

**FAIRMONT CITY COUNCIL
RENTAL HOUSING ORDINANCE
WORK SESSION**

Wednesday, November 17, 2021

1. Rental Housing Ordinance Discussion



Fairmont City Council
November 17, 2021

Agenda Item: 1

From: Cathy Reynolds, City Administrator
To: Mayor and City Council

Subject: Rental Housing Ordinance Discussion

Policy/Action Requested: Discussion only
Vote Required: None

Overview:

At the September 27 meeting, council scheduled a work session to review the proposed update to the rental housing ordinance. While the new proposed Chapter 27 would replace the existing chapter, this to avoid overly complicated editing. Much of the chapter remains the same.

Staff has prepared two documents to assist council in reviewing the proposal. The first summarizes the proposed changes section by section. The second compiles comments received during the public hearing and before the work session.

The drafting of the proposed ordinance was a collaborative effort of the community development team involved with the rental registration and licenses, police department, city administrator and city attorney. The proposed ordinance addresses the areas where gaps were found to exist in the current ordinance. The key areas addressed in the proposed ordinance include:

- 1) Updates the definition for rent, lease, let, or sublet to include installment sales, purchases, and other similar arrangements. This change was brought about by the concern of rentals being rented under contract for deeds which did not fall under the rental ordinance. The updated definition would include properties that are under contracts for deed, unless the contract for deed is recorded as required by Minnesota Statute.
- 2) Removes the exclusion for family rentals from the code.
- 3) Updates the property inspection requirements.
 - a. Requires the inspection to be completed at rental license application/renewal.
 - b. Requires the inspection to be completed every three years and removes the waiver for the inspection for properties that have not received a complaint.
 - c. Requires the inspection to be completed by the city, or a contractor retained by the city.
 - d. Inspection fees to be paid at the time of application/renewal.
- 4) Updates language on rental complaints and removes the requirement for the tenant to provide notice to the landlord about complaints filed with the city.
- 5) Updates section 27-10 on disorderly behavior to include additional provisions in accordance with Minnesota Statute.

Attachments:

1. Proposed Ordinance 2021-03
2. Matrix summarizing changes to Rental Housing Ordinance
3. Matrix of comments from the Public Hearing
4. Submitted Landlord Questions

Council Action: _____

Date: _____

ORDINANCE 2021-03

An Ordinance Repealing and Replacing in its entirety

Fairmont City Code, Chapter 27 Rental Housing

WHEREAS, the City of Fairmont does Ordain that Fairmont City Code, Chapter 27 – Rental Housing is hereby repealed in its entirety and replaced to read as follows:

Sec. 27-1. Purpose.

The purpose of this chapter is to establish a program for identifying rental housing units within the City of Fairmont. This chapter 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 housing units;
- Providing minimum standards for basic equipment and facilities;
- Reducing environmental hazards to health; and
- Assisting in controlling criminal activities in rental housing.

Sec. 27-1-1 Scope

This chapter applies to rental housing units described herein that are rented or leased in whole or in part, including apartment buildings, town homes, single family and multifamily housing, guest and caretaker houses, and condominiums. It also includes any accessory structures of the rental housing units, such as garages and storage buildings, and appurtenances such as sidewalks, driveways, and retaining walls, which are on the property of the rental housing unit. This chapter does not apply to on-campus college or university housing units; Minnesota Department of Health licenses rest homes; convalescent care facilities; licensed group homes; nursing homes; hotels; motels; or owner-occupied units.

Sec 27-1-2. Definitions

For the purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (a) Rental Housing Unit. Any building, structure, or portion thereof, which is designed, built remodeled, rented, leased, let or hired out to be occupied, or which is occupied as a home or residence of a person or persons other than the owner or purchaser of record.

- (b) Rent, lease, let, or sublet means the leasing of a rental housing unit to a non-owner for a fixed or non-fixed period of time and shall include installment sales, purchases, and other similar arrangements whereby nonpayment of a periodic payment means the occupants may be evicted without the necessity of either a statutory mortgage foreclosure procedure, a statutory termination of contract for deed procedure, or a statutory repossession procedure.
- (c) Uniform Housing Code. 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.
- (d) Local Property Manager. A person residing within 50 miles of the city of Fairmont who is authorized by the property owner to make decisions for the owner about the rental, occupancy, and maintenance of the rental housing unit, or a licensed, or bonded, and/or insured company engaged primarily in providing such services for hire.

Sec. 27-2. Maintenance of records.

All records, files and documents pertaining to rental housing unit registration, complaints and complaint inspection information, shall be maintained in the office of the City Clerk and made available to the public as allowed, permitted or required by state law or city code.

Sec. 27-3. Health and safety.

- (a) The owner shall be responsible for maintaining the rental property in compliance with the requirements of the Uniform Housing Code.
- (b) Garbage. The owner of each rental housing unit shall provide garbage collection containers, dumpsters or other garbage management options adequate to accommodate all garbage and recyclables generated by each rental housing 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 housing unit shall then be kept mold and infestation free by the tenant.

Sec. 27-4. Registration and licensing of rental housing units.

- (a) No person shall, and it shall be unlawful, for any person to conduct or operate or cause to be operated either as owner, lessee, agent or in any other capacity within the city any Rental Housing Unit, as defined in sec 27-1-2 above, without having first obtained a license to do so as hereafter provided. It shall be unlawful for an owner, designated agent, or operator, after notice has been sent by first class mail, to continue operation of a rental housing unit without submitting an application for a license under this chapter, along with the necessary fee. The following properties shall be excepted from this requirement:

1. An unoccupied Rental Housing Unit that that has been issued a vacant building registration pursuant to Chapter 28 of this code.
2. A property being sold on a contract for deed, provided the contract has been recorded in conformance with Minnesota law.

All Rental Housing Units shall be current on any real estate taxes, assessments, fines, penalties, or other financial claims due to the city at the time of application for a rental license.

- (b) Inspection of a rental housing unit shall be completed prior to issuance of an initial rental housing license, prior to rental housing license renewal and upon a rental housing unit tenant's filing of a complaint with the city of rental housing conditions that are subject to the standards herein.
- (c) The legal owner of each rental housing unit shall make application to the City for a license on a form to be supplied by the city and containing information necessary to administer and enforce the provisions of and to ensure compliance with the provisions of this chapter, and the minimum standards of uniform housing code.
- (d) Application for a rental license must be made prior to any initial occupancy, and thirty (30) days prior to any license renewal. Licenses are valid for 36 months from the date of issuance.
- (e) Each application for rental license must be on a form provided by the city and must contain:
 - (1) Legal owner name, address, telephone number and email address.
 - (2) Local property manager name, address, telephone number and email address. Said local property manager shall reside within 50 miles of Fairmont.
 - (3) The street address of the rental property.
 - (4) The number of rental housing units contained within the rental property.
 - (5) Proof that the property taxes are current on the rental property.
 - (6) Proof that the rental property is registered with the applicable utilities.
 - (7) Proof of fire and liability insurance on the rental property.
 - (8) Accompanied by the payment of the rental registration fee and inspection fee.
- (f) Transfer of ownership. In the event of the transfer of ownership of a rental housing unit by sale or otherwise:
 - (1) The owner(s), within ten (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 thirty (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.

Sec. 27-5. Rental housing unit inspection.

- (a) The city has the authority to inspect any Rental Housing Unit upon receipt of a rental housing license application or upon receiving a complaint of code violations. The owner or tenant shall provide access to the Rental Housing Unit upon request of the City. Refusal to reasonably grant access shall be grounds for rejection or suspension of a rental registration.
- (b) A rental housing unit inspection will be scheduled with the owner, or local property manager, upon receipt of the rental housing license application by the city. If the owner or local property manager fail to respond and coordinate a date, an inspector may enter the building to inspect on 48 hours' written notice to the property owner. The cost of the inspection will be paid with the rental housing application.
- (c) The inspection may be completed by Fairmont City staff designated to complete inspections or a contractor hired by the city to complete rental inspections
- (d) The applicant for license shall assist the city in making the inspection of the premises. This includes notifying the occupants of the building of the time when the inspection will be conducted and requesting their cooperation in the inspection. The owner may be present for the inspection.
- (e) Properties inspected by another state or federal agency are exempt from three-year inspections.
- (f) Upon inspection, a property found to meet the Uniform Housing Code, and is otherwise in compliance with this code, shall be issued a license. If the inspector finds code deficiencies, they shall list the deficiencies, note necessary corrections and give these findings to the building owner or local property manager and no license shall be issued until the deficiencies are corrected. Upon reinspection of the licensed premises, if the inspector finds violations of the applicable codes, the owner, or local property manager, shall be notified of the violations and ordered to correct them within a reasonable time. Failure to correct the violations as ordered may be grounds for revocation of the license.

Sec. 27-6. Rental housing unit complaint procedure.

- (a) The City will inspect rental housing units and common areas when a tenant files a written complaint with the city regarding a violation of state law or local ordinance.
- (b) The identities of any person filing a complaint about violations of state law or local ordinance concerning the use of real property, and any information that would identify such person, is classified as confidential information under Minnesota Statute 13.44. No employee or agent of the City shall release or reveal such information except by court order.

- (c) Forms. The city shall provide forms upon which complaints may be made regarding the condition or license and registration status of any rental property.
- (d) Upon receipt of a complaint, the City shall investigate the property within 72 hours of receipt to verify the existence of conditions in violation of this code or any other applicable statute, ordinance, code or regulation. The owner/representative shall be provided notice of the date and time of the inspection and may be present during the inspection
- (e) The owner/representative shall be assessed appropriate inspection fees if the complaint is found to be substantiated by this inspection.
- (f) When a city employee or agent makes an inspection as a result of a tenant complaint and no violations are found the city shall 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) shall be given to the owner/representative and tenant. The city 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.
- (g) License and registration complaints. Upon receipt of a complaint and verification that a residential rental housing unit is not licensed or registered, the city shall inform the owner in writing that the owner has sixty (60) days to either:
 - (1) Comply with the terms of this chapter by registering the unit and by paying all applicable fees; or
 - (2) Cease rental operations.

Sec. 27-7. 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.

Sec. 27-8. Revoking, suspending, denying or not renewing a license.

- (a) The city may revoke, suspend, deny or decline to renew any license issued under this section. In buildings containing more than one (1) rental housing unit, the revocation, suspension, denial or non-renewal may apply to one (1) or more rental housing 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 (1) 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(f) in the time period specified in the notice of violation and correction.
 - (7) Following the third instance of disorderly conduct specified in section 27-11.
 - (8) Any violation of this chapter.
- (b) Notification. The city 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 city 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 city within fifteen (15) days after receiving the licensing decision. 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 fifteen (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 city 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 city within thirty (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 housing 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 housing 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 housing 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 housing unit(s) until city 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 housing unit after the board of zoning appeals has revoked, suspended, denied or declined to renew a license for the same rental housing 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.

Sec. 27-9. 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 housing 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 27-4.

Sec. 27-10. Posted to prevent occupancy.

Whenever any rental housing unit has been denied an initial license, had its license revoked, suspended, denied or not renewed it shall be posted by the city to prevent further occupancy. It shall be unlawful for any person, other than a representative of the city to remove or alter any posting. The city will post the date the rental housing unit shall be vacated and no person shall reside in, occupy or cause to be occupied that rental housing unit until city permits it.

Sec. 27-11. Disorderly Conduct Prohibited.

- (a) The license holder shall be responsible to prevent instances of disorderly conduct by tenants, members of tenant's household and guests. For the purposes of this section, rental housing unit shall include common areas in the building where the rental housing unit is located.
- (b) Disorderly Conduct. For the purposes of this section, disorderly conduct may include, but is not limited to, the following:
 - (1) Illegal activity involving controlled substances as defined in MN Stat. § 152.01, et seq., in the rental housing 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, prohibiting disorderly conduct, when the violation disturbs the peace and quiet of the occupants of at least one unit on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation.
 - (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 4, Animals, Article 15.2, Noise, Article 17, Nuisances, and Article 22, Solid Waste.
 - (8) Violation of Minnesota Statutes 609.321-609.324, prohibiting prostitution and acts relating thereto.
 - (9) Violation of Minnesota Statutes 340A.401, prohibiting the unlawful sale of alcoholic beverages.
 - (10) Violation of Minnesota Statutes 340A.503, prohibiting the underage use of alcoholic beverages.
- (c) First instance. Upon determination by the city that a rental housing unit was the location of disorderly conduct, the city shall notify by first class mail the licensee and direct the licensee to take steps to prevent further violations.
 - (d) Second instance. If a second instance of disorderly conduct occurs at a rental housing unit within twelve (12) months of the time a notice was sent for previous disorderly conduct at the same unit, the city may notify the licensee by first class mail of the violation and direct 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 conduct. The licensee shall notify the tenant or tenants within ten days of the notice of disorderly conduct violation.
 - (e) Third instance. If a third instance of disorderly conduct occurs at a rental housing unit within twelve (12) months after the first of two (2) previous notices of disorderly conduct at the same unit, the rental housing unit license may be revoked, suspended or not renewed by the city. The owner/representative has the right to appeal the decision as outlined in section 2-25 of the Fairmont City Code.
 - (f) For purposes of this section, second and third instances of disorderly conduct shall be those which:
 - (1) Occur at the same rental housing unit; or
 - (2) Involve tenants at the same rental housing unit; or
 - (3) Involve guests or invitees at the same rental housing 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 conduct 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 housing 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 conduct which may include a failed eviction process, or if the licensee has proceeded in good faith to secure termination of the tenancy but was unsuccessful for reasons beyond the licensee's reasonable control.

- (g) In lieu of revoking, suspending or not renewing the rental license, the city may require an action plan to be completed and complied with by the licensee, manager or local agent within a designated time frame which outlines the steps necessary to be taken and complied with in order to correct identified violations and the measures to be taken to ensure ongoing compliance with the city code and other applicable laws.
- (h) Determining disorderly conduct. A determination that the rental housing unit has been the location of disorderly conduct 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 conduct, 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 city may take any action with respect to a licensee, a tenant, or the licensed rental housing unit(s) as is authorized by this chapter or state law.

Sec. 27-12. Fees and penalties.

- (a) A person who violates the provisions of this article may be charged with a misdemeanor.
- (b) The city may post the rental housing unit by appropriate signs or notices prohibiting occupancy and may act to cause the rental housing 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 thirty (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 resolution approved by the city council.

Sec. 27-13. 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.

Sec. 27-14. No warranty by city.

By enacting and undertaking to enforce this chapter, 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.

PASSED, APPROVED AND ADOPTED, this 11th day of October 2021.

- Motion by:
- Seconded by:
- All in favor:
- Opposed:
- Abstained:
- Absent:

Deborah J. Foster, Mayor

ATTEST:

Patricia J. Monsen, City Clerk

1st Reading: September 27, 2021
2nd Reading: October 11, 2021



Phone (507)238-9461

CITY OF FAIRMONT – 100 Downtown Plaza – Fairmont, MN 56031
www.fairmont.org ♦ citygov@fairmont.org

Fax (507)238-9469

Residential Rental Unit Registration Licensing Form

Date: _____

Address of Property Being Registered:

Owner Information

Name: _____

Address: _____ City/State/Zip: _____

Phone: _____ Email: _____

Local Agent Information (if any) Lives within 50 miles of Fairmont.

Name: _____

Address: _____ City/State/Zip: _____

Phone: _____ Email: _____

Correspondence concerning the registered properties should be sent to: Owner and/or Agent

Include proof of liability and fire insurance, with proof of current property taxes, and proof of utility services along with registration and inspection fees with completed application.

Office Use Only:

Proof of liability insurance and fire insurance: _____

Proof of current property taxes: _____

Proof of electric/water hookup: _____ Proof of gas hookup: _____

Registration & Inspection Fee: _____ check/cash/card

Date Paid: _____

(\$5/unit- max. of \$100 per Owner) (Inspection Fee _____)



**Complaint Form
Residential Rental Properties**

Date: _____ Date Received by City _____

Complainant Information

Name: _____ Phone Number: _____

Address: _____ City/State/Zip: _____

Violation Information

Owner/Landlord: _____ Phone Number: _____

Address: _____ City/State/Zip: _____

Details of complaint. Please be as detailed as possible. Attach pages as needed.

By signing, I certify that the above and any attached information as true and correct. I understand that if my complaint is found invalid, I may be assessed an inspection fee.

Signature: _____ Date: _____

C I T Y O F L A K E S

Rental Property Safety Inspection Checklist

Rental housing inspections are responsible for promoting the health, safety, and livability of the rental housing stock in the City of Fairmont, Minnesota. Regular inspections of rental properties are conducted to ensure they are safe and well-maintained.

Not all items on the checklist will apply to every property. If you have questions on any items on the list, please call 507-238-3933.

Address: _____ Date: _____
Unit # _____ License # _____

Exterior

- Siding is weathertight and free from deterioration and decay
- House number visible from public right of way
- Foundation is structurally sound
- Foundation has proper grading
- Foundation is free from holes or gaps, rodent proof
- Weather tight roof with no visible leaks from inside or outside. Roof is free of water leaks
- ~~Roof is structurally sound~~
- No loose, deteriorating, or missing shingles
- Gutter is properly attached with extensions that drain away from structure
- Porch/deck structurally sound
- Porch/deck guardrails required if over 30 inches above ground and/or 3' distance drop
- Steps securely attached and in good repair
- Graspable handrails required on stairs/steps with four or more steps/risers
- Continuous guardrails required on open sides of stairways 30 inches or more above ground and/or 3' distance drop
- Sidewalk and steps maintained
- No broken windows; operable hardware

Premises and Accessory Structures

- Yard/landscaping maintained (mowed/plowed) and free of junk and debris

- Garage/shed structurally sound
- Exterior surfaces weather-protected and intact
- Fences are well maintained

Interior

- Ceiling and walls free of water damage, significant cracks, peeling, and large holes
- Floors free of holes, cracks, and tripping hazards
- Cabinet doors, drawers, and hardware in good condition
- Refrigerator operable with secure gaskets and handles
- Sinks and wash basins are cleanable; have water-tight surfaces that are free of chips, cracks and leaks
- Free of signs of rodent or pest infestation
- Stove burners and oven elements are operable
- All stairways have a continuous, graspable handrail. Handrails are present and secure; 34"-38" from stair surface
- ~~Bathroom has operable bath fans if there is no bathroom window~~
- Adequate lighting in each room
- Adequate lighting required on interior and exterior stairways

Electrical

- All outlets and switch plate covers present and secure
- Wiring is concealed and protected

- Free of temporary wiring/extension cords
- Electrical panel has 3' clearance and circuitry labeled
- Fixtures properly installed

Mechanical System

- Heating and cooling appliances operable
- Heating and cooling controls/thermostats accessible and operable
- Dryer directly vented to the outside
- Laundry rooms maintained
- No storage within 3' of furnace or water heater
- Proper appliance venting
- Gas valve at each appliance

Plumbing

- Plumbing fixtures are operating properly and free from leaks
- Hot and cold water
- P&T relief valve on water heater, automatic valve located in the top 6" of water heater.
- Water pipes free from leaks
- Water heater is free of leaks
- A metal drip pipe is in place within 18 inches of the ground
- Water heater is safely vented in accordance with manufacturer recommendations
- Proper sanitary drainage

Fire Protection

- Working smoke detectors installed in each bedroom and adjacent hallways
- At least one working smoke detector on each level, including basement and habitable attics. -and on each level, at minimum on each floor
- Working carbon monoxide (CO) detector is within 10 feet of bedrooms

- Exits and pathways are clear, maintained, and usable
- Windows open, close and latch properly
- Doors open, close, lock and latch properly
- Combustible materials (i.e., paint, gasoline, etc.) are stored safely (not within 10 feet of gas-fired appliances (furnaces, water heaters, etc.))
- Up-to-date emergency contact numbers for property key box
- Fire extinguishers are visible, accessible with valid inspection dates
- Emergency lights, exit signs and fire doors are maintained and operable where needed
- All sleeping rooms have operable windows, egress windows present to size

Owner/Representative Name:

Owner/Representative Signature:

Inspector's Name:

Inspector's Credentials (State License or Cert. #):

Inspector's Signature:

Date: _____

Addition Notes: _____

Overall Proposed Changes to Rental Housing Ordinance

Draft Ordinance	Summary of Changes
27-1	No change.
27-1-1	New section which clarifies the scope of the ordinance.
27-1-2	New section adding definitions for the ordinance. Includes unrecorded contracts for deed as rentals.
27-2	Removed 10-year records maintenance requirement. Clarifies that records maintenance will be consistent with state law or city code.
27-3	No change.
27-4	Added requirement for units to be inspected before they are rented. Proof of insurance required before unit is rented. Exemptions for units rented to family or less than 18 months removed.
27-5	Changed so that inspections are completed by City staff or contractor. If City unable to contact owner or manager, inspector may enter the unit on 48 hours written notice. Inspections required before unit is first rented and every three years thereafter.
27-6	New section which provides a clear procedure for handling complaints. Removes requirement for renter to provide notice to landlord about complaints filed with the City. Protects complainant's name as confidential.
27-7	Current section 27-6
27-8	Current section 27-7 with administrative changes. Update references to the community development department to reference the city.
27-9	Current section 27-8.
27-10	Current section 27-9 with administrative changes to references to community development department.
27-11	Current section 27-10. No change to three strikes program or requirement for owners to assist in correction. Updated what is defined as disorderly behavior to include updated State Statute references.
27-12	Current section 27-11 with administrative changes to references to community development department.
27-13	Current section 27-12. No change.
27-14	Current section 27-13. No change.
	Current Section 27-14 removed.

Comments on Proposed Rental Housing Ordinance

Comment	Current	Proposed
1. Requiring an inspector who is chosen by the City conduct safety inspections is a burden.	<u>27-5(c)</u> The landlord may choose between a City inspection or hiring their own licensed home inspector.	<u>27-5(a)</u> A City inspector, or one hired by the City, conducts the inspection.
2. Allowing the City to inspect a unit for safety immediately after receiving a complaint represents overreach.	<u>27-5(a)</u> The City has the authority to inspect any housing unit upon receiving a complaint of code violations.	<u>27-6(a)</u> No change. The City has the authority to inspect any housing unit upon receiving a complaint of code violations.
3. Suspending a rental license would displace people.	<u>27-8</u> Suspension of a license, after the completion of an appeals process, prevents the unit from being rented.	<u>27-9</u> No change. Suspension of a license, after the completion of an appeals process, prevents the unit from being rented.
4. Requiring proof of fire and liability insurance for rented units is an invasion of privacy.	<u>27-4(a)(1)(e)(5)</u> The landlord must affirm that the unit is protected with fire and liability insurance.	<u>27-4(e)(7)</u> The landlord must provide proof of fire and liability insurance.
5. Requiring proof of property taxes being current for rental units is a burden.	<u>27-4(a)(1)(e)</u> Proof of property taxes being current is not required as part of a license application.	<u>27-4(e)(5)</u> Proof of property taxes being current is required as part of a license application.
6. Requiring landlord to be responsible for assisting in prevention of disorderly conduct is a burden.	<u>27-10(a)</u> The landlord is responsible for assisting in correction of disorderly conduct. Three instances rules provided.	<u>27-11</u> The landlord is responsible for assisting in correction of disorderly conduct. Three instances rules provided. Behaviors that are disorderly updated with current State Statute references.
7. Renters to hold renter's insurance should be required.	No provision requiring renters to hold renter's insurance.	No provision requiring renters to hold renter's insurance.

1. We landlords were never asked for input when drafting this new ordinance.
 - Council directed staff to update and to address the loopholes that existed within the current ordinance. Staff made updates in accordance with council direction and our knowledge of the areas that cause concerns and problems in trying to enforce the ordinance. Input was sought on the draft through the public hearing and ensuing work sessions.
2. We were blindsided with no notice of this proposed re-drafting of current ordinance

Timeline for Ordinance Update:

- May 24 council asked staff to address the rental housing ordinance based on a complaint received during the public comment period of the council meeting. We discussed the timing and council directed staff to bring a draft ordinance back by September.
 - At the June 14, meeting Councilor Kawecky asked to have the topic placed on the agenda. Staff confirmed that we were working on a draft and that we would bring it back to council for review and a public hearing in accordance with the timeline discussed at the previous meeting.
 - Staff took the draft rental ordinance to the planning commission to receive their input on the draft at their September 7, 2021, meeting.
 - At the September 13, 2021, Council meeting staff announced that there would be a public hearing on the draft rental ordinance at the September 25 council meeting.
 - Notice of the public hearing was posted in the Photo Press
 - The public hearing was held on September 25, 2021.
3. That the City has no facts or research data into how our current ordinance is doing and do we need a new updated ordinance.
 - This is an emotional decision made because of 2 unfortunate issues brought to council's attention.
 - i. Had these 2 landlords been following the current ordinance code?

Regarding the 2 issues brought to council that got us to this point today, no hot water/heat house and the dad who spoke of the uninhabitable home his daughter looked at. (This was the same property)

1. Had these landlords been following the current ordinance? Yes, the property was registered in October 2018.
2. Had these landlords even registered these rental units? Yes

3. Had these properties ever even been inspected? . No, they had three years from registration to inspect in accordance with the current ordinance. So they had until October 2021 to complete the inspection.
 - a. If you don't know this, then how you know landlords are using this as a loophole to avoid inspections.
4. Did these landlords have the licenses revoked on those units? Why Not?
 - The rental home that started the review of the ordinance was registered in October 2018. It had not been inspected prior to the complaint, but per the ordinance it has three years to complete the inspection. That means it did not need to complete an inspection until October of 2021, 5 months after the complaint was received.
 - I talked to the landlord, and he claimed that the property is under a contract for deed. With the current ordinance we do not have language to support a non-recorded contract for deed being considered a rental, so there is no clear requirement for it to be registered or inspected.
 - There is no enforcement action the city could take under the existing ordinance until a written complaint was received, assuming it is a rental, not a contract for deed which is a grey area for enforcement under the existing ordinance. Further the written complaint is required to be by the tenant and the complaint that we did receive was from the father. Again, per the ordinance, there is no enforcement action that the city could take under the current rental ordinance.
5. How many registered rental units in Fairmont? Approximately 770 in October 2021. The number changes as we have a rolling registration and not a single registration deadline.
6. How many unregistered rental units in Fairmont? It is unknown how many are unregistered. There is no good way to find unregistered homes. Non-homestead properties are one item you can look at, but it does not mean that the property is a rental so that number does not provide a good guide as to the number of rental units in the community. I am unclear where 1300 – 1500 rental units number from.
 - a. Randy, I really don't care about the number. This is pretty important for the city to know. If there are approximately 1300-1500 rental units in Fairmont but only 851 were registered in the previous 3 years 2018-2020, don't you think that is a problem? The units being registered in 2021 are many of the same units registered in 2018 as it has been 3 years. What is a new ordinance going to do if city hall can't manage the current ordinance and how will it improve anything? That leaves approximately 449-649 unregistered non-homesteaded, assumed rental properties in Fairmont. This leaves approximately 35-43% of rental properties unregistered. How are you supposed to have a checks and balances if city doesn't have a clue how many properties are going unregistered year after year? How do they follow up to make sure they are being registered? Do you see where the potential issues lie? The issues are within City Hall not managing, keeping record, enforcing, registering, inspecting these unregistered properties, and this all starts at the CEO of city hall, the city administrator not directing her staff how to manage our current ordinance.

7. Can we please schedule another work session so we can continue discussions or can we table this all together until we all get some answers? Thank you for scheduling this!! **November 17, 2021.**
8. Why were the changes you as a council requested regarding the complaint process and our inspector selection process not red lined or added to the draft? Can you really vote on this today without these changes being added as requested?
- Complaints: The draft ordinance provides for the receipt of written complaints. It does not limit the complainant to being the tenant per council discussion. Options for this language could be 1) tenant only complaint (current ordinance); 2) designated individuals (family members, or neighbors); 3) written complaint (no defining language on who can file); or, 4) the complaint option can be removed. All of these options can be found in comparable ordinances. Council can decide what option they prefer, and we can draft accordingly.
 - Prior notice of the complaint to the landlord. This is part of the current ordinance. This stops some individuals from filing complaints as they are afraid of retaliation by the landlord. An alternative approach is to write into the ordinance staff will communicate the complaint to the landlord and give them (x) days to address the issue. If it is not addressed, then we will inspect. The name of the complainant is protected data, so the identity of the complainant would not be known unless we limit complaints to tenants only.
 - If we utilize the alternative approach, we will need to incorporate language to address emergency situations that require immediate action. (i.e. situation we just had where CO2 was venting into the home.)
 - Inspector Selection Process: Staff does not recommend adding this language to the ordinance. Would the ability to select be limited to initial and renewal inspections? Would it apply to inspections on complaints? What happens if the inspector they select is unavailable, or declines to do the particular inspection? Additionally, the building official will need to be utilized for some inspections if there is a potential need to post as uninhabitable.
 - My recommendation would be to leave it out of the ordinance as it is not really ordinance language, if we want to develop a policy to address, we could do this outside of the ordinance.
 - Staff would implement this with a RFQ process to create a list of contractors for the inspections. We would assign inspections on a rotating basis, and if someone is not available then it moves to the next name on the list. This ensures fair distribution of the contract work and provides for smooth transition to the next inspector if one is not available or declines a job.
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9. Why should we as landlords trust the city administrator, city hall, and the inspection department to manage, keep record, enforce, train, inspect and educate regarding this rental ordinance if a majority of council takes issue with communication within city hall and issue with the inspection department? Does this is right or fair? Do as I say not as I do, RIGHT? **There are companies that**

provide rental home registration services that the city could contact and see if they would be interested in providing services in Fairmont if the council desires. The ones that I have talked to handle the registrations and inspections. I believe their fees are paid via the registration/inspection fees they charge the landlords. I would anticipate this would be more costly than our \$5 registration fee.

10. How many other businesses in Fairmont have to provide proof of insurance, current real estate taxes, and current utilities before they can open their doors for business?

- Proof of Insurance: Current ordinance requires landlord to certify existence of insurance.
 - Proof is required in other businesses that we license (liquor, taxi).
- Proof of current real estate taxes: Required in current ordinance
 - Required for all businesses we provide loans to via FEDA.
- Proof of current utilities. Not required in current ordinance.
 - Required for all business we provide loans to via FEDA.
 - The language could be updated to provide proof of current utilities if the utilities are in the owner's name.

11. How many home owners have to provide proof of insurance to cover the 10% the city withholds in a case of a fire as Mr. Peters spoke of last meeting?

- We don't require proof of insurance for homeowners, but it is required of businesses we license.
- This is part of a Minnesota Statutes provision and is unrelated to the proof of insurance requirement in the rental ordinance.

12. How many issues have there been with this part of our current ordinance? Why is this change necessary?

- We will need to ask for clarification as to what part of the ordinance this question is referring to.

13. Do not think it is important to have at least some support from landlords? It is hard to support things like this as a landlord when we get little or no support from the city in our small businesses. Rather, we get criticized as being money hungry slumlords that care more about profits than people. That couldn't be further from the truth for me and 99% of landlords in Fairmont. But how would you know that with no communication or input from our industry as a whole. I have now owned a small business in Fairmont for 14 years, I think I can count on 2 fingers the number of times city staff has called to say "How are things? or What can we do to help?"

14. What inspection checklist will be used? What is wrong with our current checklist? Can this be added and voted on by council as part of the registration/inspection process so city staff can't change on their own without council approval?

- The updated checklist is in line with other communities and is meant to provide greater clarity for all parties on what is being inspected. This will also assist with uniformity in the inspections.

15. What will the inspection fees be? Will each inspector be able to set their own rates? What will the stair-step fee scale be for multiple properties?

- Staff will work with the contractors that we include on our inspection list to establish a realistic fee schedule for our contracts with them. Once this is established, we can bring the fee schedule to council for approval. We have heard some landlords state they have an individual that inspects for \$20 and we believe others charge around \$40 dollars. We do not know what a fair step schedule may look like. We would recommend that we set this when we have talked to contractors so that we can set a fair schedule that does not overcharge landlords, nor make taxpayers support the required inspections with their tax dollars.

16. What is your definition of a conflict of interest? Previous business relationship? Acquaintance? Previously inspected the property? Previously did work on a property? Play softball with? Attend Chamber of Commerce meetings together? Attend the same church?

Dictionary Definition.

- a situation in which the concerns or aims of two different parties are incompatible.
"the conflict of interest between elected officials and corporate lobbyists"
- a situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity.