

AGENDA ITEM: **A**

MEETING DATE: January 8, 2020

ITEM:

Amend Chapter 6.37 of the Elgin Municipal Code, Rental Residential Property
(No cost)

OBJECTIVE:

Adjust the current rental license program to increase transparency, consistency and improve customer experience.

RECOMMENDATION:

Approve the recommended changes to the rental licensing ordinance to enhance the program and update fees to more closely align to the costs of delivering the program.

The division of code compliance has adjusted processes and practices internally and externally over the previous year. Aside from resource levels, which were increased as part of the 2020 budget, the next largest area of opportunity for the department of neighborhood services is the residential rental license program. Based on internal and external outreach, staff is recommending an update to the ordinance to assist in utilizing new technologies and communication methods, updating the fee schedule to stay on par with similar communities and programs and improve the satisfaction of landlords and tenants alike while conducting business in the rental environment.

BACKGROUND

The previous year has brought about many adjustments to the department of neighborhood services, specifically to the code compliance division. These changes include operational efficiencies, the introduction of new technology, adjusted practices and standard operating procedures and other policies that strive to engage the stakeholders within Elgin more empathetically and customer centric. Examples of these changes include:

- Introduced new code compliance software built in-house within the Salesforce platform, eliminating an \$80,000 vendor contract.
- Enhanced communication with the police department's crime free housing unit and developed a "property alert" within Salesforce to share important officer safety information.



- Adjusted the practice of condemning a structure and forcing tenants to vacate the property, solely when a property owner fails to maintain a rental license, thereby eliminating the practice of using the city’s rental program to “evict” tenants.
- Rewrote the current standard operating procedures, some of which dated back to 2003, adjusted a wide array of items from basic case management and inspection procedures to boarding up of unsecured structures and identifying modern safety gear to be issued to officers.
- Adjusted the process for overcrowding investigations to reduce the likelihood of unfair targeting of residents by anonymous complainants.
- Clarified the language on property maintenance and rental license letters to be both clear and customer friendly when seeking compliance and incorporating full Spanish translations on all notices of violation and grass/weed notices.

While these changes have made impacts, staff realizes that systemic adjustments to the division of code compliance are needed to deliver the results desired by the community. Staffing was determined as the largest need within the department. This need was addressed within the 2020 budget which will see the addition of two code compliance officers. The second largest operational area of opportunity is the City’s rental licensing program. After general “property maintenance” code compliance, the division’s largest responsibility is the licensing and inspection of all residential rental properties within the City.

Rental units have consistently grown over the last twelve years, up to 5,200 in 2019 from 1,450 in 2007. The current 5,200 rental licenses within the City represent more than 11,000 individual rental units. Two dedicated rental inspectors conduct ten-to-twelve inspections per day and have 30 minutes to complete the inspection and travel to the next appointment. A ten-to-fifteen minute inspection does not lend itself to a quality, consistent product. By example, at the time of writing, the revised rental inspection checklist for officers has 398 data points the inspection needs to evaluate within a rental property. This level of detail requires additional time.

OPERATIONAL ANALYSIS

The current ordinance was written in 2000 and no significant amendments have occurred since. Fees and fines are still at levels that were appropriate twenty years ago. The proposed changes were developed within the framework of three outcomes. These outcomes arose from a variety of outreach methods including internal and external stakeholder interviews, public meetings and a review of other municipal rental programs.

Outcome 1: Enhance transparency for and communication with tenants, owners and administrators

1.1. Publish a uniform inspection checklist

One of the primary concerns raised by external stakeholders is inconsistent inspections from year to year. To address this concern, the revised program will include a compre-



hensive checklist used by all rental license inspectors. This list will be published online and made available to all license applicants. The current program sends a general pre-inspection checklist but does not go into detail about the specific items looked for during an inspection. This should allow for a much higher degree of transparency and comfort for owners to know what the City will look at during an inspection.

1.2. Publish an active rental license directory

Prospective and current tenants deserve to know if their rental unit is licensed. To ensure this information is available without the need to submit a Freedom of Information Act request, the City will begin making a master listing of active rental licenses available online for download.

1.3. Perform a “transfer stamp” analysis on properties prior to issuing a license

When a license is renewed, or a property is registered, there will be a review of the property similar to the review conducted when issuing a transfer stamp. This review includes open, uninspected permits, permits that failed an inspection but have not corrected the situation, unpaid fines, fees, etc. This step will ensure that the customer receives more consistent information about their property.

1.4. Recognize temporary rental situations such as Airbnb

The concept of temporary rental properties like VRBO (vacation rental by owner) and Airbnb are not recognized in the current ordinance. Identifying these business models clarifies the City’s acknowledgment of them and helps ensure that these locations are held to the same exacting standards as other rental property. For reference, currently, Airbnb and similar uses are acceptable, but the property must have an active rental license. This regulation will not change but will be more clearly defined within the revised ordinance.

Outcome 2: Eliminate stakeholder pain points

2.1. Forgive two non-life safety violations when issuing two-year extensions

Sometimes, despite a landlord’s pre-inspection preparation or preventive maintenance, minor infractions can occur. Therefore, an inspection which has two or less non-life-threatening violations that are corrected and verified within ten business days will be afforded the two-year extension, just as a violation-free inspection.

2.2. Recognize electronic communication as official correspondence

Changes in the use of the internet, computers and cell phones since 2000 afford both customers and city officials greater flexibility and efficiencies when using electronic mail as correspondence.

2.3. Adjust license expiration to last day of the month

Rental licenses currently are valid for one year and expire on the precise date of issue the next year. This expiration structure requires issuing renewals daily. The proposed



ordinance would see each license expire on the last day of the month that they were initially issued. This will significantly streamline the workflow on the rental license administrator.

2.4. Allow for corporation changes to forego inspections if property has been recently inspected

The division currently requires owners who simply change corporate/LLC names to go through the process from the beginning inclusive of all inspection requirements. The revised ordinance allows for no inspections to be conducted if the property has been inspected within the last six months.

2.5. Provide greater City latitude for unlawful property condemnation status

The current ordinance contains a provision that within 60 days of a revoked license the structure must be vacated. When originally conceived, this provision allowed for the City to impose an economic incentive to maintain an active license, because if an owner did not, they would lose their rental income within two months. In practice, however, staff has found that some owners will utilize this provision as an eviction service, as 60 days is often faster and cheaper than going through eviction proceedings in the circuit court. There have been instances where a property owner has put the City in a situation where structures were condemned as “unlawful,” simply for an unpaid license, a cracked windowpane, an expired license or repeatedly missing appointments, by example. Displacing a family for such non-life-threatening issues was not the heart of the original ordinance. The revised ordinance will allow occupants to stay under the roof of an “unlawful structure” while imposing increased financial repercussions upon the owner. The American Planning Association also recognizes that such a provision may be too draconian for contemporary rental license regulations, “[o]ther ordinances require landlords who have lost their license to vacate their properties, even if loss of the license is for reasons unrelated to the health or safety of the unit, thus—once again—penalizing an innocent party for the misbehavior of others.” (*The Zoning Practice, Improving Rental Housing Quality Through Effective Regulation*, October 2019).

2.6. Lower requirement for cancelling inspections from 24 to 12 hours

Current regulations require that an inspection be cancelled at least 24 hours before the appointment. The revised ordinance takes into consideration that plans can change within 24 hours and will now permit licensees to cancel an inspection within 12 hours.

2.7. Allow for an option to self-schedule re-inspections

While initial inspections would remain scheduled by City. The program would allow for requests to change an initial inspection using an online form. In addition, the option to schedule follow up inspections would be available for online self-scheduling via the city’s online portal. These features will be incorporated into the development of the online portal, proposed to occur throughout 2020.



Outcome 3: Increase property owner accountability

3.1. Allow for posting suspension and revocation notices to the property to serve as official notice

Currently, suspension and revocation notices can only be mailed, with revocation notices being sent certified mail. Officers have encountered instances where certified mail remains unclaimed. This addition affords the officer the flexibility to post notices of suspension and revocation on the property itself and consider that official notice.

3.2. Consider repeat violations by property owner rather than property address

City code officers have encountered property owners that will be cited for an offense at one property, and subsequently find the same offense at another property owned by the same person/entity. Current practice calls for this to be treated as a separate offense. Revisions to the ordinance would allow for escalated enforcement in instances when the property owner has been cited for the same offense at another property. Repeat violations begin with a citation (ticket) rather than a notice of violation (warning). This will greatly incentivize owners to proactively address known violations rather than “wait to see if the City notices.”

3.3. Require an “authorized agent” to be able to be present at a property within 24 hours

The concept of “absentee landlords” is often cited as a reason for low quality rental housing stock. The American Planning Association identifies the issue, stating that “some landlords, particularly those who don’t live in or close to the same community where they own property or those who have other responsibilities demanding their full attention, cannot do justice to their properties through self-management. If their properties are to be well managed, they need to hire a professional property manager.” (*The Zoning Practice, Improving Rental Housing Quality Through Effective Regulation*, October 2019). To begin to address this concern, the revised ordinance would require an authorized agent to be able to respond to the property within a 24-hour time frame. This requirement allows for more reasonable response times to address urgent issues, reduce missed inspections, increase the opportunity for more preventative maintenance, and rely less on occupants to perform functions typically reserved for property owners. An existing provision within the City’s current ordinance that requires this information to be posted within the main entryway of the property will also be revisited with each license holder.

3.4. Rescind two-year extension status due to repeated property maintenance violations

The need to occasionally rescind an extension based on specific property maintenance criterion is crucial. To hold a property owner responsible, there must be an understanding that their commitment to the City and the residents is ongoing, not just during inspection periods. If a property has more than two violations within one year, and that property had previously received a two-year extension, the owner is not monitoring the property to the extent deserving of the extension. The revised ordinance will rescind that extension upon two or more property maintenance violations within a calendar



year. Following the rescinded status, the property would be subject to the annual inspection and fee requirements the following license year.

3.5. Decrease the time required to satisfactorily complete the Landlord Training Class

New property owners who obtain rental licenses are currently required to complete the class within 12 months of the issuance of the license. To emphasize the importance of being a responsible property owner, diligently monitoring their property, and being educated on identifying criminal or detrimental behavior, the revised ordinance shortens the maximum time to complete the class to 30 days from inception of the license.

3.6. Reduce the notification time for a change in property management

Delays in notifying the code compliance division of changes in mailing addresses or other contact information have led to an increase in missed inspections, returned mail and fines to the owners. Staff is recommending reducing this crucial notification timeframe from 30 days to 15 days.

3.7. Implement higher fine amounts for certain violations

Elgin's municipal code currently authorizes code officers to issue citations ranging from \$50 to \$750 per day that the offense occurs. In practice though the \$50 amount most commonly issued. Under the revised program staff will be implementing an altered practice of issuing citations that begin at a higher amount for certain violations. The violations that will carry a higher initial citation amount include unlawful basement sleeping and work performed without a permit. These violations are often repeated by offending property owners. The revised practice would begin citations at \$100 with repeat violations escalating to \$500.

3.8. Adjust existing penalties/fees for re-inspections and late payments

The department has encountered instances where the existing flat fee penalty is not commensurate with the penalty fee itself. For instance, a revocation carries a fine of \$500 but a late fee of only \$50. The revised ordinance would create late payment fees proportional to the fee themselves.

- Increase the re-inspection (third inspection) and each subsequent inspection from \$50 to \$100
- Increase late payment fee 30 - 60 days from \$50 flat fee to 25 percent of fee
- Increase late payment of more than 60 days from \$50 flat fee to 50 percent of fee

Items not changing:

- **Two-year license inspection waiver for zero violations**

The current ordinance allows for a two-year license extension if a property receives zero violations during the initial inspection. Throughout the community outreach conducted during the review of this program, it was repeatedly expressed that this extension is a vital reward to high performing property owners. The proposed ordinance does not alter this extension.



- **Suspension/revocation fees**
Suspension fees remain at \$100 and revocation fees remain at \$500.
- **Ratio of inspections per building**
The current ordinance requires that 20 percent of units be inspected annually. The proposed ordinance does not alter this ratio.

INTERESTED PERSONS CONTACTED

Several outreach methods and groups were used to gather feedback for this recommendation.

Residents that utilize rental properties in Elgin were invited to a round table discussion at the Centre of Elgin on September 24 to discuss items of concern, and in their opinion, the City’s opportunities for improvement. Property owners were similarly invited to a round table discussion at the Centre on September 30 to discuss items of concern. A key piece of feedback from this meeting was the desire to maintain two-year extensions.

The Illinois Association of Realtors provided vital input into the proposed regulations throughout this process. This stakeholder organization works closely with not only Elgin’s local realty groups, owners and property managers, but across the entire state, advocating for rental practices that benefit the renters and landlords alike. The various facets of the recommended changes, including the proposed fee, were discussed and supported.

Internal administrative staff, all code officers, other department heads, finance, billing and information technology systems were engaged in determining these recommendations.

Municipalities with similar demographics and rental property inspection programs, such as Aurora, Palatine, Waukegan, Joliet and Peoria, were also compared and consulted.

FINANCIAL ANALYSIS

The revised ordinance would update the fee structure to one that is both competitive with other communities and more accurately captures the cost of providing the services of the program. The fees are proposed to be adjusted to the following.

Units	2007 Fee	Proposed Rate	Units	2007 Fee	Proposed Rate
1 - 5	\$ 71	\$ 149	51 - 55	\$ 428	\$ 897
6 - 10	\$ 107	\$ 224	56 - 60	\$ 463	\$ 970
11 - 15	\$ 143	\$ 300	61 - 65	\$ 499	\$ 1,045
16 - 20	\$ 178	\$ 373	66 - 70	\$ 535	\$ 1,121
21 - 25	\$ 214	\$ 448	71 - 75	\$ 570	\$ 1,194
26 - 30	\$ 250	\$ 524	76 - 80	\$ 606	\$ 1,270
31 - 35	\$ 285	\$ 597	81 - 85	\$ 642	\$ 1,345
36 - 40	\$ 320	\$ 670	86 - 90	\$ 677	\$ 1,418
41 - 45	\$ 356	\$ 746	91 - 95	\$ 713	\$ 1,494
46 - 50	\$ 392	\$ 821	96 - 100	\$ 748	\$ 1,567



Under the existing fee structure, revenues for the rental license program average \$240,000. Revenue estimates for the revised fees is \$496,000. The increased fees also will provide for approximately 91 percent of the costs associated with the program. This cost coverage assumes program costs at \$547,940 per year calculated at 3.5 hours per day spent on rentals for each of the nine code compliance officers as well as .75 full time equivalent costs for the rental license administrator.

Staff considered several revised scenarios before finalizing this recommendation. Other scenarios included a smaller fee increase but would require each license to pay annually. This structure is the most common among other communities reviewed. Reducing the two-year extension to a one-year license extension scenario was also considered. This allows for a smaller increase to the annual license fee. Neither alternative scenario was recommended based on stakeholder input. It was felt by stakeholders that it is important to continue to reward property owners with a license extension that not only skips the inspection requirement, but also the license fee for a period of two years. Approximately 40 percent of license holders earn the two-year extension status.

Despite the fee increase, the revised rates maintain competitiveness when compared to other communities. When comparing Elgin’s existing fee structure for the most common license types (single family home), Elgin’s fees were found to be on average 117 percent lower. The revised fee structure aligns Elgin’s fees to other communities. The same analysis under the revised fee structure finds that Elgin’s fees would be on average five percent lower than other communities. When comparing the proposed fees to a five-unit building, Elgin’s fees remain well below other communities, approximately 150 percent lower. Around 93 percent of Elgin’s license holders fall into the one to five-unit licenses category, and therefore will still be paying a lower license fee when compared to other communities.

BUDGET IMPACT

FUND(S)	ACCOUNT(S)	PROJECT #(S)	AMOUNT BUDGETED	AMOUNT AVAILABLE
N/A	N/A	N/A	N/A	N/A

LEGAL IMPACT

None.

ALTERNATIVES

The alternative is to keep the existing ordinance, which by opinions both internal and external, public and private, does not adequately protect residents’ property values and the desired appearance of the City.

NEXT STEPS

1. Refine and complete a new checklist/inspection user interface that will allow for a more uniform and repetitive inspection process, regardless of the officer performing the inspection. This will offer property owners and occupants alike a clear, consistent expectation of the inspection process from year to year.
 2. Conduct outreach, including a letter to all interested parties advising them of the new program and inspection processes.
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Originators: Aaron Cosentino, Neighborhood Services Director
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Final Review: Debra Nawrocki, Chief Financial Officer
William A. Cogley, Corporation Counsel/Chief Development Officer
Richard G. Kozal, City Manager

ATTACHMENTS

- A. None

