

ORDINANCE 115, 3d

Introduced by Councilor

AMENDING CHAPTER 34, ARTICLE I
RENTAL HOUSING LICENSING

THE CITY OF ALBERT LEA ORDAINS:

That the Code of Ordinances, City of Albert Lea, Minnesota, is hereby amended by adding a section to be numbered, Sec. 34-1 to Sec. 34-20 which section reads as follows:

ARTICLE I – RENTAL HOUSING LICENSING.

Sec. 34-1: Purpose.

The purpose of this Section is to protect the public health, safety, and the general welfare of the citizens of the City of Albert Lea who have as their place of abode, a room or rooms furnished to them for payment of a rental charge (including money, services, or other type of consideration) to another. The general objectives include:

- (a) To maintain a quality of character and stability of rental housing within the City;
- (b) To correct and prevent rental housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health of persons occupying rental dwelling units within the City of Albert Lea;
- (c) To assist in enforcing minimum standards for cooking, heating, sleeping and sanitary equipment necessary to the health and safety of the occupants of rental dwelling units;
- (d) To assist in enforcing minimum standards of light and ventilation necessary to health and safety;
- (e) To prevent overcrowding of rental dwelling units;
- (f) To assist in enforcing minimum standards for the maintenance of rental housing; and
- (g) To preserve and promote tax base growth throughout the City.

Sec. 34-2: Intent.

It is the intent of this section to establish a permanent mode of protecting and regulating the living conditions of the residents of the City who rent dwelling units.

Sec. 34-3: Definitions.

The following words and terms, as used in this Section, shall have the following meanings, unless the context clearly indicates otherwise:

Agent means a person appointed by the rental housing license holder, who resides within a 60 mile radius of the City measured from the Albert Lea City Hall, to whom the City may service notices pertaining to the administration of the provisions of the City Code pertaining to such rental housing.

Dormitory means buildings or spaces in buildings where group sleeping accommodations are provided; or a series of closely associated rooms without individual cooking facilities and with common toilet and bathroom facilities.

Dwelling Unit means a single unit providing complete, independent living facilities for one person or persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Rental Housing means any building structure or enclosure, including any dwelling, dwelling unit, mobile home, apartment, long-term hotel or rooming house, wholly or partly used or intended to be used for living, sleeping, cooking or eating purposes by human occupants, rented or offered for rent by any person to any other person or persons for residential purposes by such other person or persons. "Rental Housing" does not include rest homes, convalescent homes, nursing homes, hotels, motels, dormitories or facilities currently licensed by the State of Minnesota.

Enforcement Officer means the Police Department, Fire and Inspection Department, City Engineer, Superintendents or any other City employee designated by the City Manager to enforce the provisions of the City Code.

Lease means an agreement to rent. (For use as a verb, see *Rent*.)

Long-term hotel means any hotel, as defined in Minnesota Statutes, Section 157.01, in which a dwelling unit is held out or available to the public for sleeping or residential purposes for periods of one (1) week or more.

Mail Service by mail shall mean by depositing the item with the United States Postal Service addressed to the intended recipient at his or her last known address with first class postage prepaid thereon.

Maintenance means an individual who is hired or is applying to be hired by an owner and who has or would have the means, within the scope of the individual's duties, to enter a tenant's dwelling unit(s). Duties include, but are not limited to, performing specified repairs or maintenance to common areas as well as the inside of tenants' units of the premises.

Manager means an individual who is hired or is applying to be hired by an owner and who has or would have the means, within the scope of the individual's duties, to enter a tenant's dwelling unit(s). The manager may also act as the property Agent.

Occupant means any person living, sleeping, cooking or eating in or having actual possession of a dwelling unit or rooming unit for more than ten (10) days in a consecutive 30 day period.

Rent means any consideration paid for the exclusive use of the dwelling unit, including but not limited to, money, services or a combination thereof, paid or delivered at fixed intervals periodically as agreed upon.

Rooming house means any building or structure with rooms used or furnished for living and sleeping, but not cooking purposes, along with private or shared sanitation facilities, by or to the public as regular roomers for periods of one (1) week or more.

Unrelated means individuals who are not related by blood, marriage, or adoption. For the purposes of this Chapter, "related by blood" shall mean whole or half relation between a common ancestor or descendant, husband, wife, son, daughter, father, mother, brother, sister, uncle, aunt, niece, nephew, stepchildren, legally adopted children, grandmother, grandfather, state assigned foster children, first cousin, or any combination of the above persons.

Sec 34-4: License Required:

- (a) It is unlawful for any person, as the owner, manager, or other person having control of any dwelling unit, to lease, rent, offer for rent or lease, or permit to be leased, or permit the occupancy of any dwelling unit as defined in this Section within the City without first having obtained a rental housing license for such dwelling unit as hereafter provided.
- (b) It shall be unlawful for any person to occupy a dwelling unit within the City that is found to be in violation of this chapter.
- (c) A rental housing license shall be required in the following situations:
 - (1) A dwelling unit rented or leased as defined by this Chapter; or
 - (2) A dwelling unit not occupied by the owner, but has one (1) or more Occupants that at are unrelated to the owner of said unit; or
 - (3) A dwelling unit is not occupied by the owner, but has an Occupant related by blood to the owner and more than one (1) Occupant that is unrelated to the owner.
- (d) Licensing of owner occupied dwelling units.

- (1) A dwelling unit is occupied by the owner and rented or leased by more than one (1) Occupant unrelated to the owner.
 - (2) An owner occupying a dwelling unit with more than one (1) unrelated Occupant shall not be required to obtain a rental license provided the property is not rented or leased as defined by this Chapter.
- (e) For the purposes of determining occupancy for rental purposes, the following standards shall apply:
- (1) A guest may occupy a licensed or unlicensed dwelling unit provided the guest does not reside in the dwelling unit for more than 10 days within a consecutive 30-day period and the guest has a documented permanent residence other than the dwelling unit in which they are considered a guest.
 - (2) The occupancy of a dwelling unit shall comply with the occupancy restrictions of the residential districts as stated in Chapter 34 Housing Code and Chapter 74 Zoning Ordinance of the Albert Lea City.

Sec 34-5: Application.

Any property owner who desires to Rent a dwelling unit located in the City of Albert Lea must obtain a rental housing license. Each application for a rental housing license as required by this Section shall be made at the Albert Lea Office of the Inspection Division.

- (a) New license applicants will be issued a provisional rental housing license after completing the application and determining a date for the required inspection. A provisional license is valid up to six (6) months from the date of issue. A provisional license may be granted an extension by the Inspection Department.
- (b) Certification of Owner or Agent: Prior to approving an application for a provisional rental housing license or rental housing license, the property owner shall provide certification of an Agent and address upon which agent the City may serve notices pertaining to the property, which service shall be effective as if made upon the rental housing license holder.
- (c) Certification of Taxes and Utilities Paid: Prior to approving an application for a rental housing license, the property owner shall provide certification to the City that either:
 - (1) There are no delinquent property taxes and special assessments or the owner is current on a payment plan approved by the Freeborn County Treasure; and
 - (2) There are no delinquent City utility fees or other financial claims of the City are due upon the parcel of land which the rental housing license application relates.
- (d) Any false statement or omission shall render the application, and any license issued pursuant thereto, invalid and of no effect.

Sec 34-6: Inspection Required.

Upon receipt of an application for any rental housing license, an enforcement officer shall have access to and shall inspect the property to be licensed to determine whether such property complies with the provisions of applicable codes, statutes, this ordinance and Chapter 34 of the Housing Code. For the purpose of making such inspections, the enforcement officer may enter, examine and survey all rental housing at reasonable times after obtaining consent from the resident of the premises or after the owner has given the resident reasonable prior notice of the inspection. All sections shall be uniformly enforced and may not exceed the applicable requirements of the Minnesota State Building Code.

Sec 34-7: Lease and lease addendums.

All licensed rental housing shall have a written lease.

All written leases shall contain a clause providing that conduct which would be a violation of Sec. 34-17 shall constitute a material breach of the lease and grounds for termination of such lease.

Sec 34-8: License Expiration.

Rental Housing Licenses issued under this chapter shall be variable terms based on a point system determined by the council and fixed by resolution, a copy of which shall be in the Office of the Inspection Division and uniformly enforced.

All license terms will expire on the 31st day of January. Renewal applications and payment of license fees are due and payable on or before the date of expiration specified on the license. All rental licenses, for which payment of license fees is over 30 days past due shall be automatically cancelled. Reissuance of a rental license for any property past due shall be handled as if the property were a new license.

Sec. 34-9: Transfer.

To transfer the Rental Housing License from one property owner to another, the licensee shall give written notice including the name, address and phone number of the transferee and Agent. The transferee must make an application to the City within 30 days of the transfer. Failure to complete this application prior to any transfer of the license property will result in the automatic forfeiture of the license.

Sec 34-10: License Fees.

Fees for Rental Housing Licenses issued under this chapter shall be determined by the council and fixed by resolution, a copy of which shall be in the Office of the Inspection Division and uniformly enforced.

Sec 34-11: License Posting.

Every license of a rental dwelling shall be conspicuously posted in the main entryway or other approved conspicuous location. Every license holder or their Agent shall provide a copy of the current license to any tenant or prospective tenant.

Sec 34-12: Proof of Occupancy.

Each rental license holder, or their Agent, shall maintain proof of occupancy for each rental housing license. This register shall be reasonably available for examination by authorized Law Enforcement and Fire and Inspection officials relating to an investigation, and shall contain the following information:

- (a) The address of the dwelling unit;
- (b) The number of bedrooms in the dwelling unit;
- (c) The names of the current tenants of the dwelling unit; and
- (d) The telephone numbers of the current tenants of the dwelling unit.

Sec 34-13: Background Check Required.

The license holder shall provide the Office of the Inspection Division with any Agent, Manager and Maintenance person's full name, date of birth, address and telephone number of such person(s), and required copy of background check, if required by MN Statute 299C.68. Whenever the Agent, Manager or Maintenance person for a licensed property is changed, the license holder shall provide the Office of the Inspection Division with the required information within 48 hours of such change.

Sec 34-14: Refuse Removal and Recycling.

- (a) Every tenant or Occupant of a dwelling unit shall dispose of all his rubbish and recyclable materials in a clean and sanitary manner by placing it in the appropriate containers. License holders of rental units shall inform their tenants of the curbside recycling program provided by Freeborn County.
- (b) The rental license holder shall provide garbage and recyclable facilities or containers where more than four (4) dwelling units share the same premises. In all other cases it shall be the responsibility of the occupant to furnish such facilities or containers.
- (c) At the time of application for a rental housing license, the applicant shall certify to the name and identity of the responsible party providing the removal of garbage and recyclables. The Office of the Inspection Division shall be notified within ten (10) days of any change in the identity of the party providing a removal service.

Sec. 34-15: Owner, Agent and Manager Training.

- (a) The City of Albert Lea shall offer rental property training sessions at least once per year. All tenants, license holders, their Agents and Managers will be invited to attend.
- (b) License holders, or their Agents or Managers, are required to attend a training session upon receipt of their first notice of violation of Chapter 38, city codes or state statutes for a rental housing unit.
- (c) Failure to attend required training sessions will be reasonable cause for the City Council to refuse to grant or renew a rental housing license.

Sec 34-16: Information Packet.

The City of Albert Lea will provide to each license holder an informational packet which the license holder, their Agent or Manager shall provide to each tenant or prospective tenant. The packet shall provide contact information on how the tenant may obtain details regarding disturbance notices pending against the property, and the potential effect disturbance notices may have.

Sec 34-17: Conduct by Tenants on Licensed Premises.

- (a) The license holder shall use their best efforts, with the possible assistance of the Safe and Crime Free Housing staff of the Albert Lea Police Department to cause tenants or Occupants to conduct themselves in such a manner as to not cause the premises to be a nuisance as provided for in Chapter 38, city codes or state statutes.
- (b) Upon determination by the enforcement officer that the licensed premises were used by a tenant or Occupant in violation of the Chapter 38, city codes or state statutes, the enforcement officer shall notify the license holder and tenant or Occupant by regular mail of such violation and direct them to take steps to prevent further violations.
- (c) If another instance of violation of Chapter 38, city codes or state statutes, occurs on the premises by the same tenant(s) or Occupant(s) within 12 months of an incident for which a notice in paragraph (b) of this subdivision was given, the license holder and tenant(s) or Occupant(s) shall be notified of the violation of and shall also be required to participate in a Problem Solving Conference (PSC), scheduled and conducted by the Police Department. The purpose of the PSC shall be to develop, by consensus, a plan of action to reasonably ensure that future incident will not occur at the premises.
- (d) If a third violation of Chapter 38, city codes or state statutes on the premises occurs by the same tenant(s) or Occupant(s) within a 12 month period after receipt of notices pursuant to paragraph (b) and (c), the rental license may be

suspended or revoked by the City Council. Such suspension or revocation will only be for the involved tenant's/Occupant's unit(s).

- (e) No suspension or revocation shall be imposed where the violation of Chapter 38, city codes or state statutes of the premises occurred during the pendency of eviction proceedings (unlawful detainer) or within 30 days of notice given by the license holder to a tenant to vacate the premises. Eviction proceedings shall not be a bar to sanctions unless diligently pursued by the license holder.
- (f) It shall be irrelevant to proceedings hereunder that the tenant or others were not criminally prosecuted or were acquitted of criminal charges for the incidents serving as the basis of the suspension or revocation.
- (g) New tenants are not subject to enforcement action for previous tenants' nuisance violations.
- (h) Public information of violation notices sent pursuant to this Section is available on request. Landlords participating in the Safe and Crime Free Housing program will have access to information permitted by the Minnesota Data Privacy Act.

Sec. 34-18: Enforcement of Housing and Other Code Violations.

- (a) Generally. The enforcement officer is authorized and directed to make lawful inspections to determine the condition of rental housing within the city in order to safeguard the health and safety of the residents of dwellings units and of the general public.
- (b) Owners, License holders and/or Occupants of rental housing or dwelling units that are found to be in violation of this Ordinance shall be issued a Notice and Order. The Notice and Order shall contain statements advising that if the property is not brought into compliance by the completion date of the Notice and Order that the City Manager or designee may take appropriate legal action that:
 - (1) May impose administrative penalties as established by council resolution;
 - (2) May charge the Owner, License holder, Agent, and/or Occupants with a criminal violation;
 - (3) May suspend or terminate City utility services to the property; and
 - (4) May proceed to cause the work to be done and charge the costs thereof against the property or its owner.
- (c) Any Notice and Order may be served by personal service or by mail upon the Owner, License Holder and Agent. Occupants may be served by personal service or United States Postal Service to at least one (1) Occupant of the

dwelling unit. If unable to serve the License Holder, Agent or Occupant(s) by other means, the Notice and Order may be posted on the property.

Sec. 34-19: Right of Entry.

- (a) When it is necessary to make an inspection to enforce the provisions of the Albert Lea City Code, or when there is reasonable cause to believe a violation of the Albert Lea City Code exists within the particular structure, an enforcement officer may enter the building or premises at reasonable times to inspect or to perform the duties imposed by the Albert Lea City Code.
- (b) Resident to give access to owner or operator. Upon receiving reasonable prior notice, every resident of rental housing or a dwelling unit must give the Owner, or the Owner's Agent or employee, access to any part of such rental housing or dwelling unit, or its premises, at all reasonable times for the purpose of making repairs or alterations as are necessary to bring the dwelling into compliance with this section or with any other city code or state statute, rule or regulation.
- (c) Search warrant. If consent is refused and if there is probable cause to believe a violation exists within the particular structure, a search warrant may be obtained. No warrant is needed for entry where an emergency condition or serious health and safety issue exists and sufficient time is not available to obtain a warrant and protect persons or property.
- (d) Entry under this section is subject to Minnesota Statutes, section 504B.211.

Sec 34-20: Enforcement Authority.

The City Manager, or designee, is hereby authorized and directed to enforce all of the provisions of the Albert Lea City Code. For such purposes they shall be known and appointed as Enforcement Officers having the authority to issue notices of violation, issue citations for violations of the Albert Lea City Code, issue administrative penalties as established for violations of the Albert Lea City Code, cause work to be done to correct violations, issue orders for occupants to vacate a dwelling unit found to be in violation of the Albert Lea City Code, and order suspension of City services for properties found to be in violation of the Albert Lea City Code.

Sec. 34-21: Appeals; variances.

- (a) Any person affected by any notice which has been issued in connection with the enforcement of any provision of this article may request and shall be granted a hearing on the matter before the Board of Appeals. This hearing and appeals there from and actions thereon shall be held and conducted according to provisions governing the Board of Appeals. Any order of the housing inspection shall be stayed pending disposition of the appeal.

(b) Upon application, the Board of Appeals shall hear appeals from and review any order of requirements or determination made by the housing inspector and shall determine whether there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this article. The Board may recommend that the council vary or modify any of the provisions relating to minimum housing standards, in a given instance on a temporary basis, so that substantial justice may be done and the intent of this article carried out.

Sec. 34-22: Violations.

Every person who violates this chapter when he performs an act thereby prohibited or declared unlawful or who fails to act when such failure is thereby prohibited or declared unlawful, upon conviction, shall be punished as for a misdemeanor in accordance with section 1-13.

(Code 1980, § 4.20, subd. 2)

That the motion for the adoption of the foregoing resolution was duly seconded by Councilor, and upon a vote being taken thereon, the following voted in favor thereof: Councilors.

And the following voted against the same:

Introduced, read the first time September 22, 2008.

Read the second time and passed

Mayor Randall Erdman

Filed and attested , 2008.

Secretary of the Council