

CHAPTER 6: GENERAL REGULATIONS

ORDINANCE 65 HOUSING, MAINTENANCE AND OCCUPANCY ..... 65-1

Section 65.01: PURPOSE..... 65-1

Section 65.02: CITY NOT AN ARBITER..... 65-1

Section 65.03: APPLICABILITY..... 65-1

Section 65.04: OWNER AND OCCUPANT RESPONSIBILITIES ..... 65-2

Section 65.05: MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES  
..... 65-3

Section 65.06: MINIMUM THERMAL STANDARDS ..... 65-5

Section 65.07: GENERAL REQUIREMENTS..... 65-5

Section 65.08: MAXIMUM DENSITY, MINIMUM SPACE, USE AND LOCATION  
REQUIREMENTS..... 65-6

Section 65.09: FIRE CODE..... 65-7

Section 65.10: RENTAL UNIT LICENSING ..... 65-7

Section 65.11: CRIME FREE MULTI-HOUSING PROGRAM PLAN..... 65-9

Section 65.12: ENFORCEMENT ..... 65-12

Section 65.13: ENFORCEMENT AND INSPECTION AUTHORITY..... 65-15

Section 65.14: INSPECTION ACCESS..... 65-15

Section 65.15: UNFIT FOR HUMAN HABITATION ..... 65-15

Section 65.16: SEVERABILITY..... 65-16

## CHAPTER 6: GENERAL REGULATIONS

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### ORDINANCE 65 HOUSING, MAINTENANCE AND OCCUPANCY

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Section 65.01: PURPOSE. This Ordinance's purpose is to protect the citizens' public health, safety, and general welfare. These general objectives include, among others, the following:

- a) To protect the character and stability of residential areas within the City;
- b) To correct and prevent housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health, including the physical, mental and social well being of persons occupying dwellings within the City;
- c) To provide minimum standards for cooking, heating, and sanitary equipment necessary to the health and safety of building occupants;
- d) To provide minimum standards for light and ventilation, necessary to health and safety;
- e) To prevent overcrowding of dwellings by providing minimum space standards per occupant for each dwelling unit;
- f) To provide minimum standards for maintaining existing residential buildings, and to thus prevent slums and blight;
- g) To preserve the value of land and buildings throughout the City.

Section 65.02: CITY NOT AN ARBITER. With respect to rental disputes, and except as otherwise specifically provided in this Ordinance, the City Council does not intend to intrude upon the fair and accepted contractual relationship between tenant and owner. The City Council does not intend to intervene as an advocate of either party, nor to act as an arbiter, nor to be receptive to complaints from tenant or owner which are not specifically and clearly relevant to this Ordinance's provisions. In the absence of such relevancy with regard to rental disputes, the City intends that the contracting parties exercise any legal sanctions available to them without the City's intervention. In enacting this Ordinance, the City Council does not intend to interfere or permit interference with legal rights to personal privacy.

Section 65.03: APPLICABILITY. Every building and its premises used in whole or in part as a home or residence, or as an accessory structure of them, for a single family or person, and every building used in whole or in part as a home or residence of two or more persons or families living in separate units shall conform to this Ordinance, irrespective of when the

## CHAPTER 6: GENERAL REGULATIONS

building may have been constructed, altered, or repaired. This Ordinance establishes minimum standards for erected dwelling units, accessory structures and related premises.

### Section 65.04: OWNER AND OCCUPANT RESPONSIBILITIES.

Subd. 1: Sanitation. No owner or other person shall occupy or let to another person any dwelling, dwelling unit or rooming unit unless it and the premises are clean, sanitary, fit for human occupancy, and comply with all applicable legal requirements of City and state law, including the following requirements:

Subd. 2: Shared or Public Areas. Every owner of a dwelling containing 2 or more dwelling units shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and premises.

Subd. 3: Occupied Areas. Every occupant of a dwelling, dwelling unit or rooming unit shall maintain in a clean and sanitary condition that part or those parts of the dwelling, dwelling unit and premises that he or she occupies and controls.

Subd. 4: Garbage Storage and Disposal. Every occupant of a dwelling, dwelling unit or rooming unit shall store and dispose of all his or her garbage and rubbish in a clean, sanitary, and safe manner as prescribed by the City Code. Every owner of a multiple family dwelling shall supply facilities for the sanitary and safe storage and/or disposal of rubbish and garbage. In the case of single or two family dwellings, it shall be the responsibility of the occupant to furnish the facilities.

Subd. 5: Storm and Screen Doors and Windows. The owner of a rental dwelling unit shall be responsible for providing and hanging all screens and storm doors and storm windows whenever the same are required under this Ordinance, except where there is written agreement otherwise between the owner and occupant.

Subd. 6: Pest Extermination. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of vermin infestations and/or rodents on the premises. Every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for extermination whenever his or her dwelling unit is the only one infested. Extermination shall be the owner's responsibility, however, if infestation is caused by the owner's failure to maintain a dwelling in a reasonable rodent proof or reasonable vermin proof condition. If infestation exists in 2 or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing 2 or more dwelling units, extermination shall be the owner's responsibility.

Subd. 7: Rodent Harborage and Food. No owner or occupant of a dwelling or dwelling unit shall accumulate boxes, lumber, scrap metal, or any other similar materials in such a manner that may provide a rodent harborage in or about any dwelling or dwelling unit. Stored materials shall be stacked neatly in piles. No owner or occupant of a dwelling or dwelling unit shall store, place or allow to accumulate any materials that may serve as food for rodents in a site accessible to rodents.

## CHAPTER 6: GENERAL REGULATIONS

Subd. 8: Fixtures and Facilities. Every owner and occupant of a dwelling unit shall keep all supplied fixtures and facilities in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of them.

Subd. 9: Minimum Heating Capability and Maintenance. In every dwelling unit or rooming unit when the control of the supplied heat is the responsibility of a person other than the occupant, a temperature of at least 68 degrees Fahrenheit or a lesser temperature required by government authority shall be maintained at a distance of 3 feet above the floor and 3 feet from exterior walls in all habitable rooms, bathrooms, and water closet compartments from September through May.

Subd. 10: Snow and Ice Removal. The owner of a multiple family dwelling or dwellings shall be responsible for the removal of snow and ice from parking lots, driveways, steps and walkways on the premises pursuant to the City Code.

Subd. 11: Minimum Exterior Lighting. The owner of a multiple family dwelling or dwellings shall be responsible for providing and maintaining effective illumination in all exterior parking lots and walkways.

Subd. 12: Driving and Parking Areas. The owner of a multiple dwelling or dwellings shall be responsible for providing and maintaining in good condition parking areas and driveways for tenants consistent with the City Code.

Subd. 13: Yards. The owner of a multiple family dwelling or dwellings shall be responsible for providing and maintaining premises' yards consistent with the City's zoning ordinance and City Code.

Section 65.05: MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES. No person shall occupy as owner, occupant, or let to another for occupancy any dwelling or dwelling unit, for the purposes of living, sleeping, cooking, eating therein, which does not comply with the following requirements:

Subd. 1: Kitchen Facilities. Every dwelling unit shall have a room or portion of a room in which food may be prepared and/or cooked and which shall have adequate circulation and which shall be equipped with the following:

- a) A kitchen sink in good working condition and properly connected to an approved water supply system and which provides at all times an adequate amount of heated and unheated running water under pressure, and which is connected to an approved sewer system.
- b) Cabinets and/or shelves for the storage of eating, drinking, and cooking equipment and utensils and of food that does not require refrigeration for safekeeping; and a counter or table for food preparation. Cabinets and/or shelves and counter or table shall be adequate for the permissible occupancy of the

## CHAPTER 6: GENERAL REGULATIONS

dwelling unit and shall be of sound construction furnished with surfaces that are easily cleanable and that will not impart any toxic or deleterious effect to food.

- c) A stove or similar device for cooking food, and a refrigerator or similar device for the safe storage of food, which are properly installed with all necessary connections for safe, sanitary, and efficient operation.

Subd. 2: Toilet Facilities. Within every dwelling unit there shall be a nonhabitable room which is equipped with a flush water closet in good working condition. In a rental dwelling unit, the room shall have an entrance door which affords privacy. The flush water closet shall be equipped with easily cleanable surfaces, shall be connected to an approved water system that at all times provides an adequate amount of running water under pressure to cause the water closet to be operated properly, and shall be connected to an approved sewer system.

Subd. 3: Lavatory Sink. Within every dwelling unit there shall be a lavatory sink, which may be in the same room as the flush water closet, or if located in another room, the lavatory sink shall be located in close proximity to the door leading directly into the room in which the water closet is located. The lavatory sink shall be in good working condition and shall be properly connected to an approved water supply system, shall provide at all times an adequate amount of heated and unheated running water under pressure, and shall be connected to an approved sewer.

Subd. 4: Bathtub or Shower. Within every dwelling unit there shall be a nonhabitable room equipped with a bathtub or shower in good working condition with an entrance door that affords privacy. The bathtub or shower may be in the same room as the flush water closet, or in another room and shall be properly connected to an approved water supply system and shall provide at all times an adequate amount of heated and unheated water under pressure, and shall be connected to an approved sewer system.

Subd. 5: Stairways, Porches and Balconies. Every stairway, porch or balcony shall be kept in safe condition and sound repair free of deterioration. Every stairwell and every flight of stairs which is more than 4 risers high shall have handrails approximately 30 inches high. Every porch which is more than 4 risers high and every balcony shall have handrails approximately 30 inches above the floor of the porch or balcony. Every handrail and balustrade shall be firmly fastened and maintained in good condition. No flight of stairs shall have settled out of its intended position or have pulled away from the supporting or adjacent structures enough to cause a hazard. No flight of stairs shall have rotting, loose, or deteriorating supports. Excepting spiral and winding stairways, the treads and risers of every flight of stairs shall be uniform in width and height. Stairways shall be capable of supporting a live load of 100 pounds per square foot of horizontal projection.

Subd. 6: Access to Dwelling Unit. Access to or egress from each dwelling unit shall be provided without passing through any other dwelling unit.

## CHAPTER 6: GENERAL REGULATIONS

Subd. 7: Door Locks. No owner shall occupy nor let to another for occupancy any dwelling or dwelling unit unless all exterior doors of the dwelling or dwelling unit are equipped with safe, functioning locking devices.

Section 65.06: MINIMUM THERMAL STANDARDS. No person shall occupy as owner, occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not have heating facilities properly installed, maintained in safe and good working condition, and capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments in every dwelling unit located in it to a temperature of at least 68 degrees Fahrenheit at a distance of 3 feet above floor level and 3 feet from exterior walls at an outside temperature of 25 degrees Fahrenheit. Gas or electric appliances designed primarily for cooking or water heating purposes shall not be considered as heating facilities. Portable heating equipment employing flame and the use of liquid fuel does not meet the requirements of this section and is prohibited. No owner or occupant shall install, operate or use a space heater employing a flame that is not vented outside the structure in an approved manner.

Section 65.07: GENERAL REQUIREMENTS. No person shall occupy as owner, occupant or let to another for occupancy a dwelling or dwelling unit, for the purpose of living in it which does not comply with the following requirements:

Subd. 1: Foundations, Exterior Walls and Roofs. The foundation, exterior walls and exterior roof shall be substantially water tight and protected against vermin and rodents and shall be kept in sound condition and repair. The foundation element shall adequately support the building at all points. Every exterior wall shall be free of deterioration, holes, breaks, loose or rotting boards or timbers, and any other condition which might admit rain or dampness to the interior portion of the walls or to the exterior spaces of the dwelling. The roof shall be tight and have no defects which admit rains, and roof drainage shall be adequate to prevent rain water from causing dampness in the walls. All exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by paint or other protective covering or treatment. If 25% or more of the exterior surface of such wood surface is unpainted or determined by the Compliance Official to be paint blistered, the surface shall be painted. If 25% or more of the exterior of the painting of any brick, block or stone wall is loose or has fallen out, the surface shall be repaired.

Subd. 2: Windows, Doors and Screens. Every window, exterior door, and hatchway shall be substantially tight and shall be kept in sound condition and repair. Every window, other than a fixed window or storm window, shall be capable of being easily opened. Every window, door and frame shall be constructed and maintained in such relation to the adjacent wall construction as to completely exclude rain, wind, vermin and rodents from entering the building. Every openable window or other device required by this Ordinance shall be supplied with 16 mesh screens during the insect season.

Subd. 3: Floors, Interior Walls and Ceilings. Every floor, interior wall, and ceiling shall be adequately protected against the passage and harborage of vermin and rodents, and shall be kept in sound condition and good repair. Every floor shall be free of loose, warped, protruding or rotted flooring materials. Every interior wall and ceiling shall be free of holes and large cracks

## CHAPTER 6: GENERAL REGULATIONS

and loose plaster and shall be maintained in a tight weatherproof condition. Toxic paint and materials with a lasting toxic effect shall not be used. Every toilet room and bathroom floor surface shall be capable of being easily maintained in a clean and sanitary condition.

Subd. 4: Rodent Proof. Every dwelling and accessory structure and the premises upon which located shall be maintained in a rodent free and rodent proof condition. All openings in the exterior walls, foundations, basements, ground or first floor, and roofs which have a 2" diameter or larger opening shall be rodent proofed in an approved manner. Interior floors or basements, cellars and other areas in contact with the soil shall be paved with concrete or other rodent impervious material.

Subd. 5: Fence Maintenance. All fences supplied by the owner or agent on the premises and all fences erected or caused to be erected by an occupant on the premises shall consist of metal, wood, masonry, other decay resistant material. Fences shall be maintained in good condition both in appearance and in structure. Wood material, or other than decay resistant varieties, shall be protected against decay by use of paint or other preservatives.

Subd. 6: Accessory Structures. Accessory structures supplied by the owner, agent or tenant occupant on the premises of a dwelling shall be structurally sound, and be maintained in good repair and appearance. The exterior of such structures shall be made weather resistance through the use of decay resistant materials such as paint or other preservatives.

Subd. 7: Safe Building Elements. Every foundation, roof, floor, exterior and interior walls, ceilings, inside and outside stair, every porch and balcony, and every appurtenance thereto, shall be safe to use and capable of supporting loads that normal use may cause to be placed thereon.

Subd. 8: Facilities to Function. Every supplied facility, piece of equipment or utility, required under City Ordinances and every chimney and flue shall be installed and maintained and shall function effectively in a safe, sound and working condition.

Subd. 9: Yard Cover. Every yard of a premises on which a dwelling stands shall be provided with lawn or combined ground cover or vegetation, garden, hedges, shrubbery, and related decorative materials and such yard shall be maintained consistent with prevailing community standards.

Subd. 10: Discontinuance of Service or Facilities. No owner, operator, or occupant shall cause any service, facility, equipment or utility which is required under this ordinance, to be removed from or shut off from or discontinued for any occupied dwelling or dwelling unit let or occupied by him, except for such temporary interruptions as may be necessary while actual repairs or alterations are in process, or during temporary emergencies.

Section 65.08: MAXIMUM DENSITY, MINIMUM SPACE, USE AND LOCATION REQUIREMENTS. No person shall occupy nor permit or let to be occupied any dwelling or dwelling unit for the purpose of living therein, which does not comply with the following requirements:

## CHAPTER 6: GENERAL REGULATIONS

Subd. 1: Permissible Occupancy of Dwelling Unit. Every dwelling unit shall have at least 1 room which shall have not less than 100 square feet of floor area. Other habitable rooms, except kitchen, shall have an area of not less than 70 square feet. Where more than 2 persons occupy a room used for sleeping purposes the required floor area shall be increased at the rate of 80 square feet for each occupant in excess of 2.

EXCEPTION: Nothing in this Section shall prohibit the use of an efficiency living unit within an apartment house meeting the following requirements:

- a) The unit shall have a living room of not less than 220 square feet of superficial floor area. An additional 100 square feet of superficial floor area shall be provided for each occupant of such unit in excess of two.
- b) The unit shall be provided with a separate closet.
- c) The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches in front. Light and ventilation conforming to this Code shall be provided.
- d) The unit shall be provided with a separate bathroom containing a water closet, lavatory, bathtub or shower.

Subd. 2: Minimum Ceiling Height. In order to qualify as habitable, rooms shall have clear ceiling height of not less than 6 feet 6 inches, except that in attics or top half stories used for sleeping, study, or similar activities, the ceiling height shall be not less than 6 feet 6 inches over at least one-half of the floor area. In calculating the floor area of such rooms in attics or top half stories, only those portions of the floor area of the room having a clear ceiling height of 5 feet or more may be included.

Subd. 3: Access through Sleeping Rooms and Bathrooms. No dwelling unit built after 1940 and containing 2 or more sleeping rooms shall have a room arrangement such that access to a bathroom or water closet compartment intended for use by occupants of more than one sleeping room can be gained only by going through another sleeping room. A bathroom or water closet compartment shall not be used as the only passageways to any habitable room, hall, basement or cellar or the exterior of any dwelling unit.

Section 65.09: FIRE CODE. All buildings shall be subject to the International Fire Code, as amended.

Updated Sect. 65.09 on 5/18/05

### Section 65.10: RENTAL UNIT LICENSING.

Subd. 1: Registration. No person shall operate rental property in the City of Albany without first filing a registration statement with the City Clerk/Administrator and securing a valid rental license from the City. Any person filing a registration statement consents to be bound this ordinance and other City ordinances that may relate to rental property. The

## CHAPTER 6: GENERAL REGULATIONS

registration statement shall be made and filed on forms furnished by the City and shall set forth the following information:

- a) Owner's name and residence, and if a corporation, the names of its officers and registered office. All owners must be listed.
- b) Rental property's name and address and the number of units to which the registration applies.
- c) Name and address of the caretaker or manager responsible for the rental unit's maintenance and care.
- d) The name and address of the owner's agent for receiving violation notices of this or other City Ordinances.
- e) Any other information the City may require.

Subd. 2: Registration Statement Execution. The registration shall be made by the owner if the owner is a natural person, by an officer if the owner is a corporation, by one of the partners if the owner is a partnership, and by the manager or managing officer if the owner is an unincorporated association. Registration renewals required annually by this Ordinance may be made by filling out the required renewal form provided by the City to the rental property's owner and mailing the form together with the required registration fee to the City Clerk/Administrator.

Subd. 3: Tri-Annual Registration. Commencing in the year 2000, the 3-year registration of all rental dwellings previously registered shall be renewed not later than February 1st every three years. The City may initially require some registrations to be annual or biannual and prorate the fees so that approximately 1/3 of the registrations and inspections occur in any given year.

Subd. 4: Transfers. Every new rental property owner, (whether as fee owner, contract purchaser, lessee of the entire dwelling, or otherwise) shall register before taking possession.

Subd. 5: Registration License Fee. Beginning in the year 2000, a registration license fee shall be due not later than the first business day of February every three years in the amounts established in Appendix A.

65.10, Subd. 5 Amended 1/2005

Subd. 6: Delinquency Fee. The City shall charge a delinquency fee of 5% of the license fee for each day of operation without a valid license to rental dwelling operators. Once issued, a license is nontransferable and the licensee shall not be entitled to a refund on any license fee upon revocation or suspension. However, the licensee shall be entitled to a license fee refund pro rated monthly, upon proof of transfer of legal control of ownership. In the case of new unlicensed dwellings, license fees shall be due upon the City's issuance of a certificate of occupancy. In the cases of licensing periods of less than one year, the City shall prorate license fees by month.

## CHAPTER 6: GENERAL REGULATIONS

Subd. 7: Inspection Condition. The City shall not issue or renew an operating license unless the rental unit's owner agrees in the license application to permit inspections pursuant to this Ordinance.

Subd. 8: License Posting. Every licensee of a multiple dwelling shall cause to be conspicuously posted in the main entry way or other conspicuous location the current license for the respective multiple dwelling.

Subd. 9: License Not Transferable. No operating license shall be transferable to another person or to another rental dwelling. Every person holding an operating license shall give notice in writing to the City within 72 hours after having legally transferred or otherwise disposed of the legal control of any licensed rental dwelling. The notice shall include the name and address of the person succeeding to the ownership or control of the rental dwelling or dwellings.

Subd. 10: Occupancy Register Required. Every owner of a licensed rental dwelling containing 3 or more dwelling units shall keep, or cause to be kept, a current register of occupancy for each dwelling unit providing the following information and make the register available for viewing or copying by the City at all reasonable times:

- a) Dwelling unit address;
- b) Number of bedrooms in dwelling unit;
- c) Names of adult occupants and number of adults and children (under 18 years of age) currently occupying the dwelling units;

Subd. 11: Resident List. Every owner of a licensed rental dwelling containing three or more dwelling units shall maintain a list of current residents, containing each resident's last name, first name initial and apartment or unit number, in a conspicuous place near the building's main entrance. Every owner of a licensed rental dwelling containing less than three dwelling units shall maintain each resident's last name and first name initial on the applicable dwelling unit's door.

### Section 65.11: CRIME FREE MULTI-HOUSING PROGRAM PLAN.

Subd. 1: The Program. The Crime Free Multi-Housing Program (Program) is a three-phase certification program for rental properties of all sizes, including single-family rental homes. The Program is available to owners and property managers of rental properties located in the City of Albany. Necessary training and support of the Program is designed to provide for ease of participation. The Program is known to be effective in reducing criminal activity in rental properties. It is the policy of the City to encourage active participation in the Program by all rental property owners and property managers.

Subd. 2: Certification. To obtain and maintain certification from the City's Police Department, a member of the Program, a rental property owner or property manager must

## CHAPTER 6: GENERAL REGULATIONS

successfully complete and implement all of the components of the Program within two years from the date of application to the Program. The components of the Program are:

- a) Attendance at and successful completion of the management training component which shall be shown by demonstrating an understanding of each of the following subject matter:
  1. The Program and Ordinance;
  2. Rental applications and housing discrimination;
  3. Screening and background checks;
  4. Lease and lease addendums;
  5. Unlawful detainer and eviction;
  6. Manager/Owner policies and roles;
  7. Data privacy;
  8. Narcotics and gangs;
  9. Section 8 housing;
  10. Rental licensing,
- b) Compliance with environmental crime prevention requirements by owners for their rental properties or in the case of a property manager, for all rental properties that are managed by that property manager. Compliance shall be indicated by completion of the following requirements:
  1. Single cylinder deadbolt locks installed in each entry door for each dwelling unit;
  2. High security strike plate with 3-inch screws installed on each entry door for each dwelling unit;
  3. Door viewer - 180° peephole installed in primary entry door for each dwelling unit;
  4. Anti-lift/slide device installed on all windows and sliding glass doors;
  5. Security lighting adequate to illuminate exterior grounds;
  6. Landscaping in a manner that provides for visual sight lines;

## CHAPTER 6: GENERAL REGULATIONS

7. Visible address numbering installed;
  8. Compliance with all Fire Code and Building Code requirements.
- c) At least once every 12 months make available, in cooperation with the Police Department, training for tenants in respect to the following subject areas:
1. The Program together with the concept of partnerships and sharing responsibilities;
  2. Crime concerns and prevention awareness techniques;
  3. Application of Neighborhood Watch program/principles.
- d) Include, implement, and enforce, as part of all written leases, the Lease Addendum for Crime-Free/Drug-Free Housing provided by the City,
- e) Following successful completion of the Program components, attend annual retraining sessions and maintain compliance with all Program components.
- f) Rental property owners who acquire additional rental properties following the successful completion of the Program must bring those properties into compliance within one year from the date of acquisition. Rental property managers who add additional properties for which they are responsible following the successful completion of the Program must bring those properties into compliance within one year from the date of assumption of management responsibilities.

Subd. 3: Decertification. Owners or property managers who do not maintain compliance with the certification requirements will lose their certification.

Before this decertification occurs the owner or property manager will be notified by regular mail postmarked at least ten (10) days prior to the proposed date for decertification. The owner or property manager may appeal the decision to decertify by providing written notice to the City Clerk Administrator within fifteen (15) days of the mailing of the decertification notice.

No decertification shall occur following an appeal until the owner or property manager has been afforded an opportunity for a hearing before the City Council. If the City Council finds the owner or property manager has not maintained compliance with the certification requirements, the City Council shall decertify the owner or property manager.

An Owner or property manager who is decertified shall not be eligible to reapply for Program certification for a period of two (2) years following the date of decertification.

Subd. 4: Fees. Fees for participation in this program are determined by the Council and established in Appendix A.

## CHAPTER 6: GENERAL REGULATIONS

### Section 65.12: ENFORCEMENT.

Subd. 1: Suspension or Revocation. Every operating license issued under this Ordinance is subject to suspension or revocation by the City Council if the licensed owner or his or her duly authorized resident agent fails to operate or maintain the licensed rental dwelling and units in compliance with the City's Ordinances and state law. If the City Council suspends or revokes an operating license for just cause, it shall be unlawful for the owner or the duly authorized agent to thereafter permit any new occupancies of vacant or thereafter vacated rental units until the City Council restores the operating license.

Subd. 2: Vacation. When the City Council revokes or suspends a rental license, the property shall be vacated as of the effective date of the revocation or suspension and remain vacated until restoration of the license.

Subd. 3: Restoration. In the case of a suspension, restoration shall occur automatically at the end of the suspension period. In the case of revocation, restoration of the license shall occur only after the premises' owner has applied for a new license and paid a new application fee. The City Council may then issue a new license upon completion of the revocation period.

Subd. 4: Issuance of Compliance Order. Whenever the Compliance Official(s) determines that any dwelling, dwelling unit, or rooming unit, or the premises surrounding any of these, fails to meet this Ordinance's provisions, he or she may issue a Compliance Order setting forth the violations of the Ordinance and ordering the owner, occupant, operator or agent to correct the violation(s). This Compliance Order shall:

- a) Be in writing.
- b) Describe the location and nature of this Ordinance's violation(s).
- c) Establish a reasonable time for correction of the violation(s) and notify of appeal recourse.
- d) Be served upon the owner or his or her agent or the occupant, as the case may require. The notice shall be deemed to be properly served upon the owner or agent, or upon any occupant, if a copy of the order is:  
  
served upon him or her personally, or  
  
sent by registered mail to his or her last known address, or  
  
upon failure to effect notice as set out in this section, posted at a conspicuous place in or about the dwelling which is affected by the notice.
- e) Describe the penalties which will be imposed for failure to comply.

## CHAPTER 6: GENERAL REGULATIONS

Subd. 5: Right to Appeal Hearing. The person subject to the Compliance Order may appeal the Compliance Order to the City Council sitting as a Board of Appeals. Appeals must be in writing, specify the grounds for the appeal, be accompanied by a filing fee established in Appendix A paid in cash or cashier's check, and be filed with the City Clerk/Administrator within 5 business days after service of the Compliance Order. The filing of an appeal shall stay all proceedings in furtherance of the action appealed from, unless a stay would cause imminent peril to life, health or property. If request is not made, the right to an appeal hearing is deemed waived and the City Council may presume the truth and accuracy of the violations alleged and proceed to disposition at the time of the hearing.

Subd. 6: Hearing. The appeal hearing shall be evidentiary in nature and conducted before the City Council sitting as a Board of Appeals, which shall determine whether an ordinance or statutory violation did occur and whether the violation warrants the rental license's revocation or suspension. The City Council may reverse, modify, or affirm, in whole or in part, the compliance order and may order return of all or part of the filing fee if the appeal is upheld. The City Council's determination shall be final and subject only to any rights of review or appeal to the state courts as provided by statute.

Subd. 7: Reinspection. If no appeal is made, the Compliance Officer(s) shall reinspect the property prior to the hearing to determine if the owner has complied with the Compliance Order. If compliance has not been completed upon reinspection, the owner shall be assessed a reinspection fee established in Appendix A for that reinspection and each subsequent reinspection for compliance. Failure to pay the reinspection fee shall constitute a failure to comply with the Compliance Order.

Subd. 8: Restrictions on Ownership Transfer. It shall be unlawful for the owner of any dwelling, dwelling unit, or rooming unit upon whom a pending Compliance Order has been served to sell, transfer, mortgage, lease or otherwise dispose of the premises to another person until the provisions of the tag or Compliance Order have been complied with, unless the owner shall furnish to the grantee, lessee, or mortgagee a true copy of any notice of violation or compliance order and shall obtain and possess a receipt of acknowledgment. Anyone securing an interest in the dwelling, dwelling unit, or rooming unit who has received notice of the existence of a violation tag or Compliance Order shall be bound by it without further service of notice and shall be liable to all penalties and procedure provided by this Ordinance.

Subd. 9: Disposition: If the City Council determines that an owner is in violation of this Ordinance, or has not complied with a Compliance Order within the specified time, after right of appeal has expired, the rental license may be revoked or suspended by the City Council. The Council may stay execution of the suspension or revocation on reasonable conditions established by the Council, including but not limited to, the payment of a civil penalty not to exceed \$1,000.

Subd. 10: Criminal and Administrative Penalties. Any person violating any of this Ordinance's provisions by doing any act or omitting to do any act which constitutes a breach of any section of this Ordinance shall upon conviction by a lawful authority be guilty of a misdemeanor. Any person who fails to comply with a Compliance Order after right of appeal has expired, and any person who fails to comply with a modified Compliance Order within the

## CHAPTER 6: GENERAL REGULATIONS

time set in it shall be guilty of a misdemeanor. Each day that a violation continues shall be deemed a separate punishable offense. As an alternative to the misdemeanor offense, any person in violation of this Ordinance may be charged with an administrative penalty in accordance with Ordinance 14.07.

Subd. 11: Public Authority's Execution of Compliance Orders. Upon failure to comply with a Compliance Order within the time set in it and no appeal having been taken, or upon failure to comply with a modified Compliance Order within the time set in it, the criminal penalty established hereunder notwithstanding, the City Council may by resolution cause the cited deficiency to be remedied as set forth in the Compliance Order. The cost of such remedy shall be a lien against the subject real estate and may be provided by Minnesota Statutes, Chapter 429, but the assessment shall be payable in a single installment.

Subd. 12: No Official Liability. No provision of this ordinance designating the duties of any official or employee of the City shall be so construed as to make the official or employee liable for the penalty provided in this section because of failure to perform a duty, unless the City Council's intention to impose the penalty on the official or employee is specifically and clearly expressed in the section creating the duty.

Subd. 13: Alternative Sanctions. Notwithstanding the availability of the compliance procedures and the penalties in this Ordinance, whenever the Compliance Official(s) determines that any dwelling, dwelling unit, or rooming unit or the premises surrounding any of these fails to meet this Ordinance's requirements, the Compliance Official may issue a violation tag summoning the responsible person into court or request the issuance of a criminal complaint and arrest warrant.

Subd. 14: Variance. The City Council may grant a variance of any specific requirement in this Ordinance if the condition existed before this Ordinance's passage and complying with the requirement will pose an undue hardship upon the owner or be unreasonable under the circumstances, unless the condition threatens the safety and health of any citizen.

Subd. 15: Revocation and Suspension Period. Where the City Council determines that an Ordinance or statutory violation has occurred warranting suspension or revocation, the City Council shall suspend or revoke the rental license for a period of not less than 2 months nor more than 12 months.

Subd. 16: Early Restoration Petition. . Upon completion of one-half of the revocation or suspension period imposed by the City Council, the licensed owner may petition the City Council for early restoration of the rental license. Upon receiving the petition, the City Council shall hear the licensed owner's request at its next regular scheduled meeting, (but at least 7 days after receiving the request). At that time, the City Council may order restoration of the rental license if the licensed owner establishes by clear and convincing evidence that one of the following two circumstances then exist:

- a) The property has been sold since the occurrence of the original violation to a party unrelated to the original owner. The sale must be for a fair consideration,

## CHAPTER 6: GENERAL REGULATIONS

negotiated at arm's length, and by Deed duly filed for record at the County Recorder's office. A sham or "paper" transfer of title to the property to a related party or another party acting in cooperation with the owner to circumvent the license revocation shall not constitute a transfer under this Ordinance.

- b) The licensed owner demonstrates to the City Council that the owner has properly responded to the revocation or suspension, has taken measures to successfully correct the violation which originally resulted in suspension or revocation, and has taken additional steps to assure that similar violations do not occur in the future. Factors to be considered by the Council, may include: improvements and repairs to the premises, modification of the relevant lease provisions, selection of future tenants, response to citizen's complaints, provision for future supervision of the premises by the licensed owner, the licensed owner's compliance with the revocation/suspension, and any other criteria the Council considers relevant to each individual case.
- c) Where the licensed owner is able to establish by clear and convincing evidence grounds for restoration, the Council may stay the execution of the remainder of the suspension or revocation period for a period of up to 1 year and place reasonable terms and conditions upon the licensed owner relevant to further insure compliance with the City's Ordinances and state law.

Section 65.13: ENFORCEMENT AND INSPECTION AUTHORITY. The City Clerk/Administrator, the City Building Inspector and their respective agents shall be the Compliance Officer(s) who shall administer and enforce this Ordinance and who are authorized to cause inspections on a scheduled basis for rental units, or otherwise when reason exists to believe that a violation of this Ordinance has been or is being committed. Inspections shall be conducted during reasonable daylight hours and the Compliance Officer(s) shall present evidence of official capacity to the occupant in charge of a respective dwelling unit. The City shall charge inspection and reinspection fees as established in Appendix A for all inspections and reinspections occurring when reason exists to believe that a violation of this Ordinance has been or is being committed. It shall also be deemed a violation of this Ordinance for any person to make any false or unfounded complaints to the Compliance Officer(s). Among other remedies available for violation of this Ordinance, in the event the Compliance Officer(s) conducts an inspection based upon a false or unfounded complaint, the cost of the inspection may be charged to the party making the false or unfounded complaint.

Section 65.14: INSPECTION ACCESS. Any owner, occupant, or other person in charge of a dwelling or dwelling unit may refuse to permit free access and entry to the structure or premises under his or her control for inspection pursuant to this Ordinance, whereupon the Compliance Official(s) may seek a court order authorizing the inspection.

Section 65.15: UNFIT FOR HUMAN HABITATION.

Subd. 1: Building Vacation. Any dwelling, dwelling unit, or rooming unit which is damaged, decayed, dilapidated, unsanitary, unsafe, vermin or rodent infested, or which lacks

## CHAPTER 6: GENERAL REGULATIONS

provision for basic illumination, ventilation or sanitary facilities to the extent that the defects create a hazard to the health, safety or welfare of the occupants or of the public may be declared unfit for human habitation. Whenever any dwelling, dwelling unit, or rooming unit has been declared unfit for human habitation, the Compliance Official(s) shall order the premises vacated within a reasonable time and shall post a placard on the premises indicating that it is unfit for human habitation, and any operating license previously issued for the dwelling shall be revoked.

Subd. 2: Reoccupation. It shall be unlawful for any dwelling, dwelling unit, or rooming unit to be used for human habitation until the defective conditions have been corrected and the Compliance Official(s) has issued written approval. It shall be unlawful for any person to deface or remove the declaration placard from any dwelling, dwelling unit or rooming unit.

Subd. 3: Secure Units and Vacated Dwellings. The owner of any dwelling, dwelling unit, or rooming unit which has been declared unfit for human habitation, or which is otherwise vacant for a period of 60 days or more, shall make the premises safe and secure so that it is not hazardous to the public's health, safety and welfare and does not constitute a public nuisance. Any vacant dwelling open at doors or windows, if unguarded, shall be deemed to be a hazard to the public's health, safety and welfare and a public nuisance within this Ordinance's meaning.

Subd. 4: Hazardous Building Declaration. If a dwelling has been declared unfit for human habitation and the owner has not remedied the defects within a prescribed reasonable time, the dwelling may be declared a hazardous building and treated consistent with state law.

Section 65.16: SEVERABILITY. Every section, provision, or part of this Ordinance is declared separable from every other section, provision, or part to the extent that if any section, provision or part of the Ordinance shall be held invalid or unconstitutional, it shall not invalidate any other section, provision or part of this Ordinance.