

Rental Housing Licensing
DRAFT

§ 149-5.1. Purpose; intent.

- A. The purpose of this ordinance is to protect the health, safety, and general welfare of the people of the City by recognizing that the operation or offering of rental housing is a business and requiring any person operating or offering rental housing within the City to obtain a rental housing license and to participate in the rental housing inspection program. This ordinance will establish a permanent mode of protecting and regulating the living conditions and life safety of residents of the City who rent dwellings and rooms by:
- (1) Correcting and preventing conditions that adversely affect the life, safety, welfare and health of occupants of rental housing.
 - (2) Preserving the value of land and buildings throughout the City.
 - (3) Eliminating substandard and deteriorating rental housing.
 - (4) Providing minimum standards for the health and safety of the occupants of rental housing.
 - (5) Providing minimum space standards to prevent overcrowding.
 - (6) Enforcing minimum standards for the maintenance of existing buildings to prevent slum and blight.
- B. The City does not intend to intrude upon the contractual relationship between tenant and landlord, to act as an advocate for either party, or to be receptive to the complaints from a tenant or landlord not specifically and clearly relevant to the provisions of this chapter.

§ 149-5.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context indicates otherwise. Terms not defined in this chapter, which are defined in chapters adopted by reference, have the meanings ascribed to them as stated in those chapters.

RENT — Payments made for the use of a premises, including, but not limited to, money, services, trade, or a combination thereof; or the sharing of housing expenses with persons not part of the homeowner's immediate family.

RENTAL HOUSING — Any property that contains a building or division of a building that is rented or available for rent as a dwelling or habitation to any person or persons. Rental housing includes rental of any dwelling, house, home, apartment, room, or bed for a time period which may terminate upon a certain event, a specific term, for a series of periods until canceled, or at-will.

§ 149-5.3. Applicability; exceptions.

- A. The provisions of this chapter apply to all rental housing, including and not limited to dwellings and dwelling units, rooms, or beds rented within dwelling units. The provisions apply to one- and two-family dwellings, multiple family dwellings, rooming houses, type 1 manufactured housing, medical guesthouses, hotels, and bed-and-breakfasts/tourist homes.
- B. The provisions of this chapter do not apply to owner-occupied single dwelling units where no portion of the dwelling is rented; condominium, or townhouse buildings where no portion of the dwelling is rented; hospitals; convalescent, rest, or nursing homes; residential care or congregate care facilities; or other institutional beds or rooms used for medical or mental health treatment services.

Commented [RO1]: Added uses from land use definitions

§ 149-5.4. License required.

No person, including without limitation a property owner, owner's associate, real estate broker, associate real estate broker, real estate agent, manager, or property manager, shall allow any rental housing unit to be occupied, or let or offer to any other person any rental housing unit for occupancy, or charge, accept or retain rent for any rental housing unless the owner possesses a valid license under the terms of this chapter. Any person carrying on such activities without a license shall be deemed in violation of this chapter.

Any person who obtains or receives ownership of existing rental housing shall, within 60 days of obtaining ownership, apply for a rental housing license. If any such person fails to apply for a rental housing license, they shall be deemed in violation of this chapter.

§ 149-5.5. Issuance of license; transferability.

A license pursuant to this chapter shall be issued to the property owner of the property named on the approved license application. One license may be issued for each property with rental housing units and shall be deemed to cover only such dwelling units under single ownership. Licenses are not transferrable between property owners or between properties. One license may be issued for each condominium that is rented.

§ 149-5.6. Renewal; license term.

All licenses issued under this chapter shall expire on December 31, 2024 and, thereafter, on December 31 of each year. On or before December 31 of each year, the owner shall apply for or renew his or her annual rental housing license for the successive year.

After the adoption of this ordinance, landlords shall have until July 1, 2023, to apply for an initial license.

§ 149-5.7. Fees; credits and exemptions.

- A. A license may not be issued for any property owner until such property owner has paid the required annual fee to the Code Enforcement Office. The annual rental housing license fee shall be \$100 per rental housing unit per year.
- B. Property owners that apply for and are issued a license by December 31, have

corrected any violations upon a second inspection, maintain good standing, and meet all licensing standards are eligible for a credit of 35% per rental housing property per year commencing in the second year through the so-called "Good Neighbor Program."

- C. Rental housing which has been newly constructed or has undergone substantial renovations impacting all aspects of the building and has received a certificate of occupancy from the City is exempt from the fee for a period of two years from the date of the certificate of occupancy. These properties are automatically eligible to roll into the so-called "Good Neighbor Program" after the two year exemption.
- D. Rental housing may deduct \$150 from the fee for each owner-occupied unit.

§ 149-5.8. Application for license.

A license application must be submitted to the Code Enforcement Office on a form furnished by the Code Enforcement Office for such purpose and must include the following information:

- A. Name, business or residence address, cell phone and primary telephone numbers, email address of the owner or owners of the property;
- B. Name, business or residence address, cell and primary telephone numbers, e-mail address of the primary responsible party for the property which shall be the primary contact for the City to schedule inspections and who takes responsibility for maintaining the property and who may also be named if enforcement action is unavoidable, and may be contacted in the case of an emergency.
- C. Street address of the property, and tax map and lot for the property.
- D. Number and kind of rental housing units within the property. For each rental housing unit, specify the floor number and unit number.
- E. Drinking water test results from a Maine accredited testing laboratory for properties that are not connected to a public water supply.
- F. Subsurface wastewater disposal system inspection report from a state certified septic inspector

§ 149-5.9. Licensing standards.

No rental housing license may issue unless the Code Enforcement Office has determined that the following minimum standards and conditions have been met. Failure to comply with any of these standards and conditions shall be deemed a violation of this chapter and adequate grounds for the denial, revocation, or suspension of a rental housing license.

- A. The licensee shall provide all application information and have paid the require license fee.
- B. Rental housing shall not exceed the maximum number of dwelling units or rooms permitted by this Code.
- C. No rental housing shall be over-occupied or illegally occupied in violation of this Code.

- D. No rental housing shall have outstanding code violations or alternatively be without a plan of action to correct those violations of this Code approved by the Code Enforcement Officer.
- E. The rental housing shall have a drinking water supply that has acceptable levels of Radon, Coliform Bacteria & E. coli (pos/neg), Nitrate, Nitrite, Fluoride, Chloride, pH, Hardness, Copper, Iron, Manganese, Uranium, Arsenic, Calcium and Magnesium. This requirement shall only be ~~required for~~applicable to initial licensing and rental housing using ~~for~~ drinking water supplies that require treatment to remove contaminants. Owners of rental housing units using ~~D~~drinking water supplies requiring treatment shall submit new test results showing acceptable levels of the identified contaminants immediately after the required treatment has been implemented and every 5 years thereafter. Drinking water test results for tests that have occurred no more than 1 year prior to initial licensing or relicensing shall be acceptable. All required treatment systems shall be properly maintained at all times.
- F. The rental housing shall have a functioning connection to public sewer or a functioning subsurface wastewater disposal system. Owners of ~~R~~rental housing that is served by a private subsurface wastewater disposal system shall submit an inspection report at the time of initial licensing and every 5 years thereafter. Inspection reports for subsurface wastewater disposal system inspections that have occurred no more than 1 year prior initial licensing or relicensing shall be acceptable.
- G. The rental housing shall not be unfit for human habitation under ~~this the City~~ Code.

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§ 149-5.10. Authority to issue licenses.

The Code Enforcement Office shall have the authority to issue all rental housing licenses pursuant to this chapter to applicants who have met the licensing standards and paid the required application or license fee.

§ 149-5.11. Authorized entry for inspection.

To safeguard the health, safety, and welfare of the public, Code Enforcement Officers ~~and Fire Department personnel~~ or their designees are authorized to enter any licensed rental housing at any reasonable time for the purpose of inspecting the rental housing for compliance with this chapter, the Code and applicable State law.

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§ 149-5.12. Inspections.

- A. Regular inspections are required for all rental housing.
- B. After a license has been issued, the Code Enforcement Office will schedule an initial inspection of a licensed property with the owner or responsible party. A minimum 10 day notice of the ~~inspection~~ date and time of inspection will be provided to the owner or responsible party.
- C. Inspections of properties will be conducted as follows:

1. Properties categorized as single-family, two-family, and three-family will have all units and common areas inspected.
 2. Properties categorized as four-through-seven-unit and mixed use with four to seven units will have a sampling of at least four units and the common areas inspected, unless life safety code violations or more than two other code or ordinance violations are found, then all units will be inspected.
 3. Properties categorized as eight-plus units and mixed use with eight plus units will have a sampling of at least five units and the common areas inspected, unless life safety code violations or more than two other code or ordinance violations are found, then all units will be inspected.
- D. ~~The standards to be used for i~~nspections ~~pursuant to of rental housing shall be conducted for compliance with~~ Chapter 139, Property Maintenance; Chapter 221, Rental Property; Chapter 237, Solid Waste; and the current edition of the NFPA 101, *Life Safety Code*, as adopted by the State of Maine, ~~and shall~~ include the inspection of the premises, building exterior, common areas, all dwelling units, accessory buildings, and basements and attics.
- E. If a violation of applicable law, ordinance or regulation is discovered ~~in or on the rental housing unit~~, the owner shall be notified of the nature of the violation and time within which ~~such corrective~~ ~~action~~ shall be completed. In the event any identified violations have not been corrected prior to a reinspection, or no authorized person was present to permit the Code Enforcement Officer access to the rental housing for reinspection, the Code Enforcement Officer may assess ~~violations-fines~~ in accordance with this chapter. The Code Enforcement Officer may, in his/her discretion, grant reasonable extensions of time for the correction of identified violations or for reinspection. In the event a rental housing unit requires additional inspections beyond a reinspection, the Code Enforcement Office shall charge an administrative fee of \$100 for each successive inspection of said rental housing unit.
- F. Following an inspection, if no violations are found, the property owner will be issued a certificate showing compliance with ~~the licensethis chapter and code~~City Code.
- G. Rental housing receiving the so-called "Good Neighbor Credit" will be inspected once every three years, unless a tenant complaint cannot be resolved without an inspection; otherwise, inspections will be conducted once per year or more frequently as justified ~~due to~~ ~~by~~ tenant complaints, calls for police or fire service, age of ~~the~~ structure, ~~or~~ maintained appearance of the structure, ~~or as necessary to ensure compliance with any other provisions of the City Code~~.

Commented [R08]: Added ordinance titles to relevant chapters

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§ 149-5.13. Violations and penalties.

Any person who violates any provision of this chapter or the terms of the license may be penalized in the following manner:

- A. Temporary suspension. The Code Enforcement Officer, with prior approval of the City Manager or his/her designee, is authorized to immediately and temporarily suspend any license to an entire property or portion thereof. The City Manager or his/her designee may approve such temporary suspension upon his/her determination that the continued operation of the licensed premises or activity presents a danger to the health, safety, and general welfare of the public; the Code Enforcement Officer has been refused entry to inspect the premises; the licensed premises has not met any requirements of the City Code or applicable State laws; the continuation of the license creates a nuisance; or the licensee has not corrected violations ~~by on or before the expiration date~~ within by which such violations were ordered to be corrected.
- B. Revocation. The Code Enforcement Officer, with prior approval of the City Manager or his/her designee, is authorized to immediately revoke any license to an entire property or portion thereof. The City Manager or his/her designee may approve such revocation based upon his/her determination that the continued operation of the licensed premises or activity presents a danger to the health, safety, and general welfare of the public; the Code Enforcement Officer has been refused entry to inspect the premises; the licensed premises has not met any requirements of the City Code or applicable State laws; the continuation of the license creates a nuisance; or the licensee has not corrected violations by the expiration date within which such violations were to be corrected.
- C. Unlicensed rental housing units; Civil penalties. Any person who fails to apply for a rental housing license or pay the required fee shall be in violation of this chapter and ~~such violation is a subject to a civil penalty enforced by the Police Department and subject to a fine in the amount of \$500 per unlicensed property, per day, in addition to any other fines for violating this chapter and the fee for licensing the rental housing. The assessment of this civil penalty shall not limit or reduce the City's ability to assess and recover fines and penalties for other violations of this chapter or of any other provisions of the City Code.~~
- ~~D. Civil penalties. In addition to any other fines or penalties for violating any provisions of this chapter or the terms of the license, violation of this chapter is a civil penalty enforced by the Police Department. In any such proceeding, the City may seek an administrative warrant to conduct an inspection, court order that the owner and/or operator of the licensed activity abate any violations, pay a penalty between \$100 and \$2,500 per violation, per day, and pay the court costs, attorneys and expert witness fees incurred by the City, and, if applicable, costs incurred by the City in securing adequate substitute housing for affected tenants.~~
- D. Unfit for OccupancyPosting against occupancy; Costs. Upon temporary suspension, revocation, or denial, of a rental housing license or discovery of unlicensed rental housing units, the Code Enforcement Officer shall post the property against occupancy. The property owner shall be liable for all costs incurred by the City in securing adequate substitute or temporary housing for any tenants affected by such posting.
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§ 149-5.14. Appeals.

The Board of Zoning Appeals, established by Section 300-606 of the Code, shall have the authority to act as the Rental Housing License Board of Appeals and to hear and decide appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by the Code Enforcement officer in his or her review of and action on a rental housing license application under this chapter. Actions or failures to act by the Code Enforcement Officer or the municipal officers in the enforcement of this chapter shall not be appealable to the Rental Housing License Board of Appeals. The Board may modify, reverse or remand any order, requirement, decision or determination of the Code Enforcement Officer if the Board finds that such is contrary to the specific provisions of this chapter.

Commented [FCA10]: This should remain de novo to permit the development of an adequate record for subsequent Court review. Otherwise, the City may find itself in a cycle of appeals and remands for additional fact finding.

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§ 149-5.15. Severability.

If any clause, sentence, paragraph, section, article, or part of this chapter or of any ordinance included in this Code or through supplementation shall be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, article, or part therefore directly involved in the controversy in which such judgment shall have been rendered.

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