

**ORDINANCE NO. 2014-02**

**STATE OF MINNESOTA)**  
**COUNTY OF MARTIN ) ss**  
**CITY OF FAIRMONT )**

**AN ORDINANCE ESTABLISHING STANDARDS  
FOR RENTAL HOUSING UNITS**

**THE CITY OF FAIRMONT ORDAINS as follows:**

**Section 1. The City's Code of Ordinances is hereby amended by adding thereto a Chapter 27 to read as follows:**

**CHAPTER 27: RENTAL HOUSING STANDARDS**

Section

27-01 Purpose

27-02 Maintenance of Records

27-03 Health and Safety

27-04 Registration & Licensing of Rental Units

27-05 Rental Housing Inspections

27-06 Posting a Rental License

27-07 Revoking, Suspending, Denying or Not Renewing a License

27-08 Effect of Revocation, Suspension, Denial or Non-Renewal

27-09 Posted to Prevent Occupancy

27-10 Disorderly Behavior

27-11 Fees & Penalties

27-12 No Retaliation

27-13 No Warranty by City

27-14 Crime Free Rental Housing

**Section 27-01. Purpose.**

The purpose of this ordinance is to establish a program for identifying rental housing units within the City of Fairmont. This ordinance is adopted to protect the public health, safety and general welfare of the citizens of the City of Fairmont by:

- Promoting safety from fires and accidents;
- Providing a means for the fair administration and enforcement of this code for all residential rental units;
- Providing minimum standards for basic equipment and facilities;
- Reducing environmental hazards to health; and
- Assisting in controlling criminal activities in rental housing.

**Section 27-02. Maintenance of records.**

All records, files and documents pertaining to rental unit registration, complaints and complaint inspection information, shall be retained and maintained by the City for ten years; and will be available to the public as allowed, permitted or required by state law or city ordinance.

**Section 27-03. Health and safety.**

(a) The owner shall be responsible for maintaining the rental property in compliance with the requirements of the Minnesota codes regulating residential structures, as they are currently written and as might be amended in the future, including but not limited to: the State Building Code Minn. Stat. §§326B101-194; the State Fire Code Minn. Stat. Chapter 299F; and Minnesota Administrative Rules Chapter 1300.

(b) Garbage: The owner of each rental unit shall provide garbage collection containers, dumpsters or other garbage management options adequate to accommodate all garbage and recyclables generated by each rental unit. Owners and tenants of single-family or multi-family units, shall comply with Fairmont City Code Section 22-18.

(c) Lawn Care: The owner shall be responsible for lawn care and for the removal of ice and snow according to Fairmont City Code Section 17-2 and Section 23-3 respectively.

(d) Mold, rodents and insect infestations shall be promptly eliminated by the owner and the rental unit shall then be kept mold and infestation free by the tenant.

#### **Section 27-04. Registration & licensing of rental units.**

(a) Registration and License required. It is unlawful for an owner to lease or allow to be occupied as a residence any rental housing unit owned by that owner in the City without first:

(1) completing and submitting to the City a registration form.

a. Each owner filing a registration form shall consent to be bound by all of the provisions of this chapter and shall certify that they have completed and submitted a housing safety checklist form.

b. Each tenant occupying a licensed unit within the City shall be bound by all of the provisions of this chapter.

c. The City shall assign a number to each owner and rental unit.

d. Tenant Information: The owner shall keep a listing of all adult tenants and inform each tenant that the booklet "Landlords and Tenants: Rights and Responsibilities" is distributed by the Attorney General's office, and that a copy of this ordinance, is available from the Fairmont Community Development Department.

e. The registration form will be furnished by the City and shall require the following:

1. Owner contact information;

2. Local contact information if the owner lives in a city other than Fairmont;

3. The mailing address of each rental unit to be registered;

4. The type of each unit to be registered, i.e. single-family, duplex, apartment, etc.; and

5. Owner certification that there is fire and liability insurance on the rental

property.

(2) Providing proof that the property taxes are current on the rental property.

(3) Paying the registration fee.

a. Rental housing units in existence on the date of the adoption of this ordinance will not be charged the registration fee if the rental housing unit is registered within 180 days of said adoption.

b. Every three years the rental housing registration will be reapplied for and the then current registration fee will be paid.

(4) Receiving a Rental License for the unit from the City.

(b) Transfer of Ownership: In the event of the transfer of ownership of a unit by sale or otherwise:

(1) The owner(s), within 10 days after the transfer, shall provide to the City the name, address and telephone number of each transferee.

(2) The transferee shall register the unit with the City under the transferee's name and pay all applicable fees within 30 days after the date of transfer; and

(3) If the rental license for the unit is valid and current and if the transferee so registers the unit and pays the fees, the rental license shall be transferred to the transferee.

(c) License Expiration: The Rental License will expire 36 months after the date of original registration.

- (d) The following dwellings are exempt from registration and licensing:
  - (1) Assisted living facilities
  - (2) Nursing homes
  - (3) State licensed facilities, i.e. REM units, hotels, etc.
  - (4) Single family homes rented for 18 months or less.
  - (5) Single family homes rented to another family member.

**Section 27-05. Rental housing inspection.**

- (a) The City has the authority to inspect any housing unit upon receiving a complaint of code violations.
- (b) A rental housing inspection for general health and life safety shall be completed at least once in a three year period; but does not have to be completed before licensing.
- (c) The inspection may be completed by Fairmont City staff designated to complete inspections for a fee or the property owner may hire a licensed home inspector to complete the inspection and submit the inspection checklist to the City.
- (d) The Community Development Department staff will notify the owner of the date, place and time of any inspection conducted pursuant to this section. The owner may be present for the inspection.
- (e) Properties inspected by another State or Federal agency are exempt from three year inspections.
- (f) The City will provide an inspection checklist to be completed and signed by the inspecting party.
- (g) Items on the inspection checklist found to be incomplete, missing or inoperable will be corrected by the Owner. The correction will be made in a time frame agreeable to the inspector, owner and tenant. A re-inspection to insure correction has been completed is required but no additional fee will be assessed.
- (h) Units that pass an inspection and do not receive a complaint within the three year license period are exempt from the inspection for the next three year period. All units must have an inspection after six years without an inspection.
- (i) The Community Development Department staff will inspect rental units and common areas when a tenant files a complaint with the City regarding code violations. The tenant must notify the owner/representative of the code violation prior to making a complaint with the City. The tenant must allow the owner/representative access to the area of the property needing repair.
- (j) Forms: The City shall provide forms upon which complaints may be made regarding the condition or license and registration status of any rental property.
- (k) Property Condition Complaints: The complainant shall either:
  - (1) promptly provide to the owner/representative a copy of the complaint filed with the City and all supporting documents and shall give the owner/representative 48 hours to correct the alleged code violation or
  - (2) shall provide not less than a 72-hours written notice of its intention to have the City conduct an inspection of the rental unit. The owner/representative shall be assessed appropriate inspection fees if the complaint is found to be substantiated by this inspection.
- (l) When a City staff person makes an inspection as a result of a tenant complaint and no violations are found the City will issue a notice of compliance to the tenant and the owner/representative. If the complaint is substantiated by the inspection, written notice of the observed violation(s) will be given to the owner/representative and tenant. The City inspector will work with the owner/representative to develop a timeline for the required repairs. A re-inspection

will be conducted at the expiration of the time period set for repairs. If the repairs have been completed in a satisfactory manner, a notice of compliance will be issued to the owner/representative and the tenant. In the event the repairs have not been completed in a satisfactory manner further action will be taken as permitted by this code or State law.

(m) License & Registration Complaints: Upon receipt of a complaint and verification that a residential rental unit is not licensed or registered, the City shall inform the owner in writing that the owner has 90 days to either:

- (1) comply with the terms of this ordinance by registering the unit and by paying all applicable fees; or
- (2) cease rental operations.

**Section 27-06. Posting rental license.** The owner shall arrange for a copy of the Rental License to be posted continuously on an inside sidewall of the kitchen sink cabinet.

**Section 27-07. Revoking, suspending, denying or not renewing a license.**

(a) The City Community Development Department may revoke, suspend, deny or decline to renew any license issued under this Section. In buildings containing more than one rental unit, the revocation, suspension, denial or non-renewal may apply to one or more rental units based on specific violations. The basis for such revocation, suspension, denial or non-renewal includes, but is not limited to, any of the following circumstances:

- (1) The license was procured by misrepresentation of the facts with regard to the rental dwelling unit.
- (2) The applicant or one acting on his/her behalf made oral or written misstatements pertaining to the application.
- (3) The actions of the owner or owner's representative involving a rental unit have created a danger to the public health, safety or welfare.
- (4) The rental dwelling unit contains conditions that endanger the safety, health or welfare of any member of the public.
- (5) Failure to pay any required application, penalty or reinstatement fee.
- (6) Failure to correct violations of Section 27-05(h) in the time period specified in the notice of violation and correction.
- (7) Following the third instance of disorderly behavior specified in section 27-10.
- (8) Any violation of this Chapter.

(b) Notification. The Community Development Department shall notify the owner or owner's representative in writing of the basis for the revocation, suspension, denial or non-renewal of the rental license and the date upon which the action takes effect.

(c) The Community Development Department shall notify the owner of their right to have the decision to revoke, suspend, deny or not renew the rental license reviewed by the Board of Zoning Appeals. The owner may request a review of the licensing decision upon a form provided by the City. That request shall be filed with the Community Development Department within 15 days after receiving the licensing decision from the Department. The review hearing will be set for the next regularly scheduled Board of Zoning Appeals meeting, unless that meeting is scheduled to occur in less than 15 days from the owner's request for review is received. In that event, the review hearing will be set on the following regularly scheduled Board of Zoning Appeals meeting.

(d) The owner or owner's representative and the Community Development Department shall be given an opportunity to be heard. The owner may be represented by counsel. Both sides may be permitted to examine the other side's witnesses and evidence. The Board of Zoning Appeals shall hear all relevant evidence and arguments and shall review all testimony, documents, and other evidence submitted. The Community Development Department shall record the review and keep a record of documentary evidence submitted.

(e) Decision. The Board of Zoning Appeals shall make findings based on the evidence and shall make a decision on the recommendation to revoke, suspend, deny, or not renew a license based on the findings. The Board of Zoning Appeals shall issue a written decision regarding the recommendation of the Community Development Department within 30 days following the date of the review and shall notify the owner or owner's representative of the decision by first class mail and by the Owner's preferred method of communication. The decision shall specify the rental dwelling unit or units to which it applies, the duration of the revocation, suspension, denial or non-renewal, and the conditions that must be met before the license may be reissued or reinstated. No rental dwelling units that have had their rental license revoked, suspended, denied, or non-renewed may be occupied. Revocation, suspension, denial, or non-renewal of a license shall not excuse the owner from compliance with all terms of this chapter for as long as any rental dwelling units in the building are occupied.

(f) License Process after Revocation, Suspension, Denial. After the Board of Zoning Appeals revokes, suspends, denies or declines to renew a license, no license will be issued for the affected rental dwelling unit(s) until the Community Development Department determines that the applicant/licensee has remedied the conditions identified as the basis for the action. An application to obtain a license for a rental dwelling unit after the Board of Zoning Appeals has revoked, suspended, denied or declined to renew a license for the same rental dwelling unit(s) must be accompanied by all fees required by this section.

(g) The owner has a right to appeal the Board of Zoning Appeal's decision as outlined in Section 2-25 of Fairmont City Code.

**Section 27-08. Effect of revocation, suspension, denial, or non-renewal.** If a license is revoked, suspended, denied or not renewed, it shall be unlawful for the owner or owner's representative to permit the occupancy of the rental dwelling unit(s), until such time as a valid rental license is obtained. Issuance of a new license after revocation, suspension, denial or non-renewal shall be made in the manner provided for in Section 27-04.

**Section 27-09. Posted to prevent occupancy.** Whenever any rental dwelling unit has been denied an initial license, had its license revoked, suspended, denied or not renewed it shall be posted by the Community Development Department to prevent further occupancy. It shall be unlawful for any person, other than the Community Development Department official to remove or alter any posting. The Community Development Department will post the date the rental dwelling unit shall be vacated and no person shall reside in, occupy or cause to be occupied that rental dwelling unit until the Community Development Department permits it.

**Section 27-10. Disorderly Behavior.**

(a) It shall be the licensee's responsibility to assist in correction and/or require lease language that the tenants, the tenants' family members and the guests of any tenant or tenant's family member not engage in disorderly behavior in the rental dwelling unit that negatively impacts the neighborhood. For the purposes of this section, rental dwelling unit shall include common areas in the building where the rental dwelling unit is located.

(b) Disorderly behavior. For the purposes of this section, disorderly behavior may include, but is not limited to, the following:

- (1) Illegal activity involving controlled substances as defined in MN Stat. Sec. 152.01 in the rental dwelling unit.
- (2) Acts of violence or threats of violence including but not limited to discharge of firearms, prostitution, intimidation, assault, or any other act that otherwise jeopardizes the health, safety or welfare of the licensee, his agents, tenants or any other person.
- (3) Violation of Minnesota Statute, Section 609.72 Disorderly Conduct.
- (4) Violation of Minnesota Statutes 609.74 and 609.745 Public Nuisances
- (5) Violation of Minnesota Statutes 609.66, Subd. 1a, 609.67 or 624.713 Unlawful use or possession of a firearm or weapon
- (6) Violation of Minnesota Statute 609.50 Obstructing Legal Process
- (7) Violation of Fairmont Code Article 17 Nuisances.

(c) First Instance. Upon determination by the community development staff or law enforcement that a rental dwelling unit was the location of disorderly behavior, the Community Development Department shall notify by first class mail the licensee to take steps along with Community Development Department to prevent further violations.

(d) Second Instance. If a second instance of disorderly behavior occurs at a rental dwelling unit within twelve (12) months of the time a notice was sent for previous disorderly behavior at the same unit, the Community Development Department may notify by first class mail the licensee and the tenant of the violation and ask the licensee to submit, within ten (10) days of the date of the notice, a written report of all actions taken by the licensee since the first violation notice and actions the licensee intends to take to assist in the prevention of disorderly behavior.

(e) Third Instance. If a third instance of disorderly behavior occurs at a rental dwelling unit within twelve (12) months after the first of two previous notices of disorderly behavior at the same unit, the rental dwelling unit license may be revoked, suspended or not renewed by the Community Development Department. The owner/representative has the right to appeal the Community Development Department decision as outlined in Section 2-25 of the Fairmont City Code.

(f) For purposes of this Section, second and third instances of disorderly behavior shall be those which:

- (1) Occur at the same rental dwelling unit; or
- (2) Involve tenants at the same rental dwelling unit; or
- (3) Involve guests or invitees at the same rental dwelling unit; or
- (4) Involve guests or invitees of the same tenant; or
- (5) Involve the same tenant.

(g) No adverse action shall be taken against the rental license when the instance of disorderly behavior occurred during a pending eviction proceedings (unlawful detainer) or within thirty (30) days of notice given by the licensee to a tenant to vacate the rental dwelling unit. However, adverse license action may proceed when the licensee fails to diligently pursue the eviction process. Further, an action to deny, revoke, suspend, or not renew a license based upon violations of this section may be postponed or discontinued at any time if the licensee has taken appropriate measures which will prevent further instances of disorderly behavior which may include a failed eviction process.

(h) Determining Disorderly Behavior. A determination that the rental dwelling unit has been the location of disorderly behavior shall be made by a preponderance of the evidence to support such a determination. It shall not be necessary that criminal charges be brought in order to support a determination of disorderly behavior, nor shall the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this section.

(i) Enforcement. Enforcement actions provided in this section shall not be exclusive, and the Community Development Department may take any action with respect to a licensee, a tenant, or the licensed rental dwelling unit(s) as is authorized by this ordinance or state law.

### **Section 27-11. Fees & penalties.**

(a) A person who violates the provisions of this Article may be charged with a misdemeanor.

(b) The Community Development Department may post the rental dwelling unit by appropriate signs or notices prohibiting occupancy, and may act to cause the rental dwelling unit to be vacated or remain vacant until the Code violations are corrected.

(c) All fees and penalties due and payable by the owner and not paid within 30 days of the due date shall be considered delinquent and may be certified to the County Auditor-Treasurer for collection with real estate taxes.

(d) All fees to be charged under this chapter will be set by an ordinance as approved by the City Council.

**Section 27-12. No retaliation:** Per Minnesota State Statute Section 504B.205, Subd. 2, Emergency calls permitted.

(a) A landlord may not:

- (1) bar or limit a residential tenant's right to call for police or emergency assistance in response to domestic abuse or any other conduct; or
- (2) impose a penalty on a residential tenant for calling for police or emergency assistance in response to domestic abuse or any other conduct.

(b) A residential tenant may not waive and a landlord may not require the residential tenant to waive the residential tenant's right to call for police or emergency assistance.

**Section 27-13. No warranty by city.** By enacting and undertaking to enforce this Ordinance, the City Council, its agents, and employees do not warrant or guarantee the safety, fitness or suitability of any dwelling in the City. Owners and occupants should take whatever steps they deem appropriate to protect their interests, health, safety and welfare.

**Section 27-14. Crime free rental housing program.**

(a) The Crime Free Rental Housing Program is a voluntary, three-phase certification program for rental properties of all sizes, including single-family rental homes. The program is available to owners and property managers of rental properties located within the corporate limits of the City of Fairmont. Necessary training and support of the program is designed to provide for ease of participation. The program is known to be effective in reducing criminal activity in rental properties. It is the policy of the City of Fairmont to encourage active participation in the program by all rental property owners and property managers.

Motion by:

Second by:

All in Favor:

All opposed:

Abstained:

Absent:

**Duly adopted** by the City Council on this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Randy Quiring, Mayor

ATTEST:

\_\_\_\_\_  
Patricia J. Monsen, City Clerk