

ORDINANCE NO. 13-06

CITY OF FALCON HEIGHTS  
RAMSEY COUNTY, MINNESOTA

AMENDING CHAPTER 105  
OF THE FALCON HEIGHTS CITY CODE  
CONCERNING RENTAL HOUSING

THE CITY COUNCIL OF THE CITY OF FALCON HEIGHTS ORDAINS:

**SECTION 1.** Chapter 105, Article IV of the Falcon Heights City Code is amended to read as follows:

**Sec. 105-86. Purpose.**

It is the purpose of this article to protect the public health, safety and welfare of citizens of the city who have as their place of abode a living unit furnished to them for the payment of a rental charge to another by adopting licensing regulations for all rental dwellings in the city.

**Sec. 105-87. Definitions.**

For the purposes of this article, the terms defined in this section shall have the meanings given them as follows:

*Compliance official.* As used in this article, the term "compliance official" shall mean the city administrator or his or her designee.

*Operate.* As used in this article, the term "operate" means to charge a rental charge or other form of compensation for the use of a unit in a rental dwelling.

*Rental dwelling.* As used in this article, the term "rental dwelling" shall mean any single family dwelling, duplex dwelling or triplex dwelling, which is rented for more than four months in any calendar year. "Rental dwelling" does not include hotels, motels, hospitals, or homes for the aged.

**Sec. 105-88. License Required.**

No person, firm, partnership, corporation or other legal entity shall operate a rental dwelling in the city without first obtaining a license. The license is issued annually and is valid until the date of expiration.

**Sec. 105-89. Application for Licenses.**

Applications for licenses shall be made in writing on forms provided by the city and accompanied by the fee amounts as established in the City Code. Such application shall be submitted at least sixty (60) days prior to the expiration date of the license, and shall specify the following:

- (1) Name and address of the owner of the rental dwelling.
- (2) Name and address of any agent actively managing the rental dwelling. The agent must live within the Seven County Metropolitan area and must have a background check conducted by the police department.
- (3) Name and address of all partners if the registrant is a partnership.
- (4) Name and address of all officers of the corporation if the registrant is a corporation.
- (5) Name and address of the vendee if the rental dwelling is owned or being sold on a contract for deed.
- (6) Legal address of the rental dwelling.
- (7) Number and kind of units within the rental dwelling classified as dwelling units, tenement units, or rooming units or other.
- (8) Name and address of on site operating manager, if any.

**Sec. 105-90. License Approval.** The Compliance Official may either approve or deny the license, or may delay action for up to sixty (60) days to permit the city to complete any investigation of the application or the applicant as deemed necessary. If the Compliance Official approves the license, a license shall be issued to the applicant. If the Compliance Official denies the application, a notice of denial shall be sent to the applicant at the business address provided on the application along with the reasons for the denial. The notice shall also inform the applicant of their right to appeal the decision to the city council pursuant to the process set forth in this chapter.

**Sec. 105-91. License Renewal.**

Notwithstanding the application signature requirements, renewals of the license as required annually by this Code may be made by filling out the required renewal form furnished by the compliance official to the owner, operator or agent of a rental dwelling and mailing said form together with the required registration fee to the compliance official. Failure to file the completed application with the City at least sixty (60) days prior to the expiration of the license is a violation of this Article.

**Sec. 105-92. License Fees.**

The license fees shall be in the amount established in this Code. Failure to pay the license fee for renewal of a license is a violation of this Article.

**Sec. 105-93. Furnish License.**

Every registrant of a rental dwelling shall be given a copy of the license. The license shall contain a statement that the tenant or tenants may contact the attorney general for information regarding the rights and obligations of owners and tenants under state law. The statement shall include the telephone number and address of the attorney general.

**Sec. 105-94. City Inspections.**

(a) Rental units shall be inspected in their entirety every twenty four (24) months. An application and payment is required annually on a continuous basis. Rental units that fail their

first inspection will be subjected to additional inspections until an inspection certificate is given by the compliance official. Rental units that fail their first inspection will be subjected to an inspection the subsequent year.

(b) Pursuant to this section, the compliance official shall make inspections to determine the condition of rental dwellings located within the City for the purpose of enforcing the rental licensing standards. The compliance official or designated representative may enter, examine and survey at all reasonable times all rental dwellings and premises after obtaining consent from an occupant of the premises. In the event that an occupant of the premises does not consent to entry by the compliance official or designate representative, and if there is probable cause to believe that an inspection is warranted, then application may be made to the court for an administrative or other search warrant for the purpose of inspecting the premises.

(c) The owner's rental housing license may be suspended, revoked or denied renewal for failing to maintain the licensed building in compliance with the property maintenance code as set forth in chapter 105, article III of this Code or otherwise failing to comply with the requirements of the City Code or applicable state or federal law.

**Sec. 105-95. Maintenance Standards.**

(a) Every rental dwelling shall maintain the standards in chapter 105, article III, Housing Code and chapter 22, Blight, in addition to any other requirement of the ordinance of the city or special permits issued by the city, or the laws of the State of Minnesota.

(b) Any code violation noted by the city must be remedied in a timely fashion by the property owner and reinspected for compliance by the city.

**Sec. 105-96. Crime Free/Criminal Activity Lease Requirements.**

(a) All tenant leases, except for state licensed residential facilities and subject to all preemptory state and federal laws, shall contain the following Crime Free/Criminal Activity language:

(1) **Drug Related Activity.**

- a. Resident, any members of the resident's household or a guest or other person affiliated with resident shall not engage in drug-related criminal activity, on or near the premises.
- b. Resident, any member of the resident's household or a guest or other person affiliated with resident shall not engage in any act intended to facilitate drug-related criminal activity on or near the premises.
- c. Resident or members of the household will not permit the dwelling unit to be used for, or to facilitate drug-related criminal activity, regardless of whether the individual engaging in such activity is a member of the household, or a guest.
- d. Resident, any member of the resident's household or a guest, or other person affiliated with the resident shall not engage in the unlawful manufacturing, selling, using, storing, keeping, or giving of a controlled substance at any locations, whether on or near the premises or otherwise.

- e. Violation of the above provisions shall be a material and irreparable violation of the lease and good cause for immediate termination of tenancy.

(2) **Criminal Activity.**

- a. Resident, members of the resident's household, guests, or other persons under the resident's control shall not engage in Criminal Activity, engage in any act intended to facilitate Criminal Activity, or permit the dwelling unit to be used for or facilitate Criminal Activity on or near the premises.
- b. Three (3) Criminal Activity violations involving the same tenancy within a continuous twelve (12) month period shall be a substantial and material violation of the lease and good cause for termination of the tenancy.
- c. Notwithstanding the above provision, Criminal Activity that jeopardizes the health, safety, and welfare of the Landlord, his or her agent, other residents, neighbors or other third party, or involving imminent or actual serious property damage shall be a material and irreparable violation of the lease and good cause for immediate termination of tenancy.

(3) **Definitions.**

- a. The term "criminal activity" means the violation of the following:
  - 1) Minnesota Statutes §§ 609.75 through 609.76, which prohibit gambling;
  - 2) Minnesota Statutes §§ 609.321 through 609.324, which prohibit prostitution and acts relating thereto;
  - 3) Minnesota Statutes § 340A.401, which prohibit the unlawful sale of alcoholic beverages;
  - 4) Minnesota Statutes §§ 97B.021, 97B.045, 609.66 through 609.67 and 624.712 through 624.716, and § 930 of this code, which prohibit the unlawful possession, transportation, sale or use of a weapon;
  - 5) Minnesota Statutes §§ 609.185, 609.19, 609.195, 609.20, and 609.205 which prohibit murder and manslaughter;
  - 6) Minnesota Statutes §§ 609.221, 609.222, 609.223, and 609.2231 which prohibit assault;
  - 7) Minnesota Statutes §§ 609.342, 609.343, 609.344, 609.345, and 609.3451 which prohibit criminal sexual conduct;
  - 8) Minnesota Statutes §§ 609.52 which prohibit theft;
  - 9) Minnesota Statutes §§ 609.561, 609.562, 609.563, 609.5631, and 609.5632 which prohibit arson;
  - 10) Minnesota Statutes § 609.582 which prohibit burglary;
  - 11) Minnesota Statutes § 609.595 which prohibit damage to property;
  - 12) Chapter 22, Article III of this Code, which prohibits nuisances;
  - 13) Minnesota Statutes § 609.72, which prohibit 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;  
and

14) Section 30-3 of the Falcon Heights City Code which prohibits the discharge of a firearm.

b. The term “drug related criminal activity” means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use of a controlled substance or any substance represented to be drugs in violation of Minnesota Statutes §§ 152.01 through 152.025, and 152.027, subds. 1 and 2 and Section 102 of the Controlled Substance Act, 21 U.S.C. § 802).

(4) **Non-Exclusive Remedies.** The Crime Free/ Criminal Activity provisions are in addition to all other terms of the lease and do not limit or replace any other provisions.

(a) These lease provisions shall be incorporated into every new lease for a tenancy beginning January 1, 2009 and all renewed leases thereafter.

(b) Upon determination by the compliance official that a licensed premises or unit within a licensed premises was used in violation of the Drug-Related Activity provision of Subsection (a)(1) or Criminal Activity provision of Subsection (a)(2)(c), the city shall cause notice to be made to the owner and property manager of the violation. The owner or property manager shall notify the tenant or tenants within ten (10) days of the notice of violation of the Crime Free/Criminal Activity lease language and proceed with termination of the tenancy of all tenants occupying the unit. The owner shall not enter into a new lease for a unit located in the licensed property with an evicted tenant for a period of one year after the eviction.

(c) Upon determination by the compliance official that a licensed premises or unit within a licensed premises was used for Criminal Activity as set forth in Subsection (a)(2) herein, the city shall cause notice to be made to the owner and property manager of the violation and direct the owner and property manager to take steps to prevent further Criminal Activity violations.

(d) If a second Criminal Activity violation occurs within a continuous twelve (12) month period involving the same tenancy, the city shall cause notice to be made to the owner and property manager of the second violation. The owner or property manager shall respond in writing within ten (10) days of receipt of the notice with an action plan to prevent further Criminal Activity violations.

(e) If a third Criminal Activity violation occurs within a continuous twelve (12) month period involving the same tenancy, the city shall cause notice to be made to the owner and property manager of the third violation. The owner or property manager shall notify the tenant or tenants within ten (10) days of the violation of the Crime Free/Criminal Activity lease language within the lease and proceed with termination of the tenancy of all tenants occupying the unit. The owner shall not enter into a new lease for a unit located in the licensed property with an evicted tenant for a period of one year after the eviction.

(f) The provisions of Subsections (c), (d), (e), and (f) herein do not apply if the determination that the premises have been used in violation of the Crime Free/Criminal Activity provisions of Subsections (a)(1) and (a)(2) herein originates from a call from or at the request of one or more of the tenants occupying the premises for police or emergency assistance, or in the case of domestic abuse, from a call for assistance from any source. The term “domestic abuse” has the meaning given in Minn. Stat. § 518B.01, subd. 2.

### **Sec. 105-97. Revocation, Suspension, and Civil Fines.**

(a) **Violations.** The following actions by property owners or license holders are misdemeanors and are subject to civil penalties, may constitute the basis for revocation of licenses and/or may result in injunctive action by the city. The property owner shall be responsible for the conduct of its agents or employees while engaged in normal business activities on the licensed premises. Any violation of this chapter shall be considered an act of the property owner or license holder for purposes of imposing a civil penalty or license revocation. If a license is revoked it is unlawful for the owner to permit new occupancy of any vacant rental unit, or any units that become vacant during license injunction.

(b) **Basis for Sanctions.** The compliance official may revoke, suspend, deny or decline to renew any license issued under this chapter for part or all of a rental dwelling upon any of the following grounds:

- (1) **Leasing Without a License.** Leasing residential units without a license is subject to license suspension or revocation;
- (2) **Violation of Codes.** Violation of the city maintenance code, building code, or fire code;
- (3) **Hazardous or Uninhabitable Units.** Leasing units that are deemed hazardous or uninhabitable or units within a building that are deemed hazardous or uninhabitable;
- (4) **Commission of a Felony.** Commission of a felony related to the licensed activity by the property owner or manager;
- (5) **Consideration of Suspension or Revocation.** At any time during a license period, if a rental property does not meet or exceed the criteria established for the current license, the license may be brought forth to the city council for consideration of license suspension or revocation;
- (6) **Updated Application Requirement.** Failure to provide an updated application with current information within thirty (30) days of application renewal request from the city;
- (7) **False Statements.** False statements on any application or other information or report required by this chapter to be given by the applicant or licensee;
- (8) **Fees.** Failure to pay any application, inspection, penalty, reinspection or reinstatement fee required either by this section or city council resolution. Fee amounts are subjected to change through the city fee schedule;
- (9) **Correction of Deficiencies.** Failure to correct dwelling deficiencies in the time specified in a compliance order;
- (10) **Inspection.** Failure to schedule an inspection within ninety (90) days of application filed and/or allow an authorized inspection of a rental dwelling;

- (11) **Violation of Statute.** Violation of an owner's duties under Minnesota statutes sections 299C.66 to 299C.71 ("Kari Koskinen manager background check act");
- (12) **Delinquent Taxes or Fines.** Real estate or personal property taxes or municipal utilities have become delinquent or have unpaid fines.

(c) **Penalties.**

- (1) **Revocation.** Any violation of this chapter may be grounds to revoke a license. Any civil penalty, revocation or combination thereof under this section does not preclude criminal prosecution under this chapter or Minnesota statutes. All fines are cumulative and revocation periods will run consecutively.
- (2) **Violation.** Any person that maintains a rental dwelling without having a property registered or after the registration for the property has been revoked or suspended or who permits new occupancy in violation is guilty of a misdemeanor and upon conviction is subject to a fine and imprisonment as prescribed by state law.
  - a. **First Violation**  
Compliance Official will give notice to the licensee of the violation, request fine payment and direct the licensee to take steps to prevent further violations.
  - b. **Second Violation**  
If a second violation occurs within sixty (60) days of a first violation the Compliance Official will give notice to the licensee of the violation, request fine payment and direct the licensee to take steps to prevent further violations.
  - c. **Third or More Violation**  
If another instance of violations occurs within sixty (60) days of the calendar year Compliance Official will give notice to the licensee of the violation, request fine payment and direct the licensee to take steps to prevent further violations. If a fourth or subsequent violation occurs suspension of the license will be pending until a hearing.
- (3) **Suspension.** The city council may temporarily suspend a license pending a hearing on the suspension or revocation when, in its judgment, the public health, safety, and welfare is endangered by the continuance of the licensed activity.
- (4) **Civil Fines.** The city council may impose civil fines in addition to revocation or suspension for violations of any provision of this chapter as follows:

<b>Within One Calendar Year</b>	<b>Fine Per Unit/Common Building</b>
First Violation	\$300.00
Second Violation	\$600.00
Third or more within a 12 month period	\$900.00
Renting without a license after 30 days' notice shall be subject to \$1,000.00 fine per unit and	

also be a misdemeanor offense

**Sec 105-98. Hearing on Penalties, Revocation, Violation, Suspension and Civil Fines.**

(a) **Hearing.** Following receipt of a notice of denial or nonrenewal issued by the Compliance Official or a notice of a violation and penalty issued under section 105-97 of this chapter, an applicant or license holder may request a hearing before the city council. A request for a hearing shall be made by the applicant or license holder in writing and filed with the Compliance Official or Compliance Official's designee within ten (10) days of the mailing of the notice of denial or alleged violation. Following receipt of a written request for hearing, the applicant or license holder shall be afforded an opportunity for a hearing before a committee consisting of the Compliance Official or Compliance Official's designees. After the committee conducts the hearing it shall report its findings and make a recommendation to the full city council.

(b) **Findings.** If after the hearing the applicant or license holder is found ineligible for a license, or in violation of this chapter, the council may affirm the denial, impose a civil penalty, suspend, or revoke a license or impose any combination thereof.

(c) **Default.** If the applicant or license holder has been provided written notice of the denial, nonrenewal, or violation and if no request for a hearing is filed within the ten (10) day period, then the denial or revocation take immediate effect by default. The Compliance Official or designee shall mail notice of the denial, fine, suspension, or revocation to the applicant or license holder. The Compliance Official shall investigate compliance with the denial or revocation.

(d) **Penalties For Default.** Failure to comply with all terms of this section during the term of revocation, suspension or nonrenewal is a misdemeanor and grounds for extension of the term of revocation, suspension or continuation of nonrenewal of the license.

(e) **Appeal.** Following receipt of a decision by the Compliance Official to deny, revoke, suspend, or not renew a license, the owner/licensee may request a hearing before the city council. The request must be made in writing to the Compliance Official within ten (10) days of the Compliance Official's decision.

(f) **Written Notice, Hearing.** A decision to revoke, suspend, deny, or not renew a license shall be preceded by written notice to the applicant or licensee of the alleged grounds therefor and the applicant or licensee will be given an opportunity for a hearing before the city council before final action to revoke, suspend, deny, or not renew a license. A hearing will be conducted before the city council at a public meeting, or the city council may retain an administrative hearing officer or other impartial third party to conduct the public hearing. The licensee shall have the right to be represented by counsel, the right to respond to the charged violations, and the right to present evidence through witnesses. The rules of evidence do not apply to the hearing and the city council may rely on all evidence it determines to be reasonably credible. The determination to suspend or revoke the license shall be made upon a preponderance of the evidence. It is not necessary that criminal charges be brought in order to support a suspension or revocation of a license violation nor does the dismissal or acquittal of such a criminal charge operate as a bar to suspension or revocation.



(g) **Decision Basis.** The council shall give due regard to the frequency and seriousness of violations, the ease with which such violations could have been cured or avoided and good faith efforts to comply and shall issue a decision to deny, not renew, suspend or revoke a license only upon written findings.

(h) **Affected Facility.** The council may suspend or revoke a license or not renew a license for part or all of a facility.

(i) **Suspension.** Licenses may be suspended for up to ninety (90) days and may, after the period of suspension, be reinstated subject to compliance with this chapter and any conditions imposed by the city council at the time of suspension including, but not limited to, receivership or city obtaining control to manage the property temporarily.

(j) **Written Decision, Compliance.** A written decision to revoke, suspend, deny, or not renew a license or application shall specify the part or parts of the facility to which it applies. Thereafter, and until a license is reissued or reinstated, no rental units becoming vacant in such part or parts of the facility may be relet or occupied.

(k) **Continuing Obligations, Penalty.** Revocation, suspension or nonrenewal of a license shall not excuse the owner/licensee from compliance with all terms of this section, this code, and state laws for as long as any units in the facility are occupied. Failure to comply with all terms of this chapter during the term of revocation, suspension or nonrenewal is a misdemeanor and grounds for extension of the term of such revocation or suspension or continuation of nonrenewal, or for a decision not to reinstate the license, notwithstanding any limitations on the period of suspension, revocation or nonrenewal specified in the city council's written decision.

(l) **New Licenses Prohibited.** A person who has a rental license revoked may not receive a rental license for another property within the city for a period of one year from the date of revocation. The person may continue to operate other currently licensed rental properties if the properties are maintained in compliance with city codes and other applicable regulations.

#### **Sec. 105-99. Summary Action.**

(a) When the condition of the rental dwelling of any license holder or their agent, representative, employee or lessee is detrimental to the public health, safety and general welfare as to constitute a nuisance, fire hazard or other unsafe or dangerous condition and thus give rise to an emergency, the compliance official shall have the authority to summarily condemn or close off such area of the rental dwelling.

(b) Any person aggrieved by a decision of the compliance official to cease business or revoke or suspend the license or permit shall be entitled to appeal to the city council immediately, by filing a notice of appeal. The administrator shall schedule a date for hearing before the city council and notify the aggrieved person of the date.

(c) The hearing shall be conducted in the same manner as if the aggrieved person had not received summary action.

(d) The decision of the compliance official shall not be voided by the filing of such appeal. Only after the city council has held its hearing will the decision of the compliance official be affected.

**Sec. 105-100. Applicable Laws.**

Licenses shall be subject to all of the ordinances of the city and the State of Minnesota relating to rental dwellings; and this article shall not be construed or interpreted to supersede or limit any other such applicable ordinance or law.

**Sec. 105-101. Multiple Suspensions.**

If the license of more than one dwelling unit in a licensed premises is suspended within 12 months, the period of suspension for the second and subsequent dwelling units licensed that are suspended may be doubled for the suspension period specified in section 105-96.

**SECTION 2. EFFECTIVE DATE:** This ordinance shall take effect from and after its passage.

**ADOPTED** this 11<sup>th</sup> day of December, 2013, by the City Council of Falcon Heights, Minnesota.

CITY OF FALCON HEIGHTS

BY: Peter Lindstrom  
Peter Lindstrom, Mayor

ATTEST:

Bart Fisher  
Bart Fisher, City Administrator/Clerk