

CHAPTER 150: RENTAL PROPERTIES

Section

General Provisions

- 150.01 Purpose and intent
- 150.02 Definitions
- 150.03 Application

Administration and Registration

- 150.15 Enforcement
- 150.16 Compliance
- 150.17 Registration
- 150.18 License fee
- 150.19 Notice of change
- 150.20 Posting of registration
- 150.21 Transfer
- 150.22 Inspection authority
- 150.23 Access
- 150.24 Failure to register
- 150.25 Implementation policy
- 150.26 Conduct

Notices and Assessments

- 150.40 Notice to owner or person responsible
- 150.41 Form of notice
- 150.42 Method of service
- 150.43 Transfer of ownership
- 150.44 Assessments
- 150.45 Fines
- 150.46 Appeals

- 150.99 Penalty

Editor's note:

Any fees imposed under this chapter are as set forth on the ordinance adopting a schedule of fines and fees on file in the city offices.

GENERAL PROVISIONS**§ 150.01 PURPOSE AND INTENT.**

(A) The purpose and intent of this chapter is to establish minimum standards and procedures for enforcement, consistent with the right to personal privacy for the protection of life, limb, health, property, safety and welfare of the general public and the owners and occupants of residential rental property. It is the policy of the city to enhance the supply of safe, sanitary and adequate housing for its citizens and to prevent the deterioration of existing housing in the city.

(B) The objective of this chapter, include, but are not limited to, the following:

(1) The protection and preservation of the stability and character of residential and commercial areas within the city;

(2) The prevention and correction of housing conditions that adversely affect the life, safety, health and general well-being of persons occupying dwellings in the city;

(3) The establishment of minimum standards to ensure the health and safety of occupants of dwellings;

(4) The establishment of minimum standards for the maintenance of residential dwellings;

(5) The prevention of the emergence of blighted and deteriorating housing in the city;

(6) The prevention of overcrowding of rental dwellings; and

(7) The preservation of the value of land and buildings in the city.

(Ord. passed - -2012)

§ 150.02 DEFINITIONS.

(A) For the purpose of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

BUILDING CODE. Those provisions found in the Minnesota State Building Code, as amended.

CITY CODE. The Emily City Code of Ordinances.

COMMON AREAS. Halls, corridors, passageways, utility rooms, recreational rooms and extensive landscaped areas, not under the exclusive control of one person or family, in or adjacent to a multiple dwelling.

COMPLAINT DRIVEN INSPECTION. An inspection initiated by a complaint filed by an owner, tenant, neighbor, concerned individual or the city.

DESIGNATED REPRESENTATIVE. A person or company who has the power to act in the owner's behalf in the owner's absence. A **DESIGNATED REPRESENTATIVE** will be available to accept legal notice, order emergency repairs and grant access for complaint driven inspections or emergency inspections.

DWELLING. A building or a portion of a building designed for residential occupancy. The term includes single-family, two-family and multiple-family dwellings, but does not include hotels, motels and boarding houses. Manufactured homes (mobile homes) used as rental dwellings are considered a single-family unit.

DWELLING UNIT.

- (a) A single-family dwelling; or
- (b) A discrete portion of a dwelling designed for occupancy by one family.

HABITABLE SPACE. The space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility spaces, and similar areas are not considered habitable.

HOUSING OFFICIAL. City officer or officers designated by the City Council to administer this chapter.

OPENABLE AREA. The part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OWNER, OWNER-OPERATOR or OPERATOR. Any person, firm or corporation who alone or jointly or severally with others is in actual possession of or have charge, care or control of a dwelling or dwelling unit in the city as owner, employee or agent of the owner or as trustee or guardian of the estate or the person of the title holder, and such person is bound by the provisions of this code to the same extent as the owner.

PERSON. Individual, corporation or partnership.

REPAIR. To restore to a sound acceptable state of operation, serviceability or appearance, in a workmanlike manner.

REPLACE. To remove an existing item or portion of a system and to construct or install a new item of similar or new quality as an existing item when new repair of the item is impractical.

UNLAWFUL STRUCTURE. One found in whole or in part to be occupied contrary to law.

ZONING CODE. Those provisions found in Ch. 152 of this code of ordinances, as amended.

(B) Whenever the words “dwelling unit”, “dwelling”, “premises”, “building”, “rooming house”, “rooming unit”, “story” or “structure” are stated in this chapter, they shall be construed as though they were followed by the words “or any part thereof”.

(Ord. passed - -2012)

§ 150.03 APPLICATION.

(A) *General.* This chapter applies to buildings, their premises, accessory structures thereto and dwelling units therein, used or designed to be used for any occupancy.

(B) *Existing buildings.*

(1) A building lawfully existing under Ch. 152 of this code of ordinances must conform to this chapter.

(2) A building need not be altered to exceed the requirements of Ch. 152 of this code of ordinances in effect at the time of its construction, except in the following cases:

(a) If a portion of the building is altered, that portion must be built pursuant to Ch. 152 of this code of ordinances in effect at the time of alteration;

(b) If the building is moved or relocated; or

(c) If the building is determined to be unsafe or hazardous by the Building Housing Official or other designated official pursuant to Ch. 152 of this code of ordinances or state law; or that portion deemed unsafe must be built to current codes. Occupancy in buildings, lawfully existing under the Building Code may be continued under this chapter.

(C) *Utilities.* Except as otherwise provided by law, an owner, operator or occupant may not cause service equipment or utility service that is required by this chapter to be removed, shut off or discontinued for any occupied dwelling let or occupied by that person, except for such temporary interruption as may be necessary while actual repairs alterations are in process or during temporary emergencies.

(D) *Transfer of responsibility.* A contract between owner and operator, operator and occupant, or owner and occupant, with regard to compliance with this chapter, does not relieve the owner or operator of a duty imposed by this chapter.

(E) *Notice of maximum occupancy.* An owner or operator must advise the occupant, in writing, by inserting in the lease between the parties or otherwise, of the maximum number of occupants/family members permitted in each occupied unit which is pursuant to Ch. 152 of this code of ordinances. (Ord. passed - -2012)

ADMINISTRATION AND REGISTRATION

§ 150.15 ENFORCEMENT.

The City Council is ultimately responsible for the administration and enforcement of this chapter and the supervision of the Housing Official. (Ord. passed - -2012)

§ 150.16 COMPLIANCE.

When the Housing Official determines that there exists in a building, its premises or a portion thereof, conditions that constitute a violation of this chapter, the Housing Official may begin enforcement procedures. (Ord. passed - -2012)

§ 150.17 REGISTRATION.

(A) No person shall occupy, allow to be occupied or let to another for occupancy any rental property in the city without first having obtained a rental dwelling license for such rental property from the city. Applications for registration must be made by the owner of a rental dwelling. The application forms are to be filed with the City Clerk/Treasurer. The payment of fees set forth in the Fee Schedule Ordinance on file in the city offices shall be a prerequisite to this required licensing. All rentals using a septic system will be required to pass a compliance inspection according to Minn. Rules Part 7080 or bring up to code prior to registration. The City Clerk/Treasurer's office will prepare and maintain all files.

(B) The application for license shall be made and filed on forms furnished by the City Clerk/Treasurer for such purpose and shall set forth the following information:

- (1) Name, residence address and phone number of the owner of the dwelling or an agent authorized by the owner to accept service of process and to receive and give receipt notices;
- (2) Name, address and phone number of any agent actively managing said rental property;
- (3) Street address of the rental property;

Emily - Land Usage

- (4) Number and kind of units within the rental property (dwelling units or sleeping rooms);
 - (5) Name, phone number and address of the person authorized to make or order repairs and/or service to the building, to provide required services necessary to protect health, safety and welfare of the occupants or is able to contact the person so authorized;
 - (6) Maximum number of people permitted per dwelling unit or sleeping room; and
 - (7) Name and phone number of current tenant.
- (Ord. passed - -2012)

§ 150.18 LICENSE FEE.

A license fee shall be assessed on all rental units. The license fee shall be an annual per unit fee and shall be included with the renewal statement. Such fee shall be set forth in the Fee Schedule Ordinance on file in the city offices.

(Ord. passed - -2012)

§ 150.19 NOTICE OF CHANGE.

The registrant must give notice in writing to the City Clerk/Treasurer within five business days after any change of the information in the application.

(Ord. passed - -2012)

§ 150.20 POSTING OF REGISTRATION.

A rental registration certificate shall be issued to each registered unit. The owner of a rental dwelling containing three or more rental dwelling units must conspicuously post the registration in the main entryway or other conspicuous location in a frame with a suitable cover.

(Ord. passed - -2012)

§ 150.21 TRANSFER.

The registrant must give notice in writing to the City Clerk/Treasurer within five business days after having legally transferred or otherwise disposed of the effective control of a registered rental dwelling. The notice must include the name and address of the person succeeding to the ownership or control of the rental dwelling or dwellings. For purposes of this section, **EFFECTIVE CONTROL** means that control exercised over property by a business proprietor, whether as owner or lessee or by an owner or lessee of other property. Prior to relicensing, property must have an inspection by the Housing Official or designated official.

(Ord. passed - -2012)

§ 150.22 INSPECTION AUTHORITY.

(A) *General.* The Housing Official administers and enforces the provisions of this section. The Housing Official may inspect on a biannual basis or by complaint. Inspections must be conducted during reasonable daylight hours. The Housing Official must present evidence of official authority to the occupant in charge of a registered rental dwelling. The Housing Official shall have the authority to issue petty misdemeanors.

(B) *Notices and orders.* The Housing Official shall issue all necessary notices or orders to enter the structure or premises at reasonable times to inspect. Prior to entering into a space not otherwise open to the general public, the Housing Official shall make a reasonable effort to locate the owner or other person having charge or control of the structure or premises, present proper identification and request entry. If requested entry is refused or not obtained, the Housing Official shall pursue recourse as provided by law.

(C) *Right of entry.* Upon receipt of a written complaint, the Housing Official is authorized to enter the structure or premises at reasonable times to inspect prior to entering into a space not otherwise open to the general public, the Housing Official shall make reasonable effort to locate the owner or other person having charge or control of the structure or premises, present proper identification and request entry. If requested entry is refused or not obtained, the Housing Official shall pursue recourse as provided by law.

(D) *Access by owner or operator.* Every occupant of a structure or premises shall give the owner or operator thereof, or agent or employee, access to any part of such structure or its premises at reasonable times for the purpose of making such inspection, maintenance, repairs or alterations as are necessary to comply with the provisions of this chapter.

(E) *Identification.* The Housing Official shall carry proper identification when inspecting structure on premises in the performance of duties under this chapter.

(F) *Coordination of enforcement.* Inspection of premises, the issuance of notices and orders and enforcement thereof shall be the responsibility of the Housing Official so charged by the jurisdiction. Whenever inspections are necessary by any other department, the Housing Official shall make reasonable effort to arrange for the coordination of such inspections so as to minimize the number of visits by inspectors, and to confer with the other departments for the purpose of eliminating conflicting orders before any are issued. A department shall not, however, delay the issuance of any emergency orders.

(G) *Rule making authority.* The City Council shall have power as necessary, in the interest of public health, safety and general welfare, to adopt and promulgate rules and regulations to interpret and implement the provisions of this chapter to secure the intent thereof and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements, specifically provided for in this chapter of violating accepted

engineering practice involving public safety. Upon determination by the city that a registered premises was used in a disorderly manner, the city shall give notice to the registrant and occupant of the violation and direct the registrant and occupant to take steps to prevent further violations.

(H) *Organization.* The City Council shall appoint such number of officers, technical assistants, inspectors and other employees as shall be necessary for the administration of this chapter and as authorized to designate an employee as deputy who shall exercise all the powers of the Housing Official during the temporary absence or disability of the Housing Official.

(I) *Relief from personal responsibility.* The Housing Official, officer or employee charged with the enforcement of this chapter, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of any act required or permitted in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this chapter shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The Housing Official or any subordinate shall not be liable for costs in any action, suit or proceeding that is instituted in pursuance of the provisions of this chapter; and any officer of the Department of Housing Inspection, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

(J) *Official records.* An official record shall be kept by the city of all business and activities of the department specified in the provisions of this chapter, and all such records shall be open to public inspection at all appropriate times and according to reasonable rules to maintain the integrity and security of such records.

(Ord. passed - -2012)

§ 150.23 ACCESS.

If an owner, occupant or other person in charge of a rental dwelling registered under this section fails or refuses to permit free access and entry for inspection purposes, the Housing Official may, upon showing of probable cause, obtain orders from a court of competent jurisdiction for the inspection.

(Ord. passed - -2012)

§ 150.24 FAILURE TO REGISTER.

Anyone failing to register a rental unit shall be in violation of this chapter.

(Ord. passed - -2012)

§ 150.25 IMPLEMENTATION POLICY.

(A) The City Council may adopt by resolution policies and guidelines for the implementation and administration of this chapter.

(B) These policies and guidelines must include, but are not limited to, standards and guidelines relating to:

- (1) Procedures for housing inspections;
- (2) Proper disposition of information gathered in connection with housing inspections;
- (3) Conditional occupancy of housing during periods needed for compliance; and

(4) Methods of encouraging the correction of deficiencies by cooperation between owner and proposed and current occupants.

(Ord. passed - -2012)

§ 150.26 CONDUCT.

(A) It shall be the responsibility of the occupants to conduct themselves in such a manner as not to cause the premises to be disorderly. Upon determination by the city that a registered premises was used in a disorderly manner, the city shall give notice to the registrant and occupant of the violation and direct the registrant and occupant to take steps to prevent further violations.

(B) If another instance of substantiated disorderly use of registered premises occurs within three months of an incident for which a notice was given, the city shall notify the registrant and occupant of the violation, issue a citation to the tenant as a second violation consistent with the current resolution establishing fees for violations of this section, and shall also require the registrant and occupant to submit a written report of the actions taken, and proposed to be taken by the registrant and occupant to prevent further disorderly use of the premises. This written report shall be submitted to the city within five days of receipt of the notice of disorderly use of the response to all notices of disorderly use of the premises within the preceding three months.

(C) If another instance of substantiated disorderly use of the registered premises occurs within three months after any two previous instances of disorderly use for which notices were given to the registrant and occupant pursuant to this section, the rental dwelling registrant must then initiate eviction proceedings. In the event of an eviction, and upon inspection of the dwelling, the tenant will be held responsible for any costs of repairs or cleaning required to bring the facility back into compliance with this section as a result of the actions of the tenant.

(D) No adverse action shall be imposed upon the registrant where the instance of disorderly use of the registered premises occurred during the pendency of eviction proceedings.

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(E) A determination that the registered premises have been used in a disorderly manner shall be made upon a fair 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 use, nor shall the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this section.

(F) Enforcement actions provided in this section shall not be exclusive, and the City Council may take any action with respect to a licensee, a tenant or the licensed premises as is authorized by the city code, state or federal law.
(Ord. passed - -2012)

NOTICES AND ASSESSMENTS**§ 150.40 NOTICE TO OWNER OR PERSON RESPONSIBLE.**

Whenever the Housing Official determines that there has been a violation of this chapter or has grounds to believe that a violation has occurred, notice shall be given to the owner or the person or persons responsible therefor in the manner prescribed herein.
(Ord. passed - -2012)

§ 150.41 FORM OF NOTICE.

Such notice shall:

(A) Be in writing;

(B) Include a description of the real estate sufficient for identification;

(C) Include a statement of the reason or reasons why the notice is being issued; and

(D) Include a correction order allowing a reasonable time for the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.
(Ord. passed - -2012)

§ 150.42 METHOD OF SERVICE.

(A) Such a notice shall be deemed to be properly served if a copy thereof is:

(1) Delivered to the owner personally; or

(2) Sent by mail addressed to the owner at the last known address with return receipt requested.

(B) If the letter is returned showing that the letter was not delivered or was unable to be served by law enforcement, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.
(Ord. passed - -2012)

§ 150.43 TRANSFER OF OWNERSHIP.

It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, lease or otherwise dispose of to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order on notice of violation.
(Ord. passed - -2012) Penalty, see § 150.99

§ 150.44 ASSESSMENTS.

(A) Upon a failure to comply with a compliance order within the time set therein, and no appeal having been taken, or upon failure to comply with a modified compliance order within the time set therein, the criminal penalty established hereunder notwithstanding, the City Council, after due notice to the owner, may by resolution cause the cited deficiency to be remedied as set forth in the compliance order.

(B) The cost of such remedy is a lien against the subject real estate and may be levied and collected as a special assessment in the manner provided by M.S. Ch. 429, as it may be amended from time to time, for any of the reasons set forth in M.S. § 429.101, Subd. 1, as it may be amended from time to time, and specifically for the removal or elimination of public health or safety hazards from private property. The assessment may be payable in a single installment, or in multiple installments as determined by the City Council.

(C) It is the intent of this section to authorize the city to utilize all of the provisions of M.S. Ch. 429, as it may be amended from time to time, to promote the public's health, safety and general welfare.
(Ord. passed - -2012)

§ 150.45 FINES.

The city may fine the owner or occupant. All fines and fees are as set forth in the Fee Schedule Ordinance on file in the city offices.
(Ord. passed - -2012)

§ 150.46 APPEALS.

(A) When it is alleged by a person to whom a compliance order is directed that the compliance order is based upon erroneous interpretation of this section or upon a misstatement or a mistake of fact, that person may appeal the compliance order to the City Council. The City Council will hear the appeal within 14 days after receipt or at the next regularly scheduled Council meeting, whichever is later.

(B) The appeal:

- (1) Must be in writing;
- (2) Must specify the grounds of the appeal; and
- (3) Must be filed with the Housing Official within five business days after the service of the compliance order.

(C) The filing of an appeal stays proceedings in furtherance of the action appealed from unless such a stay, in the judgment of the Housing Official, would cause imminent peril to life, health or property. The City Council's disposition of the appeal is final.
(Ord. passed - -2012)

§ 150.99 PENALTY.

It shall be a petty misdemeanor to fail to comply with a lawfully issued compliance order under this chapter or to erect, construct, enlarge, alter, repair, move, improve, equip, use, occupy or maintain any building or structure within the city contrary to the provisions of this chapter.
(Ord. passed - -2012)