

..Number
140909
..Version
SUBSTITUTE 3
..Reference

..Sponsor
ALD. BAUMAN AND COGGS

..Title
A substitute ordinance relating to the standards for residential rental certificates.

- ..Sections
- 200-53-1 am
 - 200-53-2-a am
 - 200-53-2-d-3 am
 - 200-53-2-m cr
 - 200-53-2-n cr
 - 200-53-2-o cr
 - 200-53-3-a am
 - 200-53-3-b am
 - 200-53-4-a rc
 - 200-53-5-a am
 - 200-53-5-d cr
 - 200-53-6-a am
 - 200-53-6-b am
 - 200-53-6-c am
 - 200-53-6-d am
 - 200-53-6-e am
 - 200-53-6-f am
 - 200-53-10 am
 - 200-53-13-a am

..Analysis
This ordinance amends the standards by which the city issues residential rental certificates and adds a new geographic area in which property owners must obtain certificates before allowing tenants to occupy their properties.

..Body

Whereas, The residential units in the area beginning with the intersection of Congress Street and 87th Street, south one block to Marion Street, west along Marion Street to a point midway between 91st and 92nd Streets, north back to Congress Street, and east on Congress Street back to the starting point are on average 57 years old while the city average is 84 years old; and

Whereas, The residential buildings in this area that are rental are 50% of the total residential buildings compared to 37% citywide; and

Whereas, The residential units in this area are 63% rental, compared to 58% citywide; and

Whereas, 66% of the code and nuisance complaints in this area occur at rental properties while the city average is 63%; and

Whereas, 74% of the properties that are designated nuisance properties under s. 80-10 of the code are found in violation of the building maintenance or zoning code provisions compared to 6.7% of the residential properties in the city; and

Whereas, Safety education and related inspection programs are known to reduce the number and severity of fires in residential occupancies; now, therefore

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1: Section 200-53-1 of the code is amended to read:

200-53. Residential Rental Certificate. 1. PURPOSE. Pursuant to s. 62.11 (5), Wis. Stats., and s. 4-10 of the Milwaukee city charter, the common council is responsible for the management and control of city property, acting for the good order of the city and the health, safety and welfare of the public. The common council has determined that there is a need to enact legislation requiring residential rental certificates to protect the public because residential rental dwelling units in the areas defined by ~~[[census tracts 99-102,117-120 and the western portion of census tracts 103 and 116, with the eastern boundary defined by interstate I-43; and those bounded by Edgewood Ave. to Newberry Blvd. and Cambridge Ave. to Hackett Ave.]]~~ >>sub. 2-d<<are in need of inspection to prevent deterioration, taking into account the density of rental units, age of buildings, percentage of complaints occurring at rental units, and condition of the units in the area. Frequent inspection of these units is necessary to maintain safe, decent and sanitary living conditions for residents living in the rental units and to protect the investment made by the city in the area defined by ~~[[census tracts 99-102,117-120 and the western portion of census tracts 103 and 116, with the eastern boundary defined by interstate I-43, and due to high tenant turnover in the area bounded by Edgewood Ave. to Newberry Blvd. and Cambridge Ave. to Hackett Ave.]]~~ >>sub. 2-d<<.

Part 2. Section 200-53-2-a of the code is amended to read:

2. DEFINITIONS. In this section:

a. "Building maintenance code" means that portion of the building code which establishes the minimum requirements and standards of health, sanitation, safety and occupancy for residential property. These regulations governing the condition and maintenance of residential property, and the responsibility of property owners are set forth in ~~[[ss. 275-32 to 275-82]]~~ >>ch. 275<<.

Part 3. Section 200-53-2-d-3 of the code is created to read:

d. "Designated residential area" means:

d-3. The area defined as inspection district 3, the boundary of which starts at the intersection of 87th and Congress Sts., thence southward to the intersection of 87th and Marion Sts., thence westward on Marion St. to a point midway between 91st and 92nd Sts., thence northward to Congress St., thence eastward on Congress St. to the point of beginning.

Part 4. Section 200-53-2-m to o of the code is created to read:

m. "Habitability violation" means a condition that a landlord is required to disclose to a prospective tenant under state administrative rules related to residential rental practices.

n. "Nuisance property" means a dwelling that, within the prior year, has been either of the following:

n-1. Determined to be a nuisance under s. 80-10-3-a-1, and the time for appealing the determination has passed or the determination was upheld on appeal.

n-2. Subject to an order from the chief of police to modify an abatement plan under s. 80-10-3-a-2.

o. "Chronic nuisance premises" means a dwelling that, within the prior 2 years, has qualified under s. 80-10-6.

Part 5. Section 200-53-3-a and b of the code is amended to read:

3. RESIDENTIAL RENTAL CERTIFICATE REQUIRED.

a. The owner of a dwelling within the designated residential area shall apply for a residential rental certificate for each ~~[[unit in order to rent the unit]]~~ >>unit within the dwelling<<. Unless a unit has a valid residential rental certificate or temporary residential rental certificate, no owner of the unit shall permit any person to occupy the unit as a tenant or otherwise. A residential 2-family building that is owner-occupied is exempt from this requirement.

b. Changes in ownership interest as the result of a sale, transfer or conveyance of a dwelling within the designated residential area >>,nuisance property, or chronic nuisance premises<< will require the new owner within 30 days of sale, transfer or conveyance, to apply for a residential rental certificate, subject to the provisions of sub. 6-e.

Part 6. Section 200-53-4-a of the code is repealed and recreated to read:

4. APPLICATION.

a. An application for a certificate shall state the owner's legal name, phone number and date of birth, state the street address of the dwelling to be inspected, be signed by the

owner, and be filed with the department on forms provided by the department in accordance with the following deadlines:

a-1. Not more than 30 days after January 1, 2015, if the dwelling is located in inspection district 3, or the dwelling is a nuisance property or chronic nuisance premises.

a-2. Not less than 30 days prior to the expiration of an issued certificate.

a-3. Not less than 30 days before converting a building into a dwelling.

a-4. Not more than 30 days after acquiring a 2-family building that was exempt from the requirements of this section.

a-5. Not more than 30 days after the dwelling is determined to be a nuisance property or qualifies as a chronic nuisance premises.

Part 7. Section 200-53-5-a of the code is amended to read:

5. INSPECTION.

a. ~~[[Upon application, the]]~~ >>The department shall inspect the condition of the dwelling for habitability violations and~~<< compliance with the building maintenance and zoning code. The department shall make the inspection within 60 days of the date of application unless another date is mutually agreed upon by the department and the owner. Failure to provide access to the property on the agreed inspection date will subject the property owner to the fees specified in s. 200-33-49.5-d. The owner shall inform the tenant of the unit and place a posting on the door of the unit stating the date and time of the inspection at least 2 days prior to the inspection.~~

Part 8. Section 200-53-5-d of the code is created to read:

d. Properties subject to the requirements of this section shall be exempt from the certificate of code compliance requirement in s. 200-52.

Part 9. Section 200-53-6-a to f of the code is amended to read:

6. ISSUANCE OF CERTIFICATES.

a. ~~>>Four-year certificate.<< The department shall issue a >>4-year<< residential rental certificate only [[after]] >>if the dwelling is not a nuisance property or chronic nuisance premises and only<< [[it has inspected the dwelling or unit and found]] >>if the initial inspection of a dwelling or unit reveals no habitability violations or disqualifying violations.<< [[that its observable conditions conform to the building maintenance and zoning codes and that there are no outstanding orders against it. The certificate shall be valid for 4 years from the date of issuance if the inspection discovered no disqualifying violations.]]~~

b. ~~>>One-year certificate.<< If upon >>initial<< inspection of the dwelling or unit the department finds >>no habitability violations, but finds<< one or more disqualifying violations >>or that the dwelling or unit does not conform to the building maintenance code or zoning code<<, then the department shall issue a one-year residential rental certificate. [[only once all observable conditions conform with the building maintenance and zoning codes.]] >>If upon inspection of the dwelling or unit, the department finds~~

one or more habitability violations, then the department shall issue a one-year residential rental certificate only after all habitability violations have been corrected.<<

c. >>Reinspection<<. The commissioner may ~~[[issue a temporary certificate if, in the commissioner's opinion, the outstanding violations do not constitute a hazard to the occupants of the dwelling or unit and if a work plan to correct the violations is submitted and approved by the commissioner. The temporary certificate shall be valid for 30 days and the commissioner may grant an extension if a revised work plan to correct the violations is submitted and approved by the commissioner. Failure to abate violations discovered resulting from inspection associated with the application for the certificate shall invalidate the temporary certificate, and no owner of the dwelling or unit shall permit any person to occupy the dwelling or unit as a tenant or otherwise~~ >>reinspect a dwelling after 30 days if disqualifying violations are observed during an inspection and assess reinspection fees under s. 200-33-48<<.

d. >>Revocation<< If after issuance of a 4-year certificate the >>dwelling becomes a nuisance property or chronic nuisance premises or the<< department subsequently finds the dwelling or unit has disqualifying violations >>, habitability violations<< or a pattern of repeated building or zoning code violations, the department may revoke the 4-year certificate and in lieu thereof issue a one-year certificate after ~~[[the]]~~ >>any habitability<< violations have been corrected. The dwelling or unit shall again be eligible for a 4-year certificate only upon the expiration of the ~~[[annual]]~~ >>one-year<< certificate, and as of the first subsequent annual inspection, no disqualifying violations >>or habitability violations<< are found. The commissioner may also revoke either a 4-year or one-year certificate if he or she determines that violations are of a critical nature that constitute an unsafe or unfit condition that results in orders issued under s. 200-11-5 or 200-12.5.

e. >>Transfer of Property<< In the event of a sale, transfer or conveyance of a property within 3 months of the initial issuance of the certificate, the certificate may be transferred to the new owner until the end of a certificate valid for one year, or one year from the date of issuance of the certificate in the case of a 4 year certificate, provided the new owner submits an application as required by sub. 4. No inspection shall be required pursuant to this paragraph.

f. >>Occupancy Without Certificate<< No owner of the dwelling or unit in the designated inspection districts which does not possess a valid rental certificate for that dwelling or unit shall permit any person to occupy the dwelling or unit as a tenant or otherwise. >>No owner of a dwelling that is a nuisance property or chronic nuisance premises which does not possess a valid rental certificate for that dwelling or unit shall permit any person to occupy the dwelling or unit as a tenant or otherwise<< Upon discovery of units occupied without a certificate the department will initiate enforcement action to gain access to the property, including inspection warrants, to determine code compliance.

Part 10. Section 200-53-10 of the code is amended to read:

10. REVOCATION. A >>residential rental<< certificate ~~[[of residential rental code compliance]]~~ may be revoked at the discretion of the commissioner if violations which are considered to be an unfit or unsafe condition pursuant to sub. 6-d are observed during a ~~[[complaint investigation]]~~ >>subsequent inspection<<.

Part 11. Section 200-53-13-a of the code is amended to read:

13. PENALTY.

a. An owner failing to apply for a residential rental certificate ~~[[of compliance]]~~ shall be subject to forfeiture of >>not less than<< \$100 for the first failure to apply. The owner shall be subject to a forfeiture of >>not less than<< \$150 for failure to respond to each subsequent notice to apply which shall be sent by the department.

Part 12. This ordinance takes effect January 1, 2015.

..LRB

APPROVED AS TO FORM

Legislative Reference Bureau
Date:_____

..Attorney

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney
Date:_____

..Requestor
Department of Neighborhood Services
..Drafter
1053-2014-2139/208700
LRB 155308-7
Teodros W. Medhin/lp
12/01/2014