

CHAPTER 153

RENTAL HOUSING

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153.01 Purpose. The purpose of this ordinance is to provide minimum standards for the protection of the life, health, welfare, and property of rental residential owners and tenants, as well as that of the general public.

153.02 Effective Date. This ordinance shall take effect and be in full force on <INSERT DATE>.

153.03 Definitions & Interpretations. For the purpose of this ordinance, the following definitions shall apply:

“Abandoned” means any dwelling unit, building, structure, property or part thereof that has not been actively used for its intended, designed, or permitted purpose for a period of 12 consecutive months, or for a minimum of 18 months during any 3 year period; or a non-conforming use within a dwelling unit, building, structure, property, or part thereof, that has been discontinued for a period of 12 consecutive months, or for a minimum of 18 months during any 3 year period.

“Owner” means any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the Land records of Des Moines County, Iowa, as holding any interest in title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the Personal Representative of the estate of such person if ordered to take possession of real property by a court.

“Primary Residence” means a dwelling unit maintained and occupied on a routine basis by at least one individual owner more than 50% of the year and can be proven to be that individual owner’s legal residence through tax records or other official documents filed with the state or federal government.

“Registration” means the process by which owners submit application to operate rental units in the City. All rental units must be registered to be occupied by tenants. Registration may be refused or revoked by the City for units not in compliance.

“Renter” means a tenant.

“Rental Unit” means an independent dwelling unit not occupied by the owner, owner’s child(ren), or owner’s parents as a primary or secondary residence.

“Tenant” means a person, not the owner, who occupies a rental unit with the consent of the owner, for monetary or non-monetary consideration.

“Zoning Ordinance” means the Zoning Ordinance of the City of West Burlington, Iowa.

153.04 Interpretation & Application. This ordinance is remedial and its provisions shall be liberally interpreted to be the minimum requirements for the protection of the public health, safety, and welfare. Wherever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted city or state laws, rules, regulations, ordinances, codes, deed restrictions or covenants, the more restrictive or that imposing the higher standards shall govern.

The following most recently published code shall be used to enforce provisions of this rental housing code.

- International Building Code
- International Mechanical Code
- International Plumbing Code
- International Property Maintenance Code
- International Residential Code

For the purposes of this ordinance, certain terms or words used herein shall be interpreted as follows:

Unless the context provides to the contrary,

The word “person” includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

The present tense includes the future tense.

The singular number includes the plural; and the plural number includes the singular.

The word “shall” is mandatory. The word “should” is permissive.

The words "used" or "occupied" include intended, designed, or arranged to be used or occupied.

153.05 Scope. This ordinance shall apply to all real property located within the incorporated limits of West Burlington, Iowa, which contains one or more rental units as defined herein.

153.06 Severability. Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

153.07 Rental Housing Inspector. The Development Services Coordinator shall serve as the Rental Housing Inspector of the City of West Burlington, herein known as the "Inspector."

153.08 Administration and Enforcement of this Ordinance. The Inspector shall administer and enforce this ordinance. The Inspector may be provided with assistance of such other persons as the Council may direct.

If the Inspector finds that any provisions of this ordinance are being violated, he shall provide the owner with written notice which shall specify the particular code provision that has been violated and which shall be mailed to the owner by ordinary mail at the address provided by the owner on the Rental Registration form. The notice shall specify the action required by the owner and the date such action shall be completed.

All corrective action must be completed within thirty (30) calendar days of the date of notice of violation with the exception of violations concerning the immediate health and safety of the occupants which shall be repaired within five (5) working days after notice.

Up to two (2) extensions may be granted where the Inspector has determined that the owner is making a good faith effort to complete required repairs or improvements to the property in a timely manner, but is unable to comply due to the magnitude of the work, or can prove delays in receipt of materials or equipment, delays in a hired contractor's completing of such work, or delays due to weather or other matters beyond the owner's control.

In the case of imminent danger or fire hazards, structural failure or danger of imminent collapse, interruptions or failures in plumbing, heating, or electrical systems, or other hazardous situations, the Inspector may order immediate repair or correction and may order the premises vacated pending such repair or correction.

If the Inspector discovers an imminently dangerous condition, the owner shall be notified and the persons likely to be endangered by the condition shall be notified. The notice shall specifically advise them of the nature of the dangerous condition and the possible consequences to them. This notice shall be served through one of the following: posting of the unit, mailed notice, verbal warnings, evacuation order, or other notification actions tailored to the specific condition. The notification shall be reasonably calculated to reach and inform the persons likely to be harmed by the imminently dangerous condition.

If at the conclusion of the period established for corrective action, the violation has not, in the Inspector's judgment been satisfactorily corrected, then the Inspector may issue citations in accordance with the

provisions of this ordinance, revoke the registration for the affected unit, and with the concurrence of the City Administrator, have the rental unit vacated.

Units vacated under this section shall be posted with signs indicating that the unit has been determined to be "Illegal", or if applicable "Unfit for Habitation", and that occupancy is prohibited until the rental unit has been inspected to verify that the violation has been corrected.

Any person who defaces or removes a posted sign without the approval of the Inspector shall be in violation of this ordinance.

153.09 Violation and Penalties. Any person, firm, corporation, or other entity violating any provision of this ordinance shall be guilty of a municipal infraction and such person, firm, corporation, or other entity shall be deemed guilty of a separate offense for each and every day or portion thereof during which such violation is committed, continued, or permitted, and upon finding that a municipal infraction has occurred, shall be fined in accordance with the appropriate provisions of City Code for this and subsequent or continuing violations.

153.10 Unfit Properties. The Inspector may upon the direction and concurrence of the City Administrator, Chief of Police, the Fire Chief or their duly authorized representatives, prohibit persons from entering or occupying, except for repair related activity, any property, building or structure, including utility and outbuildings, found to be unfit, found not to comply with City ordinances, or poses dangerous, unsafe, or unhealthy conditions for the building's occupants, passers-by, or the general public. Unfit properties shall be posted as "Unfit for Habitation". Any person who shall enter, occupy, use, or permit others to enter, occupy, or use the building or structure after such a posting shall be guilty of a municipal infraction. Each day the building or structure is entered, occupied, or used following such a posting shall be considered a separate offense.

153.11 Access for Inspection. Upon presentation of proper credentials, the Inspector or his duly authorized representative may enter at reasonable times and with reasonable notice, any building, structure, or land within the incorporated limits of the City to perform the duties imposed upon him by this ordinance. Reasonable notice shall be defined as a minimum of ten (10) calendar days advance notice. It shall be the responsibility of the landlord to notify the tenant(s) of inspection appointments, arrange access with the tenant(s), and provide access to the unit.

Units not accessible for inspection or otherwise not inspected in accordance with Section 3.3 shall be in violation of this ordinance and shall not be permitted as rental units.

In cases of complaints by the tenant or report of potentially life or health threatening condition(s) from any source, the Inspector may promptly investigate with general notice to the owner.

The owner or manager shall keep and have available for the Inspector a complete list of the names, addresses, unit numbers, and telephone numbers of all tenants for the registered property in question.

153.12 Parking. Off-street parking shall be provided for all rental units in accordance with the standards set forth in the West Burlington Zoning Ordinance.

153.13 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the Inspector shall have the authority to grant modifications to the standards herein for individual cases, provided the Inspector shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life, and fire safety requirements. The details of action granting modification shall be recorded and entered in the official files.

153.14 Right of Appeal. The owner and any other person, officer, or commission of the City aggrieved by the decision of the Inspector shall have the right to appeal such decision. An appeal in writing may be submitted to the West Burlington City Administrator to review the decision of the Inspector. In deciding such appeals, the City Administrator may, so long as such action is in conformity with the terms of this ordinance, reverse, affirm or modify, wholly or in part, any order of the Inspector.

153.15 Occupancy. No dwelling unit may be occupied by anyone other than the owner without having being registered and inspected under the provisions of this ordinance.

153.16 Rental Registration. Each owner of a rental unit, whether occupied or vacant, shall file with the City a completed registration form including the appropriate fee for each rental unit. All delinquent fees, fines, charges, or other amounts due to the City by the owner in part or in whole must be paid before the owner can register any rental unit.

Any person becoming an owner of an existing registered rental unit shall file a complete registration form within ninety (90) days of the transaction.

The registration form shall contain the following information:

Description of the premises by street number;

Name and address of the owner. If the owner is a corporation, the name and address of the resident agent thereof shall also be provided. The owner shall keep his name and address information current on the Rental Registration form.

The name and address of a managing agent.

When a rental unit is owned by more than one individual, or is owned by an entity that is not a natural person, a managing agent must be designated. The inspector shall be notified in writing within ten (10) days of any change of the managing agent. An owner with a designated managing agent who is found not to be customarily available or able to perform the duties as defined shall designate a different individual who is able to properly fulfill the requirements within ten (10) days of being notified

153.17 Inspections. Prior to the initial occupancy of any dwelling unit by a tenant, the Inspector shall complete an inspection of the unit for compliance with the standards of this and other applicable City ordinances. Owners of occupied rental units not inspected in accordance with, or who are otherwise in violation of this ordinance, shall incur a municipal infraction. All owners of rental dwelling units must have a valid inspection certificate from the Inspector.

All rental units shall be inspected for compliance with the standards of this ordinance on a routine basis. Single family rental units and duplexes shall be inspected every 5 years and any rental unit with three or more units shall be inspected every two years.

In the event an owner, manager, or tenant, refuses right of entry to the Inspector, particularly in the cases where the Inspector may have reasonable cause to believe there is an imminently dangerous condition, the Inspector shall have the authority to pursue a search warrant in connection with code enforcement.

153.18 Fees for Registration and Inspection. Registration and inspection fees shall be established annually by the Mayor and City Council and shall be assessed to and paid by each rental dwelling owner in accordance with this Ordinance. The registration fee for rental dwelling units shall be \$250 and this fee shall be waived if the rental dwelling unit is registered within 90 days of purchase, transfer of title, or change from owner-occupancy to rental unit.

There shall be a fee for the rental inspection regardless of whether the \$250 registration fee is paid or waived. The inspection fee shall be \$75 for a rental dwelling structure with no more than two units. There shall be an additional fee of \$10 per unit for three or more units. In addition, if a property contains more than one structure of rental units, each structure will be charged the inspection fee of \$75 and the additional \$10 fee for each unit in the case of three (3) or more units in a structure. If a complaint is received by the Inspector or any agent of the city authorized and an additional inspection is completed, the inspection fee of \$75 shall be assessed for each inspection. If an inspection is completed based on a complaint from a tenant, and no violation is found, the tenant shall be responsible for payment of the inspection fee.

If an inspection appointment is cancelled or missed without reasonable cause, then the inspection charges for that inspection shall apply.

153.19 Zoning Ordinance. No rental unit shall be created or occupied unless it complies with the provisions of the West Burlington Zoning Ordinance. Rental dwelling units that have been abandoned, as defined herein, have lost rental status for any reason, are otherwise unregistered, or have not been inspected in accordance with this ordinance, shall lose or forfeit any previously existing non-conformity and must meet current standards and requirements prior to occupancy.

153.20 Property Maintenance. No rental unit shall be occupied or continued to be occupied unless the structure in which said unit is located complies with the provisions and standards of the West Burlington Property Maintenance Code and is maintained in a structurally sound condition and kept free from health, fire, and other hazards to life and property.

The owner of the rental unit shall be responsible for keeping the premises maintained in good repair and fit for human habitation. The tenant shall be responsible for keeping good care of the property that tenant occupies per the rental arrangement between tenant and landlord.

Every facility, piece of equipment, utility or service, which is required under this ordinance, shall be so constructed and/or installed to function safely and effectively, and shall be maintained in satisfactory working condition and shall not be removed, shut off or disconnected in any occupied rental unit, except for such temporary interruption as may be necessary while actual repairs or alterations are in process or during temporary emergencies, or tenants failure to pay agreed upon services. Utilities or services shared by more than one unit or tenant may not be removed, shut off, or disconnected due to another tenant's

failure to pay agreed upon services. Utilities or services shared by more than one unit shall be the owner's responsibility to maintain.

153.21 Standards. All new and existing rental units shall meet the standards set forth in the current West Burlington Property Maintenance Code or the standards contained herein. In the event of a conflict between standards, the more stringent requirement shall apply.

153.22 Occupancy Limits. Each rental dwelling unit shall contain at least one hundred fifty (150) square feet of floor space for the first occupant thereof and at least one hundred (100) additional square feet of floor space for every additional occupant thereof. For the purpose of determining the maximum permissible occupancy, the floor area of that part of a room where the ceiling height is less than five (5) feet shall not be considered when computing the total floor area of the room.

In every dwelling unit of two or more rooms and every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor space and every room occupied for sleeping purposes by two occupants shall contain at least one hundred ten (110) square feet of floor space per sleeping room.

153.23 Drug Houses. If a rental property is found to have been used in the manufacture of illegal drugs, any portion of the rental house that came into contact with possible contaminants shall be removed and replaced with new material(s).

153.24 Contract/Lease/Option to Buy Exception. For the purpose of enforcement of this Chapter, a rental property remains a rental property, regardless of assertion that Offer to Buy Real Estate Contract, Lease with Option to Buy, Option Sale, or Rent to Own Agreement exists transferring ownership or control to any person or entity other than shown as legal owner in fee, unless and until a properly executed and notarized form of such document of transfer is recorded of record with the County Recorder, providing open obvious public notice of transfer. Absent such showing, no legal excuse or exception may be claimed by the Owner shown of record, and Code enforcement shall be pursued consistent with public records of ownership.

153.25 State Tenant/Landlord Law. To the extent that such provisions are not inconsistent with the provisions of this Municipal Code Chapter, generally, those provisions of the Iowa Code, Chapter 562A.1 to 562A.37, and Chapter 562B.1 to 562B.32, concerning interpretation, definition, exclusions, rights of tenant and of landlord, obligations of tenant and landlord, rules, remedies, notice, prohibitive conduct, and due process procedures and notice are adopted as part of this chapter.