



OCCUPANCY PORTION OF ORDINANCE 5165

WHO IS REQUIRED:

- The Ordinance applies only to future tenancies, commencing after Ordinance 5165 goes into effect (April 10, 2014)
- The Ordinance requires each adult occupant (age 18 or older) who lets, leases or rents a dwelling unit in the City of Fremont to obtain a residential occupancy license.

HOW TO OBTAIN A LICENSE:

- Applications and other forms are available on the City of Fremont's website, www.fremontne.gov or at the Fremont Municipal Building, City Clerk, 2nd floor, 400 East Military Avenue.
- To obtain an Occupancy License, each adult occupant must submit a completed Application For Occupancy License to the City of Fremont and pay a \$5 fee.
- On this Application For Occupancy License, the applicant must provide basic information such as name, address, date of birth, and country of citizenship, along with the address of the rental premises, the date of lease or rental commencement, and the name and business address of the lessor.
- An applicant who is a United States citizen or national must so declare.
- An applicant who is not a United States citizen or national must either provide an identification number that the applicant believes establishes his or her lawful presence in the United States or declare that the applicant does not know of any such number.
- Upon receipt of a completed application and \$5.00 fee, the City of Fremont immediately issues the Occupancy License, without scrutiny of the information provided.
- In the case of an applicant who has declared himself or herself a United States citizen or national, no further action is taken.
- An Applicant may have their landlord obtain license.

VERIFICATION

- In cases after issuance of an occupancy license to any occupant who has not declared himself or herself to be either a citizen or a national of the United States, the Fremont Police Department exercises the City's authority, pursuant to Title 8, United States Code, Section 1373(c), to request the federal government to ascertain whether the occupant is an alien lawfully present in the United States. The Department shall submit to the federal government the identity and immigration status information contained on the application for the occupancy license, along with any other information requested by the federal government.
- If the federal government's response is that the applicant is lawfully present, no further action is taken.
- If the response is inconclusive or tentative, no further action is taken unless and until a final verification is received. The Fremont Police Department may use any process that the federal government directs it to use.
- Under no circumstances may the City attempt to independently verify any person's immigration status.

WHAT HAPPENS IF A PERSON IS "UNLAWFULLY PRESENT":

- If the federal government notifies the City that the applicant is not lawfully present in the United States, the Fremont Police Department issues a deficiency notice to the Occupant.
- The notice affords the applicant a 60-day window in which to obtain a correction of the federal government's records and to submit additional information to the federal government.
- After the 60 days, the Fremont Police Department again queries the federal government pursuant to 8 U.S.C. § 1373(c).
- Only if the federal government reports for a second time that the applicant is not lawfully present does the Fremont Police Department send a notice of revocation of the residential occupancy license to the applicant and to the lessor.
- The City must accept the federal government's determination of each person's status, pursuant

to 8 U.S.C. § 1373(c).

- The Ordinance provides for pre-deprivation and post-deprivation judicial review.

OWNER OR MANAGER OF ANY DWELLING UNIT:

- The applicant may choose to complete an Application For Occupancy License Agent Designation Form, which designates an individual as the applicant's agent for the purpose of collecting and submitting all necessary information for the Application For Occupancy License.
- The owner or manager of any dwelling unit must notify each prospective occupant of this requirement and shall not permit occupancy of a dwelling unit unless the occupant first obtains an occupancy license.
- Each occupancy license is valid only for the occupant for as long as the occupant continues to occupy the dwelling unit for which such license was applied. Any relocation to a different dwelling unit requires a new occupancy license
- It shall be a violation of this section for a lessor to lease or rent a dwelling unit without obtaining and retaining a copy of the occupancy license of every known occupant of the dwelling unit.
- Every lease must contain a provision wherein a valid occupancy license is a condition of the lease.

IT IS UNLAWFUL:

Under Ordinance 5165, it is unlawful to, among other things,

- (1) lease or rent a rental unit as a lessor without obtaining and retaining a copy of the license of each known occupant; or
- (2) as a landlord, knowingly permit an occupant to occupy a rental unit without a valid license. The Ordinance does not impose any penalties upon occupants.

PENALTIES

- Occupant = none
- Landlord = \$100.00 per day for each violation upon conviction in the County Court for Dodge County

PLEASE NOTE:

Ordinance 5165 relies entirely upon the definitions of immigration status provided by federal immigration law, 8 U.S.C. § 1101, *et seq.*

The City must accept the federal government's determination of each alien's status, pursuant to 8 U.S.C. § 1373(c).

Judicial review shall also be available. Federal immigration law governs suits for judicial review of actions taken under the ordinance.

The terms of this section shall be applied uniformly, and enforcement procedures shall not differ based on a person's race, ethnicity, religion, or national origin.

This document is for informational purposes only. A copy of Ordinance 5165 is on the City of Fremont's website at www.fremontne.gov.

The City of Fremont shall not construe this document or Ordinance 5165 to prohibit the rendering of emergency medical care, emergency assistance, or legal assistance to any person.