

## CHAPTER 10 – GENERAL LICENSING AND LICENSING BOARDS

### ARTICLE 23 – DWELLING RENTAL LICENSE AND FEES

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#### Section 10-23-101 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings provided in this section, except where the context clearly indicates a different meaning.

Dwelling means a building or a portion thereof used exclusively for permanent residential rental occupancy, including one-family dwellings, two-family dwellings, apartments, condominiums, townhouses, boardinghouses and mobile homes.

Dwelling unit means one or more rooms in a dwelling which are arranged, designed, used or intended for use as living quarters for one family or in the case of an apartment or boardinghouse, by one or more people. A dwelling unit functions independently from all other dwelling units within a building.

Housing Inspector means any person designated by the Building Official who shall be charged with the administration and enforcement of this article.

Owner means an owner, manager, landlord, agent or other person having control of any leased dwelling unit.

Agent means a person who resides in the City of Pierre or lives within 50 miles to the leased property and who represents an owner of a leased property.

### **Section 10-23-102 Exception**

This article does not apply to facilities licensed by the state, nor to any dormitory operated by an educational institution, nor hotels, motels or other structures designed or used primarily for transient residents where occupancy does not exceed 28 days.

### **Section 10-23-103 Agent Required/Appointment Procedure**

Each owner of a leased dwelling unit who does not reside within 50 miles of the City of Pierre shall appoint an agent that is located within 50 miles of the City of Pierre. In Addition, if the owner of a leased dwelling unit is a corporation, limited liability company, partnership or similar entity which is required to file organizational documents to become a recognized entity and which is either formed under the laws of South Dakota or possesses a certificate of authority to transact business in the State of South Dakota, it shall also appoint an agent residing within 50 miles of the City of Pierre if the entities registered agent does not physically reside within 50 miles of the City of Pierre. The appointment of an agent shall be made upon the application for the dwelling unit rental license. The city may serve notices pertaining to the administration of this article or of any provisions of the city's laws, rules regulations, resolutions, ordinances and codes pertaining to such dwelling unit upon the agent and service upon the agent will constitute service upon the owner.

### **Section 10-23-104 License of Dwelling Units**

It is unlawful for any owner of any dwelling unit to lease, rent or permit to be leased or rented any dwelling unit within the City without first obtaining a dwelling unit license for such dwelling unit from the city and paying the dwelling unit license fee as provided in the City of Pierre fee schedule. New owners of rental units who purchase a rental property during a period when the unit is currently registered or licensed are required to register the property prior to property acquisition.

### **Section 10-23-105 Fees and Application Forms**

The application for a dwelling unit rental license shall be made by completing the required form furnished by the City Finance Officer and fee paid per schedule approved by the City Commission and as presented and on file at the City Business Office. The license provided for in this Chapter shall be issued by the Finance Officer and the license and fee shall be renewable and payable annually.

### **Section 10-23-106 Implementation**

A tenant or other person may continue to occupy any existing, currently conforming leased or rented dwelling unit after the effective date of this article if the owner or their agent have complied with the requirements of this article. During the implementation of this article, the city will accept and file applications for a dwelling unit rental license. Conditional Licenses will be issued contingent upon satisfactory inspection of dwelling.

### **Section 10-23-107 Transfer of Dwelling Unit License**

No Dwelling Unit License shall be transferrable. It is the responsibility of the Licensee to immediately notify the City Finance Officer of change in ownership and request termination of existing license. It is the responsibility of the new owner to apply and schedule inspection pursuant to 10-23-105 and 106.

### **Section 10-23-108 Expiration**

Every license issued pursuant to this Chapter shall remain in force and effect until December 31<sup>st</sup> of the issuing year unless canceled or revoked prior to such time. Any person or firm shall not operate in the City of Pierre until that license is reinstated or renewed.

### **Section 10-23-109 Inspection Required**

Upon receipt of the initial application for a dwelling unit rental license the housing inspector or their authorized representative shall schedule, within a reasonable timeframe, an inspection of the dwelling unit to be licensed to determine if that dwelling unit complies with requirements of the Property Maintenance Code as outlined in Chapter 11 Article VII of the City of Pierre ordinances. The dwelling unit rental license may be issued conditionally prior to the inspection until the initial inspection can be scheduled and satisfactorily completed. Dwellings and dwelling units shall be inspected a minimum of once every five (5) years.

Exception:

Rental housing units that have been newly constructed for a period of five (5) years from the issuance of a Certificate of Occupancy. A Temporary Certificate of Occupancy does not qualify.

If there are multiple housing units on a single rental housing property, the housing inspector or their authorized representative shall inspect the exterior of the property, all Common Areas, and a random sampling, selected by the Building Official, of no fewer than [ten] percent of Rental Housing Units, but not less than four units shall be inspected. If the housing inspector determines that one or more violations exist on the property, the housing inspector may conduct an inspection of additional units up to 100 percent of the units.

### **Section 10-23-110 Additional Inspection Requirements**

Subsequent to the initial and routine scheduled inspections, additional inspections of the premises may be made if the housing inspector, building official, or their representatives determine hazardous conditions exist on the premises which may endanger the health, safety or welfare of the occupants.

### **Section 10-23-111 Appeals**

The City of Pierre shall notify an Applicant by certified mail of a suspended, revoked, or refusal of issuance or renewal of a License. Applicant may appeal that decision to the Building Code Board of Appeals as appointed by the City Commission.

Appeals commence by filing a written appeal with the City of Pierre within ten business days of notification. The appeal shall include a statement describing the complaint, why the action was taken should be modified or rescinded and an address where the appellant can be mailed notice of hearings. The City of Pierre shall immediately deliver a copy of the appeal to the City Attorney.

A public hearing shall be held on all appeals within 15 business days after filing of the appeal, unless a later date is agreed upon by the appellant and the Building Code Board of Appeals. The Building Official shall cause written notice of the date, time, and place of such hearing to be served upon the appellant by personal service or certified mail to the address set forth in the appeal at least five days before the hearing date.

**Section 10-23-112 Hearing procedures.**

The following rules shall govern the procedures for an administrative hearing on matters concerning licensee suspension, revocation, refusal to issue or renew.

- 1) Hearings and administrative appeals need not be conducted according to the technical rules relating to evidence and witnesses.
- 2) Oral evidence shall be taken only on oath or affirmation.
- 3) The chairperson of the Board shall administer oaths or affirmations to witnesses.
- 4) Any relevant evidence shall be admitted if it is the type of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence after objection in civil actions in courts of competent jurisdiction in this state.
- 5) Irrelevant and unduly repetitious evidence and evidence that lacks trustworthiness shall be excluded.
- 6) The appellant, the major organization unit or agency, and any other party to an appeal shall have these rights among others:
  - a) To call and examine witnesses on any matter relevant to the issue of the hearing;
  - b) To introduce documentary and physical evidence.
  - c) To cross examine opposing witnesses on any matter relevant to the issues of the hearing; and
  - d) To rebut evidence.
- 7) After each appeal hearing, the Chairperson of the Board of Appeals shall perform the following:
  - a) Make written findings of fact.
- b) Based upon such written findings, sustain, remand for further hearing or action, or rescind the complained action or decision. The Board may in its discretion waive the payment of any reinstatement or late penalty fee.
- 8) A written report of the decision, including the findings of fact, shall be furnished to the appellant and the Building Official within 15 working days from the date the appeal hearing is closed. The City and the appellant shall bear their own respective costs of the appeal proceeding. The decision of the board shall be final.

**Section 10-23-113 Appeal to circuit court.**

The decision of the Building Code Board of Appeals may be appealed to circuit court as provided by law. (Ord. No. 115-96, & 6, 10-7-96)

**Section 10-23-114 Violations of License**

Any Licensee violating the application process in 10-23-105 shall be subject to a penalty fee set out in a schedule to be approved by the City Commission and as presented and on file at the City Finance Office. Each day the unit is rented without the unit being registered shall constitute a separate offense. Any Licensee failing to meet the inspector at a schedule time or failure to reschedule an inspection, or failing to make required repairs within the allotted time shall be subject to a penalty fee set out in a schedule to be approved by the City Commission and as presented and on file at the City Finance Office. Repeat violations and/or significant hazardous conditions may result in additional fees/and or forfeiture of dwelling unit license.

**Section 10-23-115 to 199 Reserved**