Section 730 – Rental Code

Section 730:00. Purpose and Intent.

Subd 1. Purpose: The purpose of this Ordinance is to protect the public health, safety and welfare of the residents of the City of Foley who have, as their place of abode, a dwelling unit, manufactured home, lot or room furnished to them for the payment of a rental charge to another.

Subd 2. Intent: The intent of this Ordinance is to provide a permanent mode of protecting and regulating the living conditions of these residents by providing minimum standards for cooking, heating, and sanitary equipment necessary to the health and safety of occupants of rental property by providing minimum standards for light and ventilation necessary for the health and safety, and minimum standards for the maintenance of existing private and rental residential buildings.

Subd 3. Savings Clause: With respect to rental disputes, and except as otherwise specifically provided by the terms of this Ordinance, it is not the intention of the City to intrude upon the fair and accepted contractual relationship between tenant and landlord. The City does not intend to intervene as an advocate of either party, nor to act as an arbiter, nor to be receptive to complaints from tenant or landlord that are not specifically and clearly relevant to the provisions of this Ordinance. In the absence of such relevancy with regard to rental disputes, it is intended that the contracting parties exercise such legal sanctions as are available to them without the intervention of City Government. Neither, in enacting this Ordinance, is it the intention of the City Council to interfere or permit interference with legal rights to personal privacy.

Section 730:01. Definitions.

The following words and phrases shall have the meanings given them in this ordinance:

A. Building: Shall mean any structure used or intended for supporting or sheltering any use or occupancy.

B. Dwelling Unit: Consists of one (1) or more rooms that are arranged, designed, or used as living quarters. Each room or group of rooms shall be a separate dwelling unit. A rooming house shall be considered a single dwelling unit, but may charge a fee based on the number of sleeping rooms. A structure that is self-enclosed and arranged, designed and used as living quarters to a single family or group of persons under a single lease or agreement shall be considered a single dwelling unit.

C. Familial Relation: Shall mean a legally recognized son, daughter, father, mother, grandfather, grandmother, grandson, granddaughter, sister, or brother.

D. Housing Inspector: Shall mean a designee appointed by the Foley City Council authorized to administer and enforce this Ordinance.

E. License: Shall mean a provisional license, which is issued after receipt of fees and may be revoked if such rental property is found not to be in compliance with ordinances, codes or statutes.

F. Lot: Shall mean an area within a manufactured home park or otherwise maintained and made available for occupancy by a manufactured home.

G. Manufactured Home: Shall mean as provided in Ordinance 319, Zoning Ordinance, Section 4, Subd. 2 (65).

H. Manufactured Home Park: Shall mean any site, lot, field or tract of land upon which two (2) or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.

I. Maximum Occupancy: Shall mean that for each occupant in a dwelling unit, 100 square feet of space must be provided.

J. Occupant: Shall mean any person (including the owner or operator) living, sleeping, cooking, and eating in a dwelling unit.

K. Operator: Shall mean the owner or agent who has charge, care, control or management of a building or manufactured home park or part hereof, in which dwelling units, manufactured homes, lots or rooming units are let.

L. Owner: Shall mean any person who, alone or jointly or severally with others, shall be in actual possession of, or have charge, care or control of any dwelling unit, manufactured home, lot, rooming house or sleeping unit within the City.

M. Person: Shall mean any natural person his/her heirs, executors, administrators or assigns, and also includes a firm, partnership, and limited liability company, cooperative or corporation, its or their successors or assigns, or the agent of any of the aforementioned.

N. Rental Property: Shall mean a dwelling unit offered for rent or occupied by a person or persons in the status of tenant, but does not include motels. This term shall not include property in which the dwelling unit or manufactured home is owned by the occupant, but the land or lot is rented or leased.

O. Rooming House: Shall mean a building or structure providing a room or rooms intended for living and sleeping for persons in the status of tenant in which the toilet and kitchen facilities are shared, and the common or shared areas of the structure are actively maintained by the operator. This term shall include boarding houses, day cares, lodging houses, Bed and Breakfasts, fraternity and sorority houses, but does not include hotels, motels, or hospitals.

P. Sleeping Rooms: Shall mean a room or enclosed floor space in a rooming house or dwelling unit, as defined herein, used or intended to be used primarily for sleeping purposes.

Q. Tenant: Shall mean one who has as his/her place of abode a dwelling unit, manufactured home, lot, rooming house or sleeping room furnished to him/her for payment of a rental charge to another.

Section 730:02. Uniform Housing Code Adopted by Reference: The Uniform Housing Code, 1997 Edition, as from time to time amended or modified, is hereby adopted by reference, so far as it applies to rental property, and is made a part of this Ordinance as if fully set out in length.

Section 730:03. License Required. No person shall occupy, allow to be occupied, or let to another for occupancy any dwelling unit in the City of Foley for which a license has not been properly issued by the Housing Inspector. No rental dwelling shall be issued a license by the City unless it complies with the ordinances of the City of Foley and the statutes of the State of Minnesota, which pertain to such properties. A rental property solely occupied by the owner or a familial relation of the owner is exempt from this requirement.

Subd 1. License Fee. The City Council may establish a licensing fee schedule for each dwelling unit or sleeping room in each rental property. The schedule may include a separate fee for licenses, inspections, crime prevention program participation and delinquencies. Said license fees shall be payable at the time of application for licensing or renewal of a license and shall be a prerequisite to the issuance of the required license. Once issued, a licensee shall not be entitled to a refund on any license fee upon suspension or revocation.

a. Rental property which is licensed as a “Curing Home” (Nursing Home) or a “Boarding Care Home” by the State of Minnesota Department of Health pursuant to Minnesota Statutes Chapter 157 shall be exempt from the registration fee required under this Section. This exception shall not apply if no services are provided to the tenants, or the services are incidental to, or independent of, the landlord/tenant relationship.

b. If the license fee required hereunder is paid after March 31 for the next license year, penalties shall be imposed as established by the licensing fee schedule.

c. All licenses shall expire March 31, two calendar years following the year it was issued. Application for any license in which an inspection is required shall be 30 days prior to expiration. For cause, the Housing Inspector may waive the application deadline for an applicant.

d. A delinquency fee shall be charged to the owner of rental property operated without a valid license. The imposition of this fee by the Housing Inspector may be appealed to the City Council by submitting a request to the City within twenty (20) days of the mailing or posting of the notice of the fee.

Subd 2. License Application. The application for license shall be made and filed on a form furnished by the Housing Inspector for such purpose and shall set forth the following information:

a. Name, residence address and phone number of the owner of any rental property, or property manager authorized by the owner to accept service of process and to receive and give receipt for notices. In cases where the owner of any rental property lives outside the City of Foley, the license application shall be made by an agent who shall be legally responsible for compliance with this and other City Ordinances. Such agent shall live within Minnesota;

b. Name, address and phone number of any agent actively managing the rental property;

c. Street address of the rental property;

d. Tax parcel number of the rental property or manufactured home park in which the rental property is located;

e. Number and description of units within the rental property (dwelling units, manufactured homes, or sleeping rooms), including square footage of each room in unit;

f. Name, address and phone number of the person authorized to make or order repairs and/or service to the rental property, to provide required services necessary to protect the health, safety, and welfare of the occupants, or are able to contact the person so authorized;

g. Maximum number of people permitted per dwelling unit, manufactured home, lot, rooming house, or sleeping room;

h. Certification of completion of Crime Free Rental Program, as provided in Section 735 of an owner or an operator with a contract to manage the property.

Subd 3. Manner of Application: The license application shall be made by the owner, if such owner is a natural person; if the owner is a corporation, cooperative or limited liability company, by an officer thereof; if a partnership, by one of the partners; and if an unincorporated association, by the manager or managing officer thereof, on the appropriate form available from the Housing Inspector.

Subd 4. Inspection: All rental units will be subject to a bi-annual inspection conducted by the Housing Inspector, or his/her authorized representative, prior to issuance of the license. The Housing Inspector may grant a license contingent on an inspection being completed within thirty (30) days, if all other requirements, including payment of the license fees, are met. After thirty (30) days, the license shall expire unless the Housing Inspector has certified the required inspection.

Subd 5. License Before Occupancy: All rental property required to be licensed pursuant to the provisions of this Ordinance shall be licensed prior to occupancy or the letting to another for occupancy, and thereafter all licenses of such rental property shall be renewed pursuant to 730:03, Subd. 1(c).

Subd 6. Transfers. Every new owner of a rental property (whether as fee owner, contract purchaser, or otherwise entitled to possession) shall apply for and obtain a license under this Ordinance before taking possession.

Section 730:04. Display of License. Every licensee of a rental property shall conspicuously display at all times on the premises a copy of the current license. This license shall be located on the premises so as to be easily viewed and readable by the occupants of the rental property at or near the front entrance of the building for which it was issued and shall be reasonably protected from wear by a plastic cover or similar protective device.

Section 730:05. Inspection: Right of Entry. In order to insure compliance with this Ordinance's requirements, or upon receiving a written, signed complaint, the Housing Inspector shall have the authority to enter any building or manufactured home park at reasonable times upon notice to the landlord and tenant, to determine if the building or manufactured home park is operated as a "rental property" as defined in this Ordinance or to enforce the Uniform Housing Code, or both.

Section 730:06. Health Department Inspection. The Benton County Health Department and/or the City Health Official shall have the right to inspect any dwelling, whether rental or owner-occupied, to enforce sanitation requirements.

Section 730:07. Housing Advisory and Appeals Board. The City Council shall appoint a Housing Advisory and Appeals Board ("Housing Board") as provided below. In addition to the responsibilities enumerated in the Uniform Housing Code, the Housing Board shall serve in an advisory capacity in making recommendations concerning the housing and rental programs. It shall be the duty of the Housing Advisory and Appeals Board to study City Ordinances and Codes concerning housing from time to time and to make recommendations for new ordinances. Said Board shall consist of five (5) members of the public not employed by the City. The term of the members shall each be for three (3) years, with a maximum of three full three-year terms. Except in the event of a vacancy, appointments shall be effective January 1 of each year. Appointments shall be effective January 1 of each year and provide for staggered, overlapping terms. The initial appointments shall be made such that two (2) members appointed shall serve for three years, two (2) shall serve for two years, and one (1) shall serve for one year. Any vacancy shall be filled for the remainder of the term in the same manner as an original appointment. If a Board member shall no longer serve in the capacity under which they qualified for appointment, the City Council shall declare a vacancy. The Board members shall continue until their successor has been appointed.

Section 730:08. Excessive Law Enforcement Calls: Notwithstanding any finding of the Housing Inspector for other violations, any rental property whose property receives more than one (1) law enforcement call per dwelling unit within a twelve (12) month period, or receives twenty-four (24) law enforcement calls or complaints within a twelve (12) month period, whichever number is less, shall appear before the Foley City Council, upon notice, to review the continuation of the rental license. This review is not an exclusive remedy.

Section 730:09. Criminal Background Checks.

Subd 1. Purpose. The Foley City Council has determined that there are persons residing in rental property in the City of Foley engaging in disorderly conduct which results in a hostile environment for other Foley citizens living near or close to the rental property. It is the declared purpose and intent of this section to protect and preserve the City's neighborhoods and the public health, safety, and welfare of its citizens by providing a system at the local level for criminal history/background investigation of prospective tenants.

Subd 2. Background Investigations. Each Operator shall conduct criminal history/background investigations on prospective tenants in rental property though the Benton County Sheriff's Department. No such investigation shall be conducted using the state Criminal Justice Data Communications Network (CJDN) and no information obtained from the CJDN shall be disseminated unless the Operator presents an Informed Consent/Waiver form signed by the prospective tenant. The Informed Consent/Waiver form must meet the requirements of Minnesota Statues Section 13.05, Subd. 4 (d). Each request must be on a form approved or provided by the Benton County Sheriff's Office. The Operator shall pay a fee as established by Council resolution.

Section 730:10. Landlord Liability. The owner of a rental unit, manufactured home park, rooming house or sleeping room shall be responsible to cause persons occupying the rental unit to conduct themselves in such a manner as to not cause the premises to be in violation of the prohibition against noise as set forth in the City of Foley Noise Ordinance, nor to allow to exist on the premises a public nuisance.

Section 730:11. Applicable Laws. Licensees shall be subject to all of the Ordinances of the City of Foley and the applicable State and Federal laws relating to dwellings. In the event this Ordinance conflicts with any other applicable ordinance or law, the more restrictive shall apply.

Section 730:12. Enforcement. Enforcement of this Ordinance is accomplished by the Housing Inspector who is authorized to conduct inspections, issue licenses, investigate complaints, and seek penalties of property owner(s) found to be in violation.

Section 730:13. Penalty. Any person who operates rental property in violation of this Ordinance shall be guilty of a misdemeanor and subject to the maximum penalty permitted by law. Each violation of this Ordinance shall constitute a separate offense. As an alternative to criminal penalties, the City may seek the following corrective action. The Housing Advisory Board will consider such penalties and/or actions after providing written notice and an opportunity to be heard to the owner of the rental property.

Subd 1. Suspension or Revocation. Every operating license issued under this Ordinance is subject to suspension or revocation. If the City suspends or revokes an operating license, it shall be unlawful for the owner or the duly authorized agent to thereafter permit any new occupancy of vacant or thereafter vacated rental units until the operating license is restored. Current tenants will be allowed to remain until the end of their lease or one (1) year, whichever is less. In the case of revocation, restoration of the license shall occur only after the premises' owner has applied for a new license, paid a new application fee and complied with all sections of this or any applicable City Ordinance.

Subd 2. Hazardous Building Declaration. If a dwelling is unfit for human habitation and the owner has not remedied the defects within a prescribed reasonable time, the dwelling may be declared a hazardous building and treated consistent with state law.

Section 730:14. Rental Code. This Ordinance shall be known as the City of Foley Rental Code.

Section 730:15. Severability. Every section, provision or part of this ordinance is declared severable from every other section, provision or part; and if any section, provision or part hereof shall be held invalid, it shall not affect any other section, provision or part.

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Section 730:16. Effective Date. This Ordinance shall be effective immediately upon its passage and publication, except as follows:

A. Existing rental properties (those operating as such on the Effective Date) will be required to apply for a Rental License by March 1, 2008, and obtain a license by March 31, 2008; and

B. Dwelling units already constructed, or having obtained a building permit, but not used as a rental property on the Effective Date, is exempt from requirements of 730:03, Subd. 2(h) for any license obtained within ninety (90) days from the Effective Date.

Section 730 was added to the 1974 Code of Ordinances by Ordinance Number 376, adopted March 6, 2007 and published March 20, 2007.