

Council member <sup>Anderson</sup> introduced the following ordinance and moved its adoption. Council member <sup>Goebel</sup> seconded the motion to adopt. The mayor called for a vote with the following results:

Ayes: Anderson, Haukoos, Goebel, Guge, Carlin, Seylar--6  
Nays: Clark--1  
Abstain: None--0  
Absent: None--0

**ORDINANCE NO. 737**

**AN ORDINANCE AMENDING TITLE II, DIVISION 3, CHAPTER 4, OF THE CITY CODE OF ORDINANCES OF THE CITY OF ESTHERVILLE, IOWA, PERTAINING TO RENTAL HOUSING CODE.**

BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF ESTHERVILLE, IOWA, as follows:

1. That Title II, Division 3, Chapter 4 of the Code of Ordinances of the City of Estherville, Iowa, is amended and substituted with the following Chapter:

**CHAPTER 4  
RENTAL HOUSING CODE**

**234-1 PURPOSE.** The purpose of this chapter is to establish minimum requirements for residential rental structures to be fit for human habitation, occupancy or use. To protect, preserve and promote the physical health and social well being of the people. To prevent and control the incidence of communicable diseases, to reduce environmental hazards to health, to regulate rental dwellings for the purpose of maintaining adequate sanitation and to protect the safety of the people.

**234-2 RESPONSIBILITY.** The owner of the residential rental housing unit(s) shall provide and maintain the structure and facilities in compliance with this chapter.

**234-3 APPLICABILITY.** The provisions of this chapter shall apply uniformly to all residential rental housing unit(s), irrespective of the date of initial construction. The provisions of this chapter shall apply to all residential rental units except 234-6 shall not apply to hospitals, licensed nursing homes, accredited colleges, licensed group homes for disabled persons, residential units within primary residence of the owner used by related parties of the owner, units occupied by related parties of the owner to be defined as parents, grandparents, siblings, children and grandchildren, units in a trust in which a trustee beneficiary lives in the unit, and vacant properties with no anticipated future rental use. This chapter does not apply to any lodging units subject to Chapter 423A of the Code of Iowa, which are subject to Iowa hotel and motel tax.

**234-4 MINIMUM STANDARDS.** All rental housing units and structures intended for human habitation, occupancy or use shall meet all of the following minimum requirements:

## **EXTERIOR**

- A. General. The structure shall be maintained in good repair and structurally sound so as not to pose a threat to the public health, safety or welfare.
- B. Walkways. All walkways, stairs and similar areas shall be kept in a proper state of repair and maintained free from hazardous conditions.
- C. Accessory structures. All accessory structures, including detached garages, sheds, fences and walls, shall be maintained structurally sound and in good repair.
- D. Foundation walls. All foundation walls shall be free from open cracks, breaks and holes and shall be kept in such condition as to prevent the entry of rodents and other pests.
- E. Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials and shall be maintained weatherproof.
- F. Roofs and drainage. The roof shall be sound, tight and not have defects that admit rain. Roof water shall not be discharged in a manner that creates a public nuisance.
- G. Stairways, decks, porches and balconies. Every exterior stairway, deck, porch, and balcony shall be maintained structurally sound and in good repair.
- H. Windows, skylights and door frames. Every window, skylight, door and frame shall be kept in sound condition, in good repair, and shall not be boarded up. Glass shall be free from major cracks and holes.

## **2. INTERIOR**

- A. General. The interior of a structure and equipment therein shall be maintained in good repair and structurally sound so as not to pose a threat to the health, safety or welfare of the occupants. Occupants shall keep that part of the structure which they occupy or control in an acceptable condition. Every owner of a structure containing two or more dwelling units shall maintain, in a clean manner, the shared or public areas of the structure and exterior property.
- B. Stairs. Every stairway shall be maintained in sound condition and in good repair. No permanent obstructions permitted in hallways or stairways.
- C. Doors. Each interior door shall be easily openable and in good repair. Each exterior door shall be of proper size to fit the frame and shall be equipped with a lock.
- D. Walls. Interior walls shall be free from holes, excluding nail holes, and shall cover the building structure.
- E. Ceilings. Ceilings shall be free from holes and cover the building structure.
- F. Mold. Every structure shall be free from obvious mold growth.
- G. Flooring. Flooring shall be free from tripping hazards.

## **3. ELECTRICAL SYSTEM**

- A. Service. Every rental unit shall be connected to an approved electrical system.
- B. Fixtures. All fixtures and outlets shall be in a safe and functional condition or properly covered.

#### **4. WATER SYSTEM**

- A. Service. Every rental unit shall be connected to an approved water system.
- B. Fixtures. All plumbing fixtures and pipes shall be maintained in a safe and functional condition, free from leaks.
- C. Water Heater. Water heaters shall be able to provide an adequate supply of hot water to every sink, bathtub, shower and laundry facility. The property owner shall ensure proper installation and maintenance of water heater(s).

#### **5. SEWER SYSTEM**

- A. Service. Every rental unit shall be connected to an approved sanitary sewer system.
- B. Fixtures. All fixtures and pipes shall be maintained in a safe and functional condition, free from leaks.

#### **6. HEATING FACILITIES**

- A. Facilities required. Dwellings shall be provided with heating facilities capable of maintaining adequate heat in all living spaces, bedrooms and bathrooms. The use of cooking appliances or portable space heaters shall not be used to meet this requirement.

#### **7. MEANS OF EGRESS**

- A. General. Every dwelling unit shall have at least two means of egress. If said means is a below grade window it shall have a net clear opening of at least 5.7 square feet. In addition, every bedroom shall have at least two means of egress. If said means is a below grade window it shall have a net clear opening of at least 5.7 square feet.

#### **8. EXTERMINATION**

- A. Infestation. All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.
- B. Extermination - Single Family Dwellings.
  - 1.) Owner: the owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.
  - 2.) Occupant: the occupant of a single-family dwelling shall be responsible for the continued rodent and pest free condition of the premises.
- C. Extermination - Multiple occupancy.
  - 1.) Owner: the owner of a structure containing two or more dwelling units, a multiple occupancy, or a rooming house, shall be responsible for extermination in the public or shared areas of the structure and exterior property. **If** infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant shall be responsible for extermination of all affected areas of the property.

2.) Occupant: the occupant of any structure shall be responsible for the continued rodent and pest-free condition of that portion of the structure occupied. The owner shall be responsible to ensure that the units remain rodent and pest free and may assess the costs to the responsible tenant.

Exception: Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.

## **9. FIRE SAFETY REQUIREMENTS**

- A. Smoke Detectors. All new smoke detectors, and all existing smoke detectors that are replaced, shall be an approved dual sensor smoke alarm and shall be installed and maintained in each sleeping room and immediately outside of sleeping areas and on each story including the basement. (Code of Iowa, 2016, Sec. 100.18)

## **10. CARBON MONOXIDE DETECTORS**

- A. General. Beginning July 1, 2018 approved carbon monoxide detectors are required to be installed and maintained in each dwelling unit immediately outside sleeping areas. Exception for dwelling units with no potential source of carbon monoxide. (Code of Iowa, 2016, Sec. 100.18)

**234-5 REGISTRATION.** Every residential rental dwelling shall be registered with the City Code Official within 30 days of the effective date of this ordinance. Units placed in rental service after the adoption of this ordinance shall be registered within 30 days.

Failure to register shall constitute a violation of this chapter. Each day a unit fails to be registered constitutes a separate violation.

It shall be the property owner's responsibility to notify the City Code Official if the structure is sold or no longer used as rental property within 30 days of the event.

**234-6 INSPECTIONS.** Inspections shall be conducted by the City Code Official.

- 1. Required Inspections.** Regular inspections of each rental property shall be conducted every three (3) years by the Code Official. Spot inspections may be conducted by the Code Official upon observation of units which are obviously and substantially out of compliance or upon receipt of a complaint. Any such inspections will be scheduled with the owner and/or operator of the units. The owner and/or operator shall have the responsibility to notify the occupant. The occupant has the right to be present for the inspection. Upon satisfactory inspection, the owner shall be issued a certificate of housing compliance.
- 2. Requested Inspections.** Upon the request of the owner or operator of a rental unit, the City shall inspect said rental unit to determine compliance with the Rental Housing Code. Upon a

successful completion of such inspection, the unit shall be exempt from regular inspections for a period of three (3) years and receive a certificate of housing compliance.

3. Failed Inspections. If after a City inspection a rental unit is deemed to be out of compliance, a list of needed repairs will be provided to the owner and/or operator with a stated time in which to make the repairs. Upon completion of the repairs, or upon the passing of the stated time, the owner and/or operator shall schedule a re-inspection of the property.
4. Minor Infractions. Upon observation and notation of three (3) or fewer minor infractions, as determined by the Code Official, a re-inspection shall be conducted, however the re-inspection fee shall be waived if said minor infractions have been abated in the stated time.

**234-7 COMPLIANCE SUSPENSION.** Whenever it is found that conditions exist in a rental unit, which is in violation of any provisions of this chapter, the Code Official shall give notice in writing to the property owner of the rental unit that unless such conditions are corrected in a reasonable time, to be determined by the Code Official, the certificate of compliance shall be denied, revoked or suspended.

**234-8 RIGHT OF ENTRY.**

1. The Code Official is authorized and directed to enforce all of the provisions of this ordinance and to perform the duties of safeguarding the health, safety and welfare of the occupants of all rental dwellings and the general public.
2. The Code Official is authorized to enter and make inspection to enforce any of the provisions of this chapter, whenever there is reasonable cause to believe that there exists in any building or upon any premises located within the City any condition or code violation which makes such building or premises unsafe, dangerous or hazardous.
3. The Code Official may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon them by this chapter, provided that said official shall first present proper credentials and request entry. Such official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises to gain entry.
4. The Code Official may make inspections of all rental premises pursuant to the City's regular inspection program as frequently as may be necessary and may make an inspection at any reasonable time based upon the need for code enforcement.
5. If such entry is refused for regular request or complaint inspections, the Code Official shall have recourse to every remedy provided by law to secure entry. When the Code Official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner, occupant or any other persons having charge, care or control of any building or premises, shall fail or neglect to promptly permit entry

therein by the authorized personnel for the purpose of inspection and examination pursuant to this chapter.

**234-9 CODE OFFICIAL** The Code Enforcement Officer shall be the Code Official for purposes of this chapter.

**234-10 COMPLAINTS.** All persons making complaints concerning the compliance with the provisions of this chapter of any dwelling, dwelling unit, rooming house or rooming unit shall do so in the following manner:

1. Prior to an occupant filing a complaint with the City, occupant shall provide the owner or operator a written, dated notice providing sufficient detail to identify alleged violations.
2. In the case of occupants making complaints concerning the dwelling or dwelling unit in which they reside, such tenant shall attach a dated copy of the notice in which they requested the owner or operator to correct the alleged violation, unless complaint pertains to an emergency situation as determined by the Code Official, Chief of Police or City Administrator. The occupant shall submit a \$100 inspection fee with the complaint, which will be returned if the complaint is founded.
3. The complaints shall be in writing and signed by the complainant on a form provided by the City to include the address of the premises, the name of the owner, landlord or operator, and shall state the nature of the alleged violation with specificity.
5. It is a violation of the provisions of this chapter for an owner or operator to take reprisals against any tenant making a complaint under the provisions of this chapter. Any such reprisals shall constitute a municipal infraction.

**234-11 INJUNCTIVE PROCEDURES.** The city administrator or designee is hereby authorized to seek injunctive relief from the Iowa District Court to prohibit the renting of any dwelling unit for which no application for certificate of rental housing compliance has been made or requested or for which the certificate of housing compliance has been denied, suspended or revoked. The city administrator or designee further is authorized to seek sequestration of rent pursuant to Iowa Code Section 364.17(3) (e) (g) (h) for any unit for which the certificate of rental housing compliance has been suspended under the provisions of this chapter.

**234-12 UNRECORDED CONTRACTS OR PURCHASE AGREEMENTS.** For purposes of this chapter, any residential property which is the subject of a contract or purchase agreement which has not been properly recorded with the Emmet County Recorder shall be treated the same as rental property. The contract seller shall have the duties and responsibilities and shall be subject to the same penalties as the owner of rental property.

**23413 CHAPTER DOES NOT IMPAIR AUTHORITY TO ACT ON NUISANCES.** Nothing in this chapter shall be construed or interpreted to impair or limit in any way the authority of the City to define and declare nuisances, or of the City Administrator, the Police Chief or other City officials to cause the removal or abatement of nuisances by summary proceedings or other appropriate proceedings.

**234-14 CHAPTER DOES NOT ABROGATE PROVISIONS OF OTHER CODES AND ORDINANCES.** The provisions of this chapter shall not abrogate the responsibility of any person to comply with any provision of the any other ordinances of the City.

**234-15 FAILURE TO COMPLY.** Failure to comply with any provision in this chapter shall constitute a municipal infraction. Each day a violation persists constitutes a separate offense.

**234-16 FEES.** Fees shall be set by ordinance of the Council, non-payment of which will constitute a municipal infraction:

1. Annual registration: \$0.
2. Initial Inspection: \$0.
3. <sup>St</sup> Re-inspection \$100 for the <sup>1st</sup> unit, \$25 for each additional unit in the same structure. Payment is due at the time of the inspection.
4. Late registration: \$25.

**234-17 MEANS OF APPEAL.** Any person directly affected by a decision of the Code Official or a notice or order issued under this code shall have the right to appeal.

**1. Application for Appeal.** Appeals shall be heard by the Property Maintenance Appeals Board. An appeal request must be made in writing and be filed no later than 30 days from the date of the decision, notice or order. An application for appeal shall be based on the claim that:

1. the true intent of this Code or the rules legally adopted hereunder have been incorrectly interpreted; or
2. the provisions of this code do not fully apply; or
3. the requirements of this code are adequately satisfied by other means, and the specific proposed alternative action will provide an equivalent degree of code compliance; or
4. there are specific fixed conditions that make strict compliance with this Code impracticable; or
5. required actions cannot be completed within the time limit specified by the Code Official.

**2. Appointment and Membership of Board.**

1. The Property Maintenance Appeals Board shall consist of three members who are appointed by the Mayor with the approval of the City Council. The Code Official shall be an ex-officio member but shall have no vote on any matter before the Board.
2. Membership shall consist of one landlord, one general contractor and one citizen at large. Employees of the City of Estherville shall not be members of the Board.
3. The Board shall annually select one of its members to serve as chairperson.
4. The City Administrator shall designate a qualified person to serve as the secretary to the Board. The secretary shall file a detailed record of all proceedings with the City Clerk.
5. Members shall receive no compensation.
6. The Board shall meet upon notice from the Code Official within 20 days of the filing of an appeal.
7. The Board has the authority to affirm, modify or reverse the decision of the Code Official.
8. A member shall not hear an appeal in which that member or an immediate family member has a personal, professional or financial interest.

2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

3. Severability Clause. If any section, provision or part of this ordinance shall be judged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

4. When effective. This ordinance shall be in effect after final passage, approval and publication as provided by law. Inspections under this ordinance shall not begin until after January 1, 2017.

PASSED, ADOPTED AND APPROVED this 5<sup>th</sup> day of July , 2016.

ATTEST:

Julid Deputy City Clerk