

Chapter 6B.165

PROVISIONAL RENTAL PROPERTY LICENSE

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6B.165.010 Purpose.

The Tacoma City Council finds that rental housing is a valuable community asset, providing homes for all income levels. The City recognizes that quality rental housing is a partnership between owners, tenants, and the City. The City finds that 3 to 5 percent of homes in Tacoma are below the minimum building standards and appear to violate RCW 59.18.060. As a result, to ensure the public health, safety, and welfare of its citizens and the maintenance of quality rental housing for Tacoma citizens, the City Council is establishing a residential provisional rental property license program to prevent and correct conditions in residential rental units that adversely affect or are likely to adversely affect the health, safety, and welfare of the public. It is the purpose of this section to assure that rental housing within the City is actively operated and maintained in compliance with RCW 59.18.060. Providing for a provisional rental property license is intended to address that small percentage of housing that ~~endangers~~ is deemed unsafe for renters and bring that housing into compliance with state law.

(Ord. 27967 Ex. A; passed Feb. 1, 2011)

~~**6B.165.020 Effective date of ordinance.**~~

~~The ordinance takes effect January 1, 2012.~~

~~(Ord. 27967 Ex. A; passed Feb. 1, 2011)~~

6B.165.030 Definitions.

"Certificate of Inspection" means an unsworn statement, declaration, verification, or certificate made in accordance with the requirements of RCW 9A.72.085 by a qualified inspector that states that the landlord has not failed to fulfill any substantial obligation imposed under RCW 59.18.060 that endangers or impairs the health or safety of a tenant, including (a) structural members that are of insufficient size or strength to carry imposed loads with safety; (b) exposure of the occupants to the weather; (c) plumbing and sanitation defects that directly expose the occupants to the risk of illness or injury; (d) not providing facilities adequate to supply heat and water and hot water, as reasonably required by the tenant; (e) providing heating or ventilation systems that are not functional or are hazardous; (f) defective, hazardous, or missing electrical wiring or electrical service; (g) defective or hazardous exits that increase the risk of injury to occupants; and (h) conditions that increase the risk of fire.

"Dwelling unit" means any structure or part of a structure which is used as a home, residence, or sleeping place by one or more persons maintaining a common household, including but not limited to single-family residences, a room, rooming units, units of multiplexes, condominiums, apartment buildings, and mobile homes.

"Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part and in addition means any person designated as representative of the landlord.

"Notice of Violation" means a determination by a city official containing the violations outlined in of the TMC 6B.165.050~~2.01.060~~, ~~notice of the~~ provisional rental property license requirement, ~~or notice of the Certificate of Inspection requirement.~~

"Owner" means one or more persons, jointly or severally, in whom is vested:

(a) All or any part of the legal title to property; or

(b) All or part of the beneficial ownership and a right to present use and enjoyment of the property.

"Person" means an individual, group of individuals, corporation, government, or governmental agency, business trust, estate, trust, partnership, or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

"Public Corporation" means a corporation created pursuant to RCW 35.21.730.

"Property" or "rental property" means all dwelling units on a contiguous quantity of land managed by the same landlord as a single rental complex.

"Qualified inspector" means a United States Department of Housing and Urban Development-certified inspector; a Washington State-licensed home inspector; an American Society of Home Inspectors-certified inspector; a private inspector certified by the National Association of Housing and Redevelopment Officials, the American Association of Code Enforcement, or other comparable professional association as approved by the Public Works Director; a City code enforcement officer; a Washington-licensed structural engineer; or a Washington-licensed architect. An "owner" as defined in this section is not eligible to act as a qualified inspector.

"Tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes with ~~or~~ ~~without~~ a rental agreement.

(Ord. 27967 Ex. A; passed Feb. 1, 2011)

~~6B.165.040 — Annual business license and Certification required.~~

~~No person shall make available for rent, lease, or let, to any person a "dwelling unit" as defined in Section 6B.165.030 of this title without securing and maintaining a current annual business license, as required by Chapter 6B.20 of this title. Any person renting or making available for rent to the public any dwelling unit shall register each dwelling unit with the City of Tacoma and include an agreement certifying that each such dwelling unit complies with RCW 59.18.060, as adopted by the state and does not present conditions that endanger or impair the health or safety of the tenants.~~

~~However, issuance of the annual business license shall require submission of the certification, as required herein; the provisional license and related certificate of inspection, if required by TMC 6B.165.050 and TMC 6B.165.090; payment of the fees; and compliance with this title.~~

~~(Ord. 27967 Ex. A; passed Feb. 1, 2011)~~

6B.165.050 Provisional rental property license required; - Appeal

A. To ensure compliance with the state Landlord Tenant law, RCW 59.18.060, related to conditions of rental housing, ~~the City will use TMC 2.01.060, the Minimum Buildings and Structures Code, and Chapter 3.02, the Fire Prevention Code, to make a threshold determination as to the condition of rental property. Accordingly,~~ a provisional rental property license will be required for a rental property when a condition exists that endangers or impairs the health or safety of a tenant and when:

1. Under TMC Chapter 2.01.05~~60~~ Minimum Buildings and Structures Code violations exceed 24 points, or
2. Under TMC Chapter 2.01.05~~60~~ Minimum Buildings and Structures Code, it is determined to be a Derelict Building or Structure, or
3. Violations of the International Fire Code, TMC Chapter 3.02, exist.

B. Notice of a violation stating that a provisional rental license is required shall be given and mailed pursuant to TMC 6B.10.120, Mailing of Notices.

C. Appeal.

~~§1.~~ A person who receives notice that a provisional rental property license is required due to violations of TMC Chapter 2.01.060, the Minimum Buildings and Structures Code may request an administrative review by the Building Official as provided in Chapter 2.01.0650.FD.5.b.

~~§2.~~ A person who receives notice that a provisional rental property license is required due to violations of TMC Chapter 3.02 only may appeal such a determination as provided in General License Provisions 6B.10.140, Suspension or Revocation ~~Denial or revocation~~ - Appeal.

(Ord. 28125 Ex. A; passed Jan. 15, 2013; Ord. 27967 Ex. A; passed Feb. 1, 2011)

6B.165.060 Exemptions.

Buildings, building areas, or living arrangements described in one or more of the following paragraphs are exempted from the requirement to obtain a provisional rental property license.

A. Living arrangements under RCW 59.18.040, which are exempt from the requirements of RCW 59.18, Landlord Tenant.

B. A dwelling unit meeting all of the following conditions:

1. The dwelling unit constitutes the owner's principal residence;
2. The dwelling unit is temporarily rented by the owner for a period of time no greater than twelve consecutive months in any twenty-four-month period;
3. The dwelling unit was occupied by the owner immediately prior to its rental;
4. The owner of the dwelling unit is temporarily living outside of the City; and
5. The owner intends to re-occupy the dwelling unit upon termination of the temporary rental period.

C. Common areas and elements of buildings containing attached, but individually owned, dwelling units.

D. A rental property that has received a certificate of occupancy within the last four years and has had no code violations under Chapter 2.01.060 or Chapter 3.02 reported on the property during that period.

E. A rental property inspected by a government agency or other qualified inspector within the previous twenty-four months may provide proof of that inspection which the city may accept in lieu of a certificate of inspection. If any additional inspections of the rental property are conducted, a copy of the findings of these inspections may also be required.

(Ord. 27967 Ex. A; passed Feb. 1, 2011)

6B.165.070 Provisional rental property ~~L~~icense ~~f~~ees.

The fees are hereby fixed as follows:

<u>Description</u>	<u>Fee</u>
Provisional rental property license <u>1st notice of violation</u> -under section 6B.165.080	<u>\$250</u> 500
Provisional rental property license – 2nd notice of violation under section 6B.165.080 for the same owner	<u>\$500</u> 1,000
Provisional rental property license – 3rd and subsequent notice of violation under section 6B.165.080 for the same owner	<u>\$12,000</u>
Public corporation provisional rental property license	<u>\$0</u> .00

~~License fee is due within 30 days of date of the notification provided under TMC 6B.165.050.~~

The City shall charge no license fee for units owned by or leased and operated by a Public Corporation, so long as such units have also been individually certified to the City as low-income rental property by the Public Corporation, and such certification is valid at the time the fee would otherwise be due.

(Ord. 28125 Ex. A; passed Jan. 15, 2013; Ord. 27967 Ex. A; passed Feb. 1, 2011)

6B.165.080 Provisional rental property license ~~term~~conditions.

Any person required to have a provisional rental property license shall be subject to the following conditions:
~~licensed for three (3) years. To be released from the requirement for a provisional rental property license, the owner must be in compliance with RCW 59.18.060 before the license term ends and the dwelling must be approved as compliant with RCW 59.18.060 in a final certificate of inspection submitted to the City within 90 days after the provisional license expires.~~

A. Certificate of Inspection.

The owner shall submit a certificate of inspection based on the criteria outlined in 6B.165.090:

1. Within three (3) months of notice of violation of this chapter; or
2. The owner receives approval of a work plan from the City's Neighborhood Community Services Department that will bring the property into compliance with RCW 59.18.060 within six (6) months of the date of notice of violation.

B. Provisional Rental Housing Safety Training.

The owner, or their designated local agent responsible for managing the property, shall complete the City's Crime Free Housing Landlord Tenant Training or Provisional Rental Housing Safety Training within three (3) months of notice of violation of this chapter.

C. License fee and term.

1. The license fee shall be paid as described in 6B.165.070.
2. The license term is three (3) years from the date of issuance and will be issued after the fee is paid and the conditions in 6B.165.080.A and 6B.165.080.B have been met.

D. Final Certificate of Inspection.

Within thirty (30) days prior to the expiration date of the license a new certificate of inspection dated within the previous 60 days shall be submitted to the City as outlined in 6B.165.090.

(Ord. 27967 Ex. A; passed Feb. 1, 2011)

6B.165.085 Provisional rental property license: ~~no~~ fee and shortened term.

~~A. In lieu of the requirements set forth in 6B.165.070 and 6B.165.080, a~~Any person meeting ~~all of the following conditions outlined in 6B.165.080.A and B and no prior Provisional Rental License notifications stating that a Provisional Rental License as provided herein of 6B.~~have been sent to the owner for any rental properties located inside the City limits will be ~~exempt not be subject from to~~ the license fee and license term in 6B.165.080.C; and requirements of 6B.165.080.D.~~may remit a \$125 fee and be licensed for ninety (90) days.~~

- ~~1. Under TMC 2.01.060 (Minimum Buildings and Structures Code), when violation points are between 25 and 49 points; and~~
- ~~2. No prior notifications of Chapter 6B.165 have been sent to the rental property owner for any rental properties located inside the City; and~~
- ~~3. A person provides a certificate of inspection to the City, in accordance with TMC 6B.165.090, within ninety (90) days following notice by the City that this chapter applies to the rental property or who provides a work plan to bring the property into compliance with RCW 59.18.060 to the City for approval and who adheres to the repair schedule agreed to under the Minimum Building and Structures Code, Chapter 2.01.060, for repairs to the property; and~~
- ~~4. The property owner, or their designated local agent responsible for managing the property, attends the Crime Free Housing Landlord Training offered by the City, and pay the appropriate fee, within ninety (90) days following notice by the City.~~

(Ord. 28125 Ex. A; passed Jan. 15, 2013)

6B.165.090 Inspection – Tenant notification.

A. A-Inspection.

As a condition ~~for the issuance~~ of a provisional rental property license ~~provided by this chapter~~, the owner shall ~~provide-submit to the City~~ a certificate of inspection, on forms provided by the city, that the owner's rental property complies with State Title 59 Landlord and Tenant section 59.18.060 and does not present conditions that endanger or impair the health or safety of a tenant.

1. A rental property owner may choose to inspect one hundred percent of the units on the rental property and provide only the certificate of inspection for all units to the city. ~~However, if a rental property owner chooses to inspect only a sampling of the units, the owner must send written notice of the inspection to all units at the property. The notice must advise tenants that some of the units at the property will be inspected and that the tenants whose units need repairs or maintenance should send written notification to the landlord as provided in RCW 59.18.070. The notice must also advise tenants that if the landlord fails to adequately respond to the request for repairs or maintenance, the tenants may contact city officials. A copy of the notice must be provided to the inspector upon request on the day of inspection.~~

2.a. If a rental property has twenty or fewer dwelling units, no more than four dwelling units at the rental property may be selected by the city to provide a certificate of inspection as long as the initial inspection reveals that no conditions exist that endanger or impair the health or safety of a tenant.

~~3.b.~~ If a rental property has twenty-one or more units, no more than twenty percent of the units, rounded up to the next whole number, on the rental property, and up to a maximum of fifty units at any one property, may be selected by the city to provide a certificate of inspection as long as the initial inspection reveals that no conditions exist that endanger or impair the health or safety of a tenant.

B. Inspection results. e-

1. If a rental property owner is asked to provide a certificate of inspection for a sample of units on the property and a selected unit fails the initial inspection, the city may require up to one hundred percent of the units on the rental property to provide a certificate of inspection.

2.d. If a rental property has had conditions that endanger or impair the health or safety of a tenant reported since the last required inspection, the city may require one hundred percent of the units on the rental property to provide a certificate of inspection.

e3. If a rental property owner chooses to hire a qualified inspector other than a city code enforcement officer, and a selected unit of the rental property fails the initial inspection, both the results of the initial inspection and any certificate of inspection must be provided to the city.

CB. Tenant Notification.

1. ~~If a rental property owner chooses to inspect only a sampling of the units, the owner must send written notice of the inspection to all units at the property. The notice must advise tenants that some of the units at the property will be inspected and that the tenants whose units need repairs or maintenance should send written notification to the landlord as provided in RCW 59.18.070. The notice must also advise tenants that if the landlord fails to adequately respond to the request for repairs or maintenance, the tenants may contact city officials. A copy of the notice must be provided to the inspector upon request on the day of inspection.~~

2. The landlord shall provide written notification of his or her intent to enter an individual unit for the purposes of providing the city a certificate of inspection in accordance with RCW 59.18.150(6). The written notice must indicate the date and approximate time of the inspection and the company or person performing the inspection, and that the tenant has the right to see the inspector's identification before the inspector enters the individual unit. A copy of this notice must be provided to the inspector upon request on the day of inspection.

32. A tenant who continues to deny access to his or her unit is subject to RCW 59.18.150(8).

~~C. The owner shall submit a certificate of inspection based upon the physical inspection of the rental property which was conducted after the City of Tacoma's date of inspection which caused the notice of violation sent to the owner, pursuant to TMC 6B.165.050, stating that a provisional rental property license is required.~~

D. Any person who knowingly submits or assists in the submission of a falsified certificate of inspection, or knowingly submits falsified information upon which a certificate of inspection is issued, is, in addition to the penalties provided for in TMC 6B.10.260, guilty of a gross misdemeanor and may be punished by a fine of not more than \$5,000. Any inspector convicted of, admitting to or submitting a falsified certificate of inspection, will no longer be a qualified inspector as defined under TMC 6B.165.030.

(Ord. 28125 Ex. A; passed Jan. 15, 2013; Ord. 27967 Ex. A; passed Feb. 1, 2011)

6B.165.100 Inspection appeal.

A. If a rental property owner does not agree with the findings of an inspection performed by a qualified inspector, as defined under this section, other than a city code enforcement officer, the property owner may request a Minimum Housing Code Inspection by a city code enforcement officer and pay the applicable fee.

B. If a rental property owner does not agree with the findings of an inspection performed by a city code enforcement officer under this section, the property owner may request an administrative review as provided in TMC 2.01.050.D.5.b.appeal as provided below:

~~1. An owner may request an administrative review by the Building Official of findings of inspection, by filing a written request with the Neighborhood and Community Services Department within ten calendar days of the inspection.~~

~~2. The request shall state in writing the reasons the Building Official should review the findings. Failure to state the basis for the review in writing shall be cause for dismissal of the review. Upon receipt of the request for administrative review, the Building Official shall review the information provided.~~

~~3. Decision of Building Official. After considering all of the information provided, including information from the code enforcement officer and the City Attorney, or his or her designee, the Building Official shall affirm, or modify the findings of inspection. The Building Official's decision shall be delivered in writing to the appellant by first-class mail or hand delivery.~~

~~4. Appeals of the Decision of the Building Official to Hearing Examiner. Appeals of the Decision resulting from the Building Official's Review shall be made to the Hearing Examiner within 21 calendar days from the date of the Building Official's Decision. The hearing shall be conducted in accordance with the procedures for hearing contested cases set out in TMC 1.23. The Hearing Examiner shall set a date for hearing said appeal and notify the licensee by mail of the time and place of the hearing. After the hearing thereon the Hearing Examiner shall, after appropriate findings of fact and conclusions of law shall issue Findings of Fact and Order in writing.~~

(Ord. 28208 Ex. A; passed Mar. 18, 2014; Ord. 27967 Ex. A; passed Feb. 1, 2011)

6B.165.110—Compliance with provisions.

~~A. Any person required to have a provisional rental property license who files a complete application, pays the license fee within thirty (30) days, and files a certificate of inspection within ninety (90) days following the initial notice shall be deemed compliant with this chapter unless and until the application is denied; provided however that such person, or their designated local agent responsible for managing the property, shall also be required to attend the City's Crime Free Housing Landlord Training and pay the appropriate fee for such, within one hundred eighty (180) days following the initial notice.~~

~~B. Any person required to have a provisional rental property license who provides and adheres to an acceptable work plan to bring the property into compliance with RCW 59.18.060 shall be deemed compliant upon approval by the City; provided, however, that such person, or their designated local agent responsible for managing the property, shall also be required to attend the City's Crime Free Housing Landlord Training and pay the appropriate fee for such, within one hundred eighty (180) days following the initial notice.~~

~~C. It shall be unlawful to rent, to receive rental income from, or to offer for rent a dwelling subject to the license requirements of this chapter beginning ninety (90) days after service of notice by the City that a license is required under this part unless a complete application and a certificate of inspection for a provisional rental property license has been submitted for the rental property, or a work plan has been provided and approved pursuant to TMC 6B.165.110(B).~~

(Ord. 28125 Ex. A; passed Jan. 15, 2013; Ord. 28108 Ex. F; passed Dec. 4, 2012; Ord. 27967 Ex. A; passed Feb. 1, 2011)

6B.165.120 Sale of property – Owner notification~~New owner compliance with provisions.~~

Where a property has an existing provisional rental property license requirement ~~and conditions exist that are in violation of RCW 59.18.060~~ and there is a change of ownership, the owner selling the property shall notify the City at the time of the sale. ~~†~~The new owner will may be subject to the provisions of this chapter upon receiving a notice of violation and may appeal such determination as provided in 6B.10.140.

~~The new owner shall provide a plan to bring the property into compliance with RCW 59.18.060 to the City for approval within 30 days from the date of the notice of violation. An approved plan by the City will exempt the new owner from the license fee requirement as long as the plan requirements are met. If the plan is deemed unapproved or withdrawn by the City the license fee due under TMC 6B.165.070 shall become immediately due.~~

~~A new owner required to obtain a provisional rental license may appeal such a determination as provided in General License Provisions 6B.10.140 Suspension or revocation—Appeal.~~

(Ord. 28125 Ex. A; passed Jan. 15, 2013; Ord. 27967 Ex. A; passed Feb. 1, 2011)

~~6B.165.130—Revocation of Annual Business License.~~

~~Any license issued under TMC 6B.20 may be suspended or revoked for any violation of this chapter by the licensee, or his or her agents or employees.~~

(Ord. 27967 Ex. A; passed Feb. 1, 2011)

6B.165.140 Violations - ,Certificate of Complaint~~penalties, and appeals.~~

If the city finds that a violation of any provision of this chapter exists, the City, after notice to the owner, may take any one or more of the following actions to remedy the violation:

- ~~1. Impose a civil penalty in accordance with General License Provisions TMC 6B.10.260 Violations—Penalties or;~~
- ~~2. Revoke or deny the provisional rental property license; or~~
- ~~3. Revoke or deny the Annual Business License or;~~
- ~~4. File a Certificate of Complaint as defined in TMC 2.01.~~

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~~Violations and penalties in this section may be appealed as provided in TMC 6B.10.265 Administrative reviews by the director of Notice of Penalty—Appeal.~~

~~Revocation or denial of license may be appealed as provided in General License Provisions TMC 6B.10.140 Suspension or Revocation—Appeal.~~

(Ord. 28125 Ex. A; passed Jan. 15, 2013; Ord. 27967 Ex. A; passed Feb. 1, 2011)