and with the residential maintenance code set forth in Chapter 18, Article VIII, of this Code, 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 unpaid for purposes of this section while a proper and timely appeal of such taxes is pending.

(d) Application for License

The application process shall follow the requirements of Section 18-502 with the following additional requirements:

(1) Description, number and size of available bedrooms.

(2) Basic floor plan of dwelling (including all living levels).

(3) Scaled site plan of property showing house, driveways and garage.

(4) A description and the number of off-street parking stalls available.

(5) A property management plan including tenant selection process as well as maintenance of the facility.

(6) A crime free/drug free lease addendum signed by and applicable to all occupants of the sober living home.

(7) Proof of membership with the Minnesota Association of Sober Homes, Inc. (MASH) that outline additional standards of living and code of ethics criteria related to safety, health, and house management.

(e) Applications for a sober living home require a public hearing before the city council. The city will provide written notice to all property owners within 350 feet of the applicant's property not less than 10 days before any scheduled public hearing.

(f) Inspections of Dwellings.

Upon receipt of a properly executed application for licensing and receipt of the appropriate fee, the City shall complete an initial inspection of the premises to determine whether the property is in compliance with this Chapter. Any sober living home may be re-inspected after a renewal application or transfer of license is filed to determine compliance. The City shall further have the right to re-inspect the premises at any time it is deemed necessary to assure compliance with this Chapter.

(1) The City shall be authorized to make or cause to be made inspections to determine the condition of dwellings, multiple dwellings, dwelling units, rooming houses, rooming units, and premises in order to safeguard the health, safety, morals, and welfare of the public. The City shall be authorized to enter any dwelling, multiple dwelling, dwelling unit, rooming house, rooming unit, or premises at any reasonable time for the purpose of performing inspections under this Article. The owner, operator, or occupant of the sober living home license shall give the City access to such dwelling, multiple dwelling, dwelling unit, rooming house, rooming unit and premises on which it is located at all reasonable times for the purpose of such inspection.

(2) If the owner, operator, person in charge, or occupant shall refuse to consent to the inspection, a search warrant may be obtained. If the City finds it necessary to obtain an administrative search warrant to enter the property for inspection due to the owner, operator, person in charge or occupant's lack of cooperation, said person or persons may also be charged with all costs of obtaining the warrant including court costs and attorney's fees.

(3) No warrant is needed where an emergency condition exists which endangers persons or property and insufficient time is available to obtain a warrant and protect such endangered persons or property.

(4) Entry under this Section is subject to Minnesota Statutes, Section 504B.211 (Residential tenant's right to privacy) as amended.

(g)Length and terms of license.

(1) The license period shall commence upon issuance of the license. A sober living home license shall be issued for a period of one (1) year.

(2) A sober living home license is transferable to any person who has actually acquired legal ownership of a licensed building for the unexpired portion of the term for which it was issued or reissued; provided, that the application to transfer such registration is filed with the City within thirty (30) days of closing and the transferee is not disqualified from holding a license due to prior revocation, suspension, or denial of a sober living home license. The sober living home license shall terminate upon failure to apply for its transfer within thirty (30) days of closing.

(h) Display of License.

Licenses issued under this Article must be displayed on the premises of sober living home dwellings. All property owners must produce a copy of the sober living home license upon demand of a prospective tenant or city official.

(i) Fees.

Sober living home license fees and reinstatement fees are to be determined annually by the city council.

(j) Violations and Penalties.

Any person violating any provision of this article is guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in Minnesota Statutes.

(k) Reasonable Accommodations.

It is the policy of the City, pursuant to the Federal Fair Housing Amendments Act of 1988, to provide reasonable accommodations in the application of its zoning regulations for persons with disabilities seeking fair and equal access to housing. Reasonable accommodation means providing an individual with a disability or developers of housing for an individual with a disability flexibility in the application of land use and zoning regulations or policies, including the modification or waiver of certain requirements, when it is necessary to eliminate barriers to housing opportunities. The purpose of this subdivision is to establish a process for making and acting upon requests to reasonable accommodation.

(1) Any person who requests reasonable accommodation in the form of modification in the application of a zoning regulation which may act as a barrier to fair housing opportunities due to the disability of existing or proposed residents may do so on an application form provided by the City. "Person" includes any individual with a disability, his or her representative or a developer or provider of housing for an individual, with a disability. The application shall include a detailed explanation of why the modification is reasonably necessary to make the specific housing available to the person(s), including information establishing that the applicant is disabled under applicable laws, as well as other information required by the City to make the determination. If the project for which the request is being made also requires an additional land use review or approval, the applicant shall file the request concurrently with the land use review.

(2) City staff shall review the request and make a formal recommendation to the City Council. The request shall be evaluated under the following factors:

- (aa) Whether there is a qualifying disability;
- (bb) Whether the request if needed to allow a disabled person equal opportunity to use and enjoy a dwelling or to live in a particular neighborhood as a person without disabilities;
- (cc) Whether the request is reasonable, considering the potential impact on surrounding uses, the extent to which the accommodation meets the stated need, and other alternative that may meet that need;
- (dd) Whether the request would constitute a fundamental alternation of the city's regulations, policies, or procedures;
- (ee) Whether the request would impose an undue financial or administrative burden on the City;
- (ff) The number, nature and extent of the requested accommodation in relation to the physical limitations of the building and site; and
- (gg) Any other factor that may have a bearing on request, as determined by the city.

(3) The city council shall consider the request following receipt of the recommendation of the City staff.

(4) An approved sober living home license is granted only to an individual or operating entity and does not run with the land.

(5) No sober living home license shall be located within 1,320 feet of another sober living home that has been granted a sober living home license as measured from the property lines closest to one another.

(I) Conduct on licensed premises.

- (1) *Disorderly premises.* The licensee shall be responsible for ensuring that persons occupying or present at the rental dwelling conduct themselves in such a manner as not to cause the premises to be disorderly. For purposes of this section, a premises is disorderly if any of the following occur:
 - (aa) Violation of section 50-141 (Disorderly house) of the City Code or Minn. Stat. § 609.72.
 - (bb) Violation of laws relating to the possession of controlled substances as defined in Minn. Stat. § 152.01, subd. 4.
 - (cc) The unlawful possession or sale of intoxicating liquor or 3.2 percent malt liquor.
 - (dd) Violation of laws relating to gambling.
 - (ee) Violation of laws relating to prostitution as defined in Minn. Stat. § 609.321, subd. 9, or acts relating to prostitution.
 - (ff) Unlawful use or possession of a firearm or weapon in violation of chapter 50, article III, division 2, of the City Code or Minn. Stat. § 609.66, subd. 1a, 609.67 or 624.713.
 - (gg) Violation of Minn. Stat. § 609.705 (Unlawful Assembly).
 - (hh) Violation of Minn. Stat. § 609.71 (Riot).
 - (ii) Violation of Minn. Stat. § 609.713 (Terrorist Threat).
 - (jj) Violation of Minn. Stat. § 609.715 (Presence at Unlawful Assembly).
 - (kk) Any other conduct deemed disorderly by the city manager or designee.

- (2) Enforcement authority. The city manager or designee shall be responsible for enforcement and administration of this article. Authority to take any action authorized by this article may be delegated to the city manager's authorized designee.
- (3) Notice of violation. Upon determination by the city that a rental dwelling was deemed to be a disorderly premises, notice of the violation shall be given to the licensee or designee. The notice shall include a directive for the licensee to take steps to prevent further violations. All notices given by the city under this section shall be served on the licensee or designee, sent by mail to the licensee's last known address, or, by posting the notice in a conspicuous place at the rental dwelling.
- (4) Second instance. If a second instance of a disorderly premises occurs within the annual license term the city shall notify the licensee or designee of the violation and shall also 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 city within five days of receipt of the notice of disorderly premises and shall detail all actions taken by the licensee in response to all notices of disorderly premises within the license term.
- (5) Third instance. If a third instance of a disorderly premises occurs within the annual license term the rental dwelling license for the premises may be denied, revoked, suspended, or not renewed in accordance with section 18-509.
- (6) Instances defined. For purposes of this section, second and third instances of disorderly premises shall be those which:
- (aa) Occur at the same rental dwelling unit; or
 - (bb) Involve tenants at the same rental dwelling unit; or
 - (cc) Involve guests or invitees at the same rental dwelling unit; or
 - (dd) Involve guests or invitees of the same tenant; or
 - (ee) Involve the same tenant.
- (7) Eviction proceedings. No adverse license action shall be imposed where the instance of disorderly premises occurred during the pendency of eviction proceedings (unlawful detainer) or within 30 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 license action, however, unless they are being diligently pursued by the licensee.
- (8) Evidence of disorderly premises. A determination of disorderly premises shall be made upon substantial evidence. It shall not be necessary that criminal charges be brought in order to support a determination of disorderly premises. Moreover, a dismissal or acquittal of any such criminal charge will not operate as a bar to license action under this article.
- (9) Council action not exclusive. Enforcement actions provided in this article 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.

18-509. – License [S]suspension, revocation, denial, nonrenewal.

(a) A designated hearing officer, on behalf of the city council, may suspend, revoke, deny or not renew any rental license, including sober living home license, issued under this Article upon any of the following grounds:

- (1) False statements on any application or other information or report required by this Article to be given by the applicant or licensee.
- (2) Failure to pay any license or reinstatement fee required by this Article.
- (3) Failure to correct deficiencies noted in notices of violation in the time specified in the notice.
- (4) Any other violation of the property maintenance, zoning, environmental, and utility chapters of City Code.

- (a) (b) *Hearing.* An action to deny, revoke, suspend, or not renew a license under this article shall be initiated by the city by giving written notice to the licensee of a hearing by a hearing officer, on behalf of [before] the city council to consider such denial, revocation, suspension or nonrenewal. The written notice shall specify all violations and shall state the date, time, place and purpose of the hearing and shall be mailed by regular mail to the property owner, agent, licensee and affected tenants a minimum of ten (10) days at the most recent address listed on the license application. The hearing shall be held no less than ten days and no more than 30 days after giving the notice. In such hearing the ~~[city council]~~ hearing officer shall give due regard to the frequency and seriousness of violations, the ease with which such violations could have been cured or avoided and good faith efforts to comply with city requirements. Following the hearing, the ~~[city council]~~ hearing officer, in its sole discretion may deny, revoke, suspend, or decline to renew the license for all or any part or parts of the rental dwelling, or may grant a license upon such terms and conditions as it deems necessary to accomplish the purposes of this article. Further, an action to deny, revoke, suspend, or not renew a license based upon violations of this article 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. The ~~[city council]~~ hearing officer shall issue its decision upon written findings.
- ~~[(b) *Reason for action.* The city council may revoke, suspend, deny or decline to renew any license issued under this article upon any grounds it deems appropriate including, but not limited to, the following:~~
- ~~(1) False statements on any application or other information or report required by this article to be given by the applicant or licensee.~~
 - ~~(2) Failure to pay any application fee, penalty, re-inspection, or reinstatement fee required by this article and resolutions.~~
 - ~~(3) Failure to correct deficiencies noted in notices of violation in the time specified in the notice.~~
 - ~~(4) Any other violation of this article.]~~
- (c) *Reinstatement of license.* Upon a decision to revoke, deny, or not renew a license, no new application for the same rental dwelling will be accepted for a period of time specified in the written decision of the ~~[city council]~~ hearing officer, not exceeding one year. Any such new application must be accompanied by a reinstatement fee, as specified by resolution, in addition to all other fees required by this article.
- (d) *No new rentals.* A written decision to revoke, suspend, deny, or not renew a license shall specify the part or parts of the rental dwelling to which it applies. Thereafter, and until a license is reissued or reinstated, no rental units becoming vacant in such part or parts of the rental dwelling may be re-let or occupied. Revocation, suspension or nonrenewal of a license shall not excuse the owner of a rental dwelling from compliance with the terms of this article for any other unit or units in the rental dwelling which remain occupied.

- (e) *Failure to comply.* Failure to comply with any term of this article during a period of revocation, suspension, or nonrenewal is a misdemeanor and is also grounds for extension of the term of such revocation or suspension or continuation of nonrenewal, or for a decision not to reinstate the license, notwithstanding any limitations on the period of suspension, revocation or nonrenewal specified in the ~~[city council's]~~ hearing officer's written decision.

Sec. 18-~~510~~ 511. - 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.

Secs. 18-~~511~~ 512-18-529. - Reserved.

INTRODUCED AND READ in full the ____day of ____, 2019.

PASSED by the City Council of the City of Blaine this ____day of ____, 2019.