

AN ORDINANCE OF THE CITY OF FOLEY, MISSOURI, TO REGULATE NUISANCES CAUSED BY OVERCROWDING AND POOR MAINTENANCE IN RESIDENTIAL DWELLINGS. TO ESTABLISH MINIMUM LIVING SPACE AND MAINTENANCE REQUIREMENTS IN DWELLINGS. TO ESTABLISH OCCUPANCY COMPLIANCE CERTIFICATE REQUIREMENTS AND PROCEDURES FOR OBTAINING SUCH CERTIFICATE, AND PROVIDING PENALTIES FOR VIOLATIONS.

WHEREAS, overcrowding in residential dwellings adversely affects the life, safety, general welfare, health and social well-being of persons occupying dwellings and the surrounding community;

WHEREAS; setting reasonable minimum space standards per occupant for each dwelling unit, and on the facilities available to serve those occupants, is the best method to control such problems;

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FOLEY, MISSOURI AS FOLLOWS:

Section 1: Definitions

BASEMENT: The portion of a building which is partly or completely below grade.

BUILDING OFFICIAL: Building inspector

CITY CODE: The Municipal Code of Ordinances of the City of Foley, Missouri.

DWELLING: A building or portion thereof designed or used exclusively for residential occupancy including single-family dwelling units, two-family dwelling units, multiple-family dwelling units, house trailers, mobile homes, manufactured homes, and residential apartment buildings; but not including hotels, boarding or lodging houses.

GROSS SPACE: If additional habitable space has been added for living, eating or sleeping purposes, the owner shall provide documentation or allow the City access to the property to verify that such additional space is in compliance with the City's Ordinances.

OCCUPANT: A person who is residing or living in a dwelling or other structure overnight, other than a temporary guest who is staying at the dwelling or other structure for less than two weeks per year.

OWNER: Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the State, County or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PUBLIC NUISANCE: Includes, but is not limited to, the following:

1. The physical condition or use of any premises regarded as a public nuisance at common law;
2. Any physical condition, use or occupancy of any premises or its appurtenances considered an attractive nuisance to children including, but not limited to, pools, trampolines, abandoned wells, shafts, basements, excavations, fences or structures that are in an unsafe condition;
3. Any premises which has unsanitary sewerage or plumbing facilities;
4. Any premises designated as unsafe for human habitation or use;
5. Any premises that violates this Ordinance; or
6. Any premises which manifestly capable of being a fire hazard, or is manifestly unsafe or insecure so as to endanger life, limb or property.

REFUSE: All putrescible and non-putrescible waste solids including garbage and rubbish.

RENT, RENTED, RENTS, RENTING: Includes to lease, to sublease, to license, to let and to grant for consideration the right to occupy premises not owned by occupant.

RENTAL UNIT: A dwelling unit let or intended to be let for rent or lease.

REPAIR: To put into a sound and acceptable state of operation, serviceability or appearance.

RUBBISH: Non-putrescible solid wastes consisting of both combustible and non-combustible wastes such as paper, cardboard, tin cans, grass and shrubbery clippings, wood, glass, brick plaster, bedding, crockery and similar materials.

SAFETY: The condition of being reasonably free from danger and hazards that may cause accidents or disease.

STRUCTURE: That which is built or constructed including, without limitation because of enumeration, buildings for any occupancy or use whatsoever, fences, signs, billboards, fire escapes, chute escapes, railings, water tanks, towers, open grade steps, sidewalks or stairways, tents or anything erected and framed of component parts which is fastened, anchored or rests on a permanent foundation or ground.

SUBSTANDARD DWELLING: Any dwelling that does not conform to the minimum standards established by the City Code.

SUPPLIED: Paid for, furnished by, provided by or under the control of the owner, operator or agent of a dwelling.

Section 2: Certificate of occupancy Compliance

A. Requirements.

1. When a certificate of occupancy compliance is required under Subsection 2.A.2 of this Ordinance, it shall be unlawful for any person to occupy, or for any owner or owner's agent to permit the occupation of, any dwelling without a certificate of occupancy compliance.
2. A new or renewed certificate of occupancy compliance shall be required whenever:
 - a. Ownership of the dwelling changes;
 - b. If the dwelling is rented, when any of the tenants change;
 - c. Whenever the dwelling or dwelling property has been declared a public nuisance;
 - d. Whenever a City Ordinance violation complaint is filed regarding the dwelling property;
 - e. When a substantial portion of the dwelling has been repaired, rebuilt, remodeled, or added to;
 - f. When a new dwelling is constructed;
 - g. When there is a change of use of the property or a change in the occupancy of the dwelling.
3. Any certificate of occupancy compliance that is issued shall be valid and current through the time a renewed certificate is required under Subsection 2.A.2 of this Ordinance.
4. It shall be the responsibility of both the proposed owner or tenant, and the current owner, of the property to apply for, and obtain a new or renewed certificate of occupancy compliance when required by this ordinance. The City shall issue a certificate only if the dwelling, dwelling property, and its occupancy comply with the requirements of this Ordinance.
5. The City may revoke a certificate of occupancy compliance if the dwelling, dwelling property, or its occupancy fail to pass any inspection under this Ordinance.

- B. Fee for Certificate.** Upon application for a new or renewed certificate of occupancy compliance, the applicant shall pay a fee to the City in the amount of fifty dollars (\$50.00). If a certificate of occupancy compliance is denied or suspended, the fees are non-refundable.

Section 3: Unlawful Occupancy.

It shall be unlawful to occupy or rent any dwelling units when any of the minimum standards stated in this Ordinance are not met. It shall be unlawful for any owner of a dwelling to permit that dwelling to be occupied when the minimum standards stated in this Ordinance are not met. Dwellings shall not be occupied by more occupants than permitted by this Ordinance.

Section 4: Administration

- A. Relief from Personal Liability. Any Building Inspector, Building Official, officer, or employee who acts in good faith and without malice in the discharge of duties of enforcement of this Ordinance is relieved of all personal liability for any damage accruing to persons or property as a result of such acts or alleged failure to act. Further, the Building Inspector and Building Official shall not be held liable for any costs in any action, suit or proceeding that is instituted by the Building Official in the enforcement of the Chapter. In any of these actions, the Building Official, inspector, officer or employee shall be defended or represented by the City's attorney at law until final resolution of the proceedings.

Section 5: Citations

Whenever the Building Official determines that there has been a violation of this Ordinance, or has reasonable grounds to believe that a violation has occurred, the Inspector or Building Official may serve the owner, tenant, or other responsible person with a Municipal misdemeanor ordinance violation citation to be adjudicated in the City Municipal Court.

Section 6: Notice, and Orders

- A. Notice to Owner or to Person or Persons Responsible. Whenever the Building Official determines that there has been a violation of this Ordinance or has reasonable grounds to believe that such a violation citation, give a notice and orders to the owner or any person responsible for the dwelling or dwelling property in the manner prescribed below. Such notice shall:
1. Be in writing;
 2. Include a description of the property sufficient for identification (an address is sufficient);
 3. Include a statement of the reason or reasons why it is being issued; and
 4. Include a correction order requiring that action be completed to bring the premises into compliance with the provisions of this Ordinance within a period of ten (10) days or other time period deemed by the Building Official to be reasonable for the action required.
- B. Service of the Notice or Order. Service shall be deemed to be properly served upon such owner if a copy thereof is delivered to the owner personally; or by certified or registered mail addressed to the owner at the last known address with return receipt requested; or if the certified or registered letter is returned with receipt showing that it has not been delivered, by posting a copy thereof in a conspicuous place on the premises or about the structure affected by such notice and at least one (1) publication of such notice in a local newspaper of general circulation
- C. Corrective Action When an owner neglects or refuses to make repairs or take other corrective action called for by order or notice of violation issued by a compliance official, the City may:
1. Revoke the certificate of occupancy compliance which has been issued for the dwelling and prevent the occupation of the dwelling;

2. Charge the owner a fine up to five hundred dollars (\$500.00) per day for each day that a dwelling is occupied in violation of this Ordinance; and/or
3. The City may cause the violations to be abated. The responsible person(s) shall be jointly and severally liable to the City for the costs of such abatement. The costs of abatement may include a fee for the City's costs in administering the repairs, which fee shall be ten percent (10%) of the cost of the abatement work or one hundred dollars (\$100.00), whichever is greater, plus any attorney's fees incurred by the City relating to the violation. The inspector or Building Official shall certify the cost to be included in a special tax bill or added to the annual real estate tax bill of the property in question, at the collecting official's option, and may be collected in the same manner and procedure as for collecting real estate taxes by the City.

Section 7: Transfer of Ownership

It shall be unlawful for the owner of any dwelling, premises or structure who has received a violation notice or compliance order, or upon whom a notice of violation has been served, to sell, transfer, lease or otherwise dispose of the substandard dwelling to another person until the provisions of the compliance order or notice of violation have been complied with, or sufficient financial and logistical arrangements for such compliance are made with the Building Official.

Section 8: Emergency

Whenever the Building Official finds that an emergency exists on any premises or any structure or part thereof which requires immediate action to protect the public's health, safety or general welfare or that of the occupants thereof, the Building Official shall, with proper notice and service in accordance with the provisions of this Ordinance, issue an order reciting the existence of such an emergency and requiring such action taken as is necessary to meet such emergency. Notwithstanding, other provisions of this Ordinance, such order shall be effective immediately.

Section 9: Appeals

- A. Appeals. Any person affected by any order or notice which has been issued in connection with the enforcement of any provision of this Ordinance shall have the right to request a hearing on the matter before the City of Foley Board of Aldermen. The request for a hearing shall be granted if such person shall file a written petition with the Building Official requesting such hearing, pays an application fee in the amount of seventy-five dollars (\$75.00), and state the grounds for the appeal within fifteen (15) days after the notice of violation was served.
- B. Stay. Upon filing a notice of appeal with the Building Official, the Building Official shall submit to the City of Foley Board of Aldermen all documents constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from until the City of Foley Board of Aldermen renders its decision; provided however that if the Building Official certifies to the City of Foley Board of Aldermen that by reason of

facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, the enforcement proceedings shall not be stayed.

Section 10: Violation-Penalties

Any person who shall violate a provision of this Ordinance, or shall fail to comply with any notice or order of the Building Official provided for in this Ordinance, shall be guilty of an ordinance violation, punishable by a fine of not more than five hundred dollars (\$500.00). Each day that a violation continues shall be deemed a separate offense.

Section 11: Nuisance, Injunction

Any violation of this Ordinance is hereby declared to be a nuisance. In addition to any other relief provided by this Ordinance, the City may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this Ordinance. Such application for relief may include seeking a temporary restraining order, temporary injunction, or permanent injunction.

Section 12: Severability

The provisions of this Ordinance shall be severable. In the event that any provision of this Ordinance is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of this Ordinance are valid unless the Court finds the valid provision of this ordinance are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed that the Board of Aldermen would have enacted the valid provisions without the void ones or unless the Court finds that the valid provisions, standing alone, are incomplete and incapable of being executed in accordance with the legislative intent.

Section 13: Effective upon Passage

This ordinance shall be in full force and effect from and after the date of its passage.

Section 14: Incorporation into the Municipal Code

The City Clerk shall incorporate the terms of this Ordinance into the official City of Foley Municipal Code with all due dispatch.

READ THREE TIMES AND APPROVED THIS 21st OF MAY, 2014


MAYOR

ATTEST:



CITY CLERK