

## **CHAPTER 118: RENTAL DWELLING LICENSING**

### **118.01: PURPOSE.**

It is the purpose of this chapter to protect the public health, safety, and welfare of residents of Corcoran who live in rental units by adopting a rental dwelling inspection and maintenance program that corrects substandard conditions and maintain a standard for existing and newly constructed rental dwellings in the City. The operation of rental properties is a business enterprise that includes certain responsibilities. Rental owners, operators, and managers are responsible to take such reasonable steps as are necessary to ensure that the citizens who occupy such rental units, as well as neighboring properties, may pursue the quiet enjoyment of the normal activities of life in surroundings that are safe, secure, and sanitary, free from noise, nuisances, and annoyances, and free from unreasonable fears about safety of persons or property.

### **118.02: DEFINITIONS.**

Words used in this chapter shall have the following meanings:

**ALTERNATIVE INSPECTION REPORT.** A rental dwelling inspection report that the applicant obtains from a building inspector for the purposes of receiving United States Department of Housing and Urban Development (“HUD”) rental approval.

**BLOCK.** An area of land enclosed within the perimeter of streets, watercourses, public parks, municipally owned lots, and City boundaries, unless otherwise depicted on the City’s Rental Density Map.

**CITY INSPECTOR’S REPORT or INSPECTION REPORT.** A rental dwelling inspection report prepared and signed by a city inspector.

**CITY ADMINISTRATOR.** The City of Corcoran City Administrator or his/her designee.

**COMPLEX.** The total number of buildings on the license application or contiguous rental properties under the same ownership.

**DWELLING.** A building or portion thereof, designated exclusively for residential occupancy, but not including hotels, motels, nursing homes, tents, seasonal cabins, or motor homes or travel trailers.

**DWELLING, MULTIPLE FAMILY (APARTMENT).** A building designed with three or more dwelling units exclusively for occupancy by three or more families living independently of each other.

**DWELLING, SINGLE-FAMILY (DETACHED).** A building entirely surrounded by open space and designed for and occupied exclusively by one family. A single-family dwelling can include no more than one accessory dwelling unit as defined in this Section.

**DWELLING, TOWNHOME.** A single-family dwelling unit constructed within a group of more than two attached units in which each unit extends from the foundation to the roof, has

direct exterior access, and has open space on at least one side. A townhome is not considered an apartment or multiple-family dwelling.

**DWELLING, TWO-FAMILY (ATTACHED).** A building designed for occupancy by two families or housekeeping units with a physical separation between the two dwelling units.

1. *Duplex.* A two-family dwelling with one unit above the other and designed as a single structure on a single lot with each unit occupied as a separate residence for one family.
2. *Twin-home.* A two-family dwelling with two units side-by-side. Each unit is owned separately and located on their own lot. The two units are joined along a single lot line, each of the units are totally separated from the other by an unpierced wall extending from the ground to the roof. Also referred to as a “double bungalow”.

**DWELLING UNIT, ACCESSORY:** A separate, self-contained dwelling unit that is clearly incidental and subordinate to the principal use of a lot. The unit must have bathroom facilities and kitchen facilities that include a sink with piped water, a range, and a refrigerator. The unit may take various forms: a detached unit; a unit that is part of an accessory structure, such as a detached garage; or a unit that is part of an expanded or remodeled dwelling.

**LET FOR OCCUPANCY or to LET or to RENT.** To permit possession or occupancy of a dwelling or rental dwelling unit whether or not compensation is paid by a person who is not the legal owner of record thereof.

**MANUFACTURED HOME.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”

**OCCUPANT.** Any person living or sleeping in a dwelling unit, or having possession of a space within a dwelling unit.

**OPERATOR or MANAGER.** Any person identified by Owner who has charge, care, or control of a structure or premises, and the maintenance and upkeep thereof, that is let or offered for occupancy and who is designated and empowered to receive service of notice of violations of this chapter on behalf of Owner.

**OWNER or LICENSEE.** Any person, agent, operator, firm, corporation, or other legal entity having a legal or equitable interest in the property or recorded in the official state, county, or city records as holding title to the property or otherwise having control of the property.

**PERSON.** May be an individual, corporation, firm, association, company, partnership, organization, or any other group acting as a unit.

**PROPERTIES, PROPERTY OR LOTS.** Lots of record.

**REINSPECTION.** A follow-up inspection that is:

1. Conducted to determine if a code violation has been corrected;

2. Necessary because a licensee, owner, or other responsible party fails to attend a scheduled inspection;
3. Necessary because a scheduled inspection of a property does not occur or is prevented from occurring due to an act of the licensee, owner, or agent; or
4. Any inspection following an initial inspection.

**RELATED.** Individuals legally related by blood, marriage, domestic partnership, foster care, guardianship, or adoption. For the purposes of this Chapter, individuals are considered related if they are immediately related as a parent, child, sibling, grandparent, grandchild, step-parent, step-child, step-sibling, step-grandparent, or step-grandchild. The terms “related” and “relative” are used interchangeably in this Chapter.

**RENTAL DWELLING.** Any dwelling used for residential occupancy by one or more persons who are not the owner or related to the owner for continuous periods of more than 60 days.

**RENTAL DWELLING UNIT (RDU).** Any room or rooms, or space, in any rental dwelling designed or used for residential occupancy by one or more persons who are not the owner or related to the owner for continuous periods of more than 60 days.

### **118.03: LICENSE REQUIRED**

#### *A. Rental Dwelling License.*

1. No person, partnership, business entity, or corporation shall operate, let, or cause to be let, a rental dwelling or RDU without a license for each building.
2. No person, partnership, business entity, or corporation shall operate, let, or cause to be let a structure or portion of a structure as a rental dwelling or rental dwelling unit that is not designed for residential occupancy (e.g., a shed or garage).
3. No property owner shall be permitted to license more than five rental dwellings that qualify as a single-family residence, a twin-home, and/or townhome, unless the property owner:
  - a. Is a public housing agency; or
  - b. Operates **State licensed residential facilities within the City**;
  - c. Rented out more than five properties prior to **July 1, 2023**, and applied for rental licenses for all affected properties prior to **January 1, 2024**. Any excess rental licenses granted to an individual or entity under this paragraph cannot be transferred to other properties or property owners. The property owner is not entitled to excess rental licenses once an excess rental dwelling license is no longer valid due to any reason including failure to renew, revocation, or sale of the property.

Principal owners or controllers of legal entities which own one or more rental dwellings shall be subject to this cap as individual principal owners or controllers. For illustration, but not limitation, no person or entity may circumvent this restriction by maintaining ownership interests in multiple separate owner entities and each such ownership interest shall be counted toward the cap set forth herein.

4. A rental dwelling license shall be valid for a 1-year cycle beginning on **July 1st** each year. A current licensee who intends to continue letting a rental dwelling shall apply for a license renewal at least thirty (30) days before the end of the then-current licensing term.
5. A residential rental property owner owning residential rental property at the time of the adoption of this chapter shall have 180 days to comply with the licensing requires of this chapter. Rental property owners shall have 365 days to comply with the provisions of Chapter 87 (Property Maintenance Code) based on the dated notice identifying any violations confirmed at the initial license inspection. However, if the Code Compliance Official determines there is a life-threatening violation of the Property Maintenance Code (e.g., inoperable smoke alarms), the property owner and/or licensee shall address such violations within 30 days of the dated notice identifying such a violation.

#### *B. License Exemption*

1. The owner of a rental dwelling or RDU is exempt from the licensing requirements of this section if the property qualifies and is registered with Hennepin County as a relative homestead. In order to qualify for a relative homestead, the person living in the rental dwelling unit must be related to the property owner.
  - a. The property owner must notify the City in writing within 30 days of the property no longer qualifying as a relative homestead.
2. This chapter does not apply to hotels, motels, hospitals, and high school dormitories.
3. This chapter does not apply to single-family homes and townhomes in which the owner resides within the dwelling and lets a room or rooms within a dwelling to a relative as defined by this Chapter.
4. This chapter does not apply to single-family homes and townhomes in which the owner resides within the dwelling and lets a single room to up to two individuals who are not related to the owner or lets multiple rooms to individuals related to each other but not related to the owner. However, a license shall be required in the event an owner lets more than one room to individual tenants unrelated to the owner and to each other.

5. In instances of single-family dwellings with an accessory dwelling unit or two-family dwellings in which both units are under the same ownership, only the dwelling unit in which the owner resides is exempt from rental licensing, and only to the extent such exemption is applicable, per this Chapter.

C. *Applications.* An application for license shall be made on a form provided by the City. The license application shall contain the following information:

1. Property Owner Information.

- a. The name, address, phone number, and complete information of the property owner if the owner is an individual.
- b. The name, address, phone number, and complete information of the at least one principal officer, manager or director, if the property owner is a business entity.
  - i. Business entities seeking a license shall provide a list of all principal owners, officers, managers, and directors of the entity.

2. Designation of Property Manager, Contact Information. For all rental dwelling licenses, the license applicant must designate and provide a physical business hours address and 24-hour contact information for the Manager of the rental dwelling, as defined in this chapter. The Manager may be the owner of the rental dwelling or another person who has been provided authority and assigned the duty to exercise control over the rental dwelling and ensure compliance with the City Code. For all rental dwellings which are not single-family rental dwellings, the applicant must also identify and provide a physical business hours address and 24-hour contact information for a second Manager for such rental dwellings. All rental dwelling Managers must reside or have an office address within 90 miles of the rental dwelling unit. A P.O. box address for the property manager will not be accepted. The Owner of a rental dwelling must notify the City, in writing, immediately upon any change of Manager. Owner agrees that his/her Manager of record with the City shall be authorized to accept all notices, including formal service of documents, on behalf of the Licensee.

3. Number and Type of rental dwellings. The number of units and types of units (condominium, apartment, townhome, twin-home, single-family home, and the like) within the rental dwelling.
4. Principal Tenants. The name, telephone numbers, and addresses of principal tenants, if any, are required.

D. Changes.

1. The Code Compliance Official must be notified in writing of any changes to the name(s) and contact information provided on the application.
2. A license is non-transferable. If there is a change in the ownership of the rental dwelling, a new license is required.
3. If changes are made in the number or type of units, the owner shall apply to amend its license.

E. Fees.

1. The application fee shall be determined by the City Council from time to time and made a part of the City's fee schedule. The application fee shall be paid at the time of application.
2. Renewal license fees, as set forth within the City's fee schedule, shall be due at the time of renewal and prior to the license expiration date.
3. In the cases of new, unlicensed dwellings, license fees shall be due upon issuance of the certificate of occupancy.
4. In the case of initial licensing, license fees shall be due prior to issuance of the respective license and are due within 30 days of the date of the invoice.
5. In the case of a licensing period of less than one (1) year, license fees may be prorated as set forth by City Council action, and in the City Council's sole discretion.
6. The license fee shall include the initial inspection and one (1) follow-up inspection. A fee, established by the City Council, shall be charged for any reinspection or attempted reinspection required, whether due to the failure of the reinspection, the Rental Housing Inspector's inability to gain access to the dwelling at the time of attempted reinspection, or otherwise, and must be paid before a license will be issued.
7. An owner of a rental dwelling or RDU who fails to obtain an operating license or approval of an affidavit certifying an applicable exemption, will be subject to an administrative service charge set by the City Council, in addition to any other penalties contemplated within this chapter.
8. A license fee paid later than ten working days after the prescribed date is subject to an additional administrative service charge set by the City Council.

9. Once issued, a license is nontransferable and the license is not entitled to a refund of any license fee upon revocation or suspension, or transfer of ownership.
- F. **Tenant Register.** As a condition of the license, the applicant must, as a continuing obligation, maintain a current register of tenants and other persons who have a lawful right to occupancy of a rental dwelling. In its application, the applicant must designate the name of the person or persons who will have possession of the register and must promptly notify the Code Compliance Official of any change in the identity, address, or telephone numbers of such person. The register must be available for inspection by city officials at all times.
  - G. **Notification Requirements for Public Hearings.** The licensee must, as a continuing obligation of the license, provide written notice to tenants or in the alternative, post the written notice in the lobby or common area of the rental dwelling for any public hearing received by the owner that pertains to the rental dwelling or any adjacent right-of-way.
  - H. **Display of License Certificate.** The license certificate must be exhibited in a conspicuous place at or near the entrance to the rental dwelling. For buildings containing more than three RDUs, the certificate must be displayed in the rental office or other common area accessible to all tenants of the licensed building.
  - I. **Rental Density for Single-Family, Townhome, and Twin-Home Rental Dwellings.**
    1. In a low-density residential zoning district (5 units or less per acre), no more than 20% of the lots on any block shall be eligible to obtain a rental license and the number of rental licenses shall be capped as set forth in the table below, unless an exemption is granted by the City Council as provided herein or the rental dwelling qualifies as a residential facility licensed by the state. Table 1 indicates how many lots per block are able to be licensed as a rental property based on the lots that exist on the block.

Table 1	
Lots/Block	Rental Dwellings Allowed
1-14	3
15-24	5
25-34	7
35-44	9
45-54	11
55-64	13
65-74	15
75-84	17

2. The following guidelines shall apply to determine eligible blocks and lots.
- a. If a block contains more than one type of zoning district, only the lots within the low-density residential zoning district shall be included in the calculation of the total number of lots per block.
  - b. Commercial or industrial uses located within or adjacent to a low-density residential zoning district shall not be included in the calculation of the total number of lots per block.
  - c. If the number of rental dwellings meets or exceeds the permitted number of rental dwellings per defined block on or after the effective date of this chapter, no additional rental licenses shall be approved for the block, unless an exemption is granted by the City Council **due to a demonstrated financial hardship of a property owner who owns no more than one other residential property within the City or the rental dwelling qualifies as a State licensed residential facility**. Bona fide existing rental licenses may be renewed, however, should a rental license not be renewed, or if the rental license is revoked or lapses, the rental license shall not be reinstated unless it is in conformance with this subchapter and other applicable sections of the City Code.
  - d. If the number of rental properties meets or exceeds the permitted number of rental properties per defined block on the effective date of this chapter, a property owner may request an exemption to allow an additional rental property for that block. The Council may grant or deny an exemption from the block density limit in its sole discretion. Persons requiring an exemption must make an annual application to the City Council.
- J. Tenant background checks and lease agreements. Upon request, the applicant must provide a copy of third party or comparable background checks for tenants and a copy of the lease.
- K. Contracts for deed. A property sold pursuant to a contract for deed must be recorded against the property or the property will be deemed a rental property and a license will be required.
- L. Investigations.



1. For all new applications, a background investigation will be conducted on the property owner listed on the application. The City may request additional information from the license applicant regarding all property owners, if the property is owned by individuals or regarding all officers, managers or directors, if the property is owned by a business entity, and may conduct additional background investigations as it deems necessary. The applicant shall pay a background investigation fee for each background investigation conducted.
2. For renewal applications, background investigations are not required and no background investigation fee shall be required; however, the City may conduct a background investigation, at its sole discretion, at the City's cost. The results of a discretionary background check may be used to enforce the provisions of this Chapter the same as the results of mandatory background checks.

M. A license will not be granted to or held by a person who:

1. Is under 18 years of age;
2. Is overdue, or whose spouse is overdue in payments to the City, County, or State of Minnesota, of taxes, fees, fines, or penalties assessed against them or imposed upon them;
3. Has been convicted, or whose spouse has been convicted, within the last 10 years of a gross misdemeanor or felony for crimes that present a public danger should a rental license be granted. These may include property crimes, financial crimes, or offenses of a fraudulent, violent, or sexual nature.
4. Is not the property owner.
5. Has not paid the license and investigative fees required by this Section.

#### **118.04: RESPONSIBILITY FOR ACTS OF MANAGER**

Licensees are responsible for the acts or omissions of their Manager(s) as it pertains to the rental dwelling and compliance with this chapter and City Code.

#### **118.05: MAINTENANCE STANDARDS**

- A. It is the responsibility of the licensee to assure that every rental dwelling and RDU is maintained in compliance with all applicable city ordinances and state and federal laws including, but not limited to:
1. MN State Building Code
  2. The Corcoran Property Maintenance Code

3. MN State Fire Code
  4. Corcoran City Code
- (Collectively the “Maintenance Codes”)

- B. Inspections. No operating license may be issued or renewed unless the City determines, following an inspection conducted pursuant to this section, that the rental dwelling and its premises conform to the Maintenance Codes. As more specifically provided below, the Code Compliance Official and their designees may cause inspections, follow-up inspections, and re-inspections on rental dwellings or RDUs on all classes of property within the City on a scheduled basis, and on rental dwellings, RDUs, owner-occupied residential units on all classes of property when reason exists to believe that a violation of an applicable portion of the Maintenance Codes exists, has been, or is being committed.
1. The Code Compliance Official and their designees are authorized to contact owners, tenants, and managers of rental dwellings to schedule inspections of rental dwellings at reasonable times. They are also authorized to conduct those inspections once scheduled. These scheduled inspections will be conducted to determine whether the rental dwelling and its premises conform to the Maintenance Codes so as to inform the City’s decision of whether to issue an operating license. The authority to schedule and to conduct these inspections is available even if the owner or owner’s agent holds a temporary or provisional license, and without regard to whether the owner or owner’s agent has filed an application for an operating license.
  2. Upon receipt of a properly executed application for an operating license, the Code Compliance Official shall cause an inspection to be made of the premises to determine whether the structure is in compliance with the Maintenance Codes. Inspections performed pursuant to the authority in paragraph 1 and paragraph 2 of this subsection are hereinafter described as “Licensing Inspections.”
  3. The Code Compliance Official and their designees are authorized to conduct inspections on rental dwellings, RDUs, or owner-occupied residential units on all classes of property when reason exists to believe that a violation of an applicable portion of the Maintenance Codes exists, has been, or is being committed. A complaint or complaints from a tenant of a rental dwelling shall be an adequate basis for an inspection of a rental dwelling.
  4. To increase the awareness by owners of the likely timing of requested inspections and to conserve public resources, the Code Compliance Official may schedule and conduct inspections pursuant to paragraph 1 according to the area of the City in which the unit is located, dividing the City into zones and endeavoring to perform inspections pursuant to paragraph 1 in one zone before beginning them in a different zone.

5. If a structure or rental dwelling is not in compliance, one or more follow-up inspections or re-inspections may be conducted to verify that conditions and any corrections conform to the provisions to the Maintenance Codes.
6. When the basis for the inspection pursuant to this section is information observed or obtained during a Licensing Inspection, such reinspection or follow-up inspections shall be conducted on a scheduled basis, whenever possible.
7. When scheduling Licensing Inspections pursuant to this chapter, the Code Compliance Official or their designee will seek the consent of the owner of the property (if not already received) to inspect those areas outside of the RDUs that are not accessible to the general public (including any internal rooms that are inaccessible to the public, such as storage or mechanical rooms) and to unrented dwelling units, and the consent of the primary tenant of the RDU (if not already received) to inspect the Unit. If the property owner demonstrates to the satisfaction of the Code Compliance Official or their designee that one more tenants have consented in writing to the inspection of their units, individual contact by the City with those tenants may be deemed unnecessary.
  - a. For the purposes of satisfying paragraph 7, owners of RDUs shall report to the City the full names, telephone numbers, and addresses of the principal tenant of all RDUs under their ownership or control, and update such information as needed to ensure that it is accurate and current. Licensees are responsible for the accuracy and completeness of this information and the City shall be permitted to rely on the same when determining appropriate notice.
8. If the City is unsuccessful in securing consent for an inspection pursuant to this chapter, the City may seek permission, from a judicial officer through an administrative warrant, for its Code Compliance Official, Building Official, Fire Marshal and their applicable designees to conduct an inspection. Nothing in this Code shall limit or constrain the authority of the judicial officer to condition or limit the scope of the administrative warrant.
9. The scope of a Licensing Inspection shall be limited to what is necessary to determine in accordance with this chapter whether the rental dwelling or applicable RDU and its premises conform to the Maintenance Codes. This shall not preclude the applicable inspector from relying upon observations made during a Licensing Inspection in seeking one or more of the remedies provided in this chapter.
10. A Licensing inspection must be scheduled during ordinary business hours or as otherwise arranged with the owner or tenant. Owners and their agents and tenants may at their option request that Licensing Inspections above take place only when they are present, so long as the request identifies a reasonable, feasible and expedient

time(s) for such inspection following the date of the request when the requesting party agrees to be present.

11. Inspectors are not authorized to open containers, drawers, or medicine cabinets, unless the containers, drawer, or medicine cabinets are opened with the consent of the tenant (for areas inside the RDU) or the Owner (for areas inside the building but outside a tenant's unit, and areas inside an unoccupied unit). For purposes of this paragraph, a medicine cabinet is a covered cabinet located above a sink in a dwelling unit's bathroom.

12. Inspectors are authorized to open cabinets (other than medicine cabinets) or closets only when because of their location, those closets or cabinets, when unopened, appear to contain one or more water or waste water pipes, or fuses, or exposed electrical wiring, and it is reasonably necessary in order to inspect for the existence of one or more conditions that violations the Maintenance Codes, or when the cabinets or closets are opened with the consent of the tenant (for areas inside the unit) or the Owner (for areas inside the building but outside a tenant's unit, and areas inside an unoccupied unit).

C. Inspection Not Required. Inspection for the issuance or renewal of a license may be waived by the City, in its sole discretion, if the owner of a dwelling unit proves that within the previous 12 months the dwelling unit passed an inspection required by the City, State, or Federal regulations that is at least as stringent as the inspection required under this chapter and the City is not aware of any evidence of violations occurring or present subsequent to that alternative inspection. The City has sole discretion to determine when an inspection program is at least as stringent as the inspection required under this chapter. Inspections conducted as the result of a complaint made to the City may not be waived under this provision.

#### **118.06: COMPLIANCE ORDERS**

- A. Upon the identification of a violation of the Maintenance Codes, the City shall provide written notice of the violation to the Owner or Manager. Notice may be personally served on or otherwise directly provided to the Owner or Manager or delivered by U.S. mail to the Owner or Manager at the address on record with the City in the license. The notice shall articulate the violation and the time by which the violation must be corrected.
- B. Should the Licensee fail to correct the noticed violation within the time provided, the City may pursue any or multiple remedies contemplated in this chapter.
- C. The notice provisions herein shall not apply to, and nothing in this section shall prohibit the City from taking immediate action to address an emergency as contemplated in Section 118.09.

- D. If a fifth or subsequent violation of Corcoran’s Maintenance Codes, involving the same property and licensee, occurs within 18 months of any four previous properly noticed violations pursuant to paragraph A, a revocation hearing will be required and the City Council may take action to deny, revoke, suspend, or not renew the license. Failure for a licensee or designated property manager to appear at the hearing will be grounds for automatic revocation of the rental license. The effective date of a license revocation or suspension will be determined by the City Council at the hearing unless the Official finds life threatening conditions at the property that create a public safety emergency. In such an instance, the rental license can be revoked or suspended prior to the hearing date, but the City Council can choose to reinstate the license if extenuating circumstances outside of the control of the licensee are shown at the hearing.

#### **118.07: LICENSEE RESPONSIBLE FOR CONDUCT OF OCCUPANTS OR GUESTS**

- A. Conduct on the licensed premises. It shall be the responsibility of the licensee to take appropriate action following conduct by occupant(s) or guest(s) of the occupant(s) which is in violation of any of the following statutes or ordinances:
1. Minn. Stat. § 609.72 relating to disorderly conduct.
  2. Minn. Stat. § 609.74 and Subd. 5 of Chapter 82.04 of the City Code related to public nuisances and noise nuisances.
  3. Minn. Stat. § 340A.701-340A.703 relating to the sale of intoxicating liquor.
  4. Minn. Stat. § 609.321, Subd. 9 relating to prostitution or acts related to prostitution.
  5. Minn. Stat. § 609.221 et seq. relating to assaults as defined in Minn. Stat. § 609.224.
  6. Minn. Stat. § 609.595 relating to criminal damage to property.
- B. Enforcement and Administration
1. The Code Compliance Official in coordination with the Director of Public Safety or their designee(s) shall be responsible for enforcement and administration of this section.
  2. Upon a determination by the Code Compliance Official or his/her designee (the “Official”) that a licensed rental dwelling was involved in a violation of paragraph A above, the Official shall notify the licensee by U.S. mail of the violation and direct the licensee to take steps to prevent further violations. A copy of the notice shall also be sent to a tenant in violation of paragraph A.
  3. Upon a second violation of the provisions of paragraph A within 18 months involving the same tenant or occupant or a guest of the same tenant or occupant, notice of the violation shall be provided as set forth in paragraph B2 above, and shall require the licensee to submit a written report of action taken to prevent further violations on the licensed premises. The written report shall be submitted to the Official within 10 business days of the request for the same and shall detail all actions taken by the licensee in response to all notices regarding violations to paragraph A occurring within the preceding 18 months. If the licensee fails to comply with the requirements

of this paragraph, the City Council may take action on the license, after providing an opportunity for a hearing to contest the allegations of non-compliance with this paragraph.

4. If a third or subsequent violation of paragraph A, involving the same tenant or occupant or a guest of the same tenant or occupant, occurs within 18 months of any two previous properly noticed violations pursuant to paragraph A, a revocation hearing will be required and the City Council may take action to deny, revoke, suspend, or not renew the license. Failure of a licensee or designated property manager to appear at the hearing will be grounds for automatic revocation of the rental license. The effective date of a license revocation or suspension will be determined by the City Council at the hearing unless the Official finds life threatening conditions at the property that create a public safety emergency. In such an instance, the rental license can be revoked or suspended prior to the hearing date, but the City Council can choose to reinstate the license if extenuating circumstances outside of the control of the licensee are shown at the hearing.
5. Bona fide calls for assistance made by occupants of a rental dwelling or RDU shall not, in and of themselves, count as a violation of paragraph A including, but not limited to, tenants calling the police for assistance with a gathering of people that has become a nuisance at a rental dwelling or RDU and instances of domestic assault. However, City representatives who observe separate violations when responding to a call for assistance may determine a violation exists which may be counted as a violation of this Chapter 118.07 or a violation of Chapter 118.06.
6. The City Council may stay or terminate any adverse licensing action if the triggering violation occurred during the pendency of an eviction proceeding to remove the offending tenant or occupant, and that proceeding is being diligently pursued by the licensee.
6. A determination that the licensed premises has been used in violation of paragraph A shall be made upon substantial evidence to support such determination. It shall not be necessary that criminal charges be filed or proven to support such a determination. Further, imposition of other enforcement actions, penalties, administrative offense tickets, criminal charges, or other actions on the license shall not act as a bar to any other action on the license pursuant to this chapter.

#### C. Appeal

1. Upon notice of a violation of paragraph A, or upon a notice of a failure to comply with paragraph B3, the licensee or tenant in violation may file a written appeal of such asserted violation with the City Clerk, within 10 days of the notice, after which any appeal shall be deemed to have been waived. Upon receipt of notice of such appeal, the City shall schedule and notice a hearing before the City Council to hear evidence to determine if substantial evidence exists to support such asserted violation.

2. Upon rendering a decision, the City Council shall provide notice to the appellant of the Council's decision. Should the Council uphold the appeal, the violation shall be removed from the property file and shall not be considered when determining the number of license violations at the rental dwelling.

#### **118.08: LICENSE DENIAL, SUSPENSION, OR REVOCATION, VIOLATIONS**

- A. Violations. A violation of this chapter is a misdemeanor. Each day a person fails to comply with a compliance order or other provision of this chapter shall constitute a separate offense. In addition to enforcement of criminal remedies, the City may issue administrative offense tickets, and/or take action on a license, or pursue any other remedy at law or in equity available to the City. The City's remedies shall be cumulative and may be pursued against multiple parties. The City's election to pursue any one remedy set forth herein shall not act as a bar to any other remedial action.
- B. Assessment of unpaid administrative penalties. Any unpaid administrative penalty for failure to comply with the rental licensing provisions in this Chapter may be assessed against the property in the manner set forth in City Code.
- C. Grounds for denial, suspension, or revocation. The City Council may deny, revoke, or suspend a license pursuant to this Section. During a suspension, the property for which the suspension occurred shall be included for purposes of calculating the number of eligible lots per block, unless found to be otherwise ineligible.
  1. A license issued pursuant to this chapter may be denied, revoked, or suspended upon a finding of noncompliance with the provisions of this chapter. Further, non-disclosure, misrepresentation or misstatement of material fact in any application for a license shall be a prima facie showing of cause for revocation, suspension, or other such action restricting the privileges of a licensee, as determined by the City Council. Reinstatement of a suspended or revoked license shall be accompanied by a fee in an amount set by the City Council. Issuance of a new license after suspension or revocation shall be made in the manner provided for obtaining an initial license. Any Owner or principal of an Owner entity who has an interest in two or more licenses revoked pursuant to this chapter shall be ineligible to hold or have an interest in a license for a period of at least five years.
  2. The City Council may, for cause, deny, revoke, or suspend a license or take other action restricting the privileges of a license subject to the following requirements:
    - a. The City shall provide written notice to the licensee containing a statement of reasons or causes for the proposed action together with a notice of a hearing.

- b. The City Council shall conduct a hearing on the proposed action and hear relevant evidence the applicable City representatives and from the licensee or affected tenant, if any is offered. The City Council shall consider such evidence and provide findings of fact together with a statement of action taken, along with any applicable conditions of any such action or other action restricting the privileges of the licensee.
- c. The City shall forward the findings and statement of action taken to the licensee by mailing the same to the address of record in the license.

D. Notification of tenants. Upon suspension, revocation, or denial of a license, or if the RDU is not licensed, the City will make reasonable efforts to notify all affected tenants.

#### **118.09: SUMMARY ACTION**

- A. Emergency. When the conduct of any owner or owner's agent, representative, employee or lessee, or the condition of the rental dwelling or RDU, or the property in or on which it is located, is detrimental to the public health, sanitation, safety and general welfare of the community, or residents of the rental dwelling or RDU so as to constitute a nuisance, fire hazard, or other unsafe or dangerous condition and thus give rise to an emergency, the Code Compliance Official or Building Official has the authority to summarily and immediately condemn or close rental dwellings or individual RDUs or areas of the rental dwelling as the Code Compliance Official or Building Official deem necessary.
- B. Notice. Notice of summary action will be posted at the units or areas affected and will describe the units or areas affected. No person shall remove the posted notice, other than the Code Compliance Official or Building Official or their designee.
- C. Appeal. Any person aggrieved by a decision or action of the Code Compliance Official or their designee to condemn all or part of a rental dwelling shall be entitled to appeal to the Council by filing a notice of appeal with the City Administrator, within 10 days. The Administrator must schedule a date for hearing before the Council and notify the appellant of the date.

#### **118.10: POSTED TO PREVENT OCCUPANCY.**

Whenever any rental dwelling or RDU is found to be unfit for human habitation, it shall be posted by the Code Compliance Official or their designee on the door of the rental dwelling or RDU, whichever the case may be, to prevent further occupancy. No person, other than the Code Compliance Official or their designee, shall remove or alter any posting. The Code Compliance Office or their designee will post the date the rental dwelling or RDU shall be vacated, and no person shall reside in, occupy, or cause to be occupied that rental dwelling or RDU until the Code Compliance Official or Council permits it.

#### **118.11: NO WARRANTY BY CITY**



By enacting and undertaking to enforce this chapter, neither the City, nor its Council, agents, or employees warrant or guaranty the safety, fitness or suitability of any rental dwelling or RDU in the City. Owners and occupants should take appropriate steps to protect their interests, health, safety, and welfare.

**118.12: SEVERABILITY AND SAVINGS CLAUSE**

If any section or portion of this chapter shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not service as an invalidation or effect the validity and enforceability of any other section or provision of this Code.