

ORDINANCE NO. ORD-17-10

First Reading: June 19, 2017
Public Hearing: July 3, 2017

Approved: July 3, 2017
Published: July 14, 2017
Effective: July 24, 2017

AN ORDINANCE TO AMEND SECTIONS 8:501 AND 8:511 AND TO REPEAL SECTIONS 8:522 AND 8:524 OF CHAPTER 105, HOUSING CODE, OF TITLE VIII OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor ordains:

Section 1. That Section 8:501 of Chapter 105 of Title VIII of the Code of the City of Ann Arbor be amended to read as follows:

8:501. - Application of chapter.

Except as otherwise provided herein, the provisions of this chapter shall apply to all dwellings, dwelling units, rooming units and premises in the City of Ann Arbor without regard to whether these were constructed before or after the effective date of this chapter. Owner occupied dwellings may be inspected either upon a request of the owner or upon receipt of a complaint of a health, safety or welfare violation. The following sections shall not be applicable to owner-occupied dwellings: 8:502(5)(6), 8:503(8), 8:509(2)(9c).

~~There are no waivers for pre-existing conditions except for legally granted variances.~~

Section 2. That Section 8:511 of Chapter 105 of Title VIII of the Code of the City of Ann Arbor be amended to read as follows:

8:511. - Inspections.

- (1) Periodic inspections and fees therefor.
 - (a) The Building Official shall inspect all dwelling units, except owner-occupied single-family attached and detached, and homes for the aged which are licensed by the State of Michigan, on a periodic basis. This includes city-owned public housing. For abandoned dwellings, the period between inspections shall be no longer than 3 months; for all other dwellings, except as otherwise provided in this section, the period between inspections shall be no longer than 2½ years. Copies of the state inspection report and license for homes for the aged shall be submitted to the Building Official annually. This current information shall be retained as part of the permanent record of each such facility. Failure to submit the copy of the license shall result in the need for inspection/certification by the Planning and Development Services Unit.

Upon determination of the Building Official that the self-inspection program of a terrace family housing cooperative meets the standards of this section, that cooperative shall be exempt from the periodic inspection provisions of this section and the certificate of occupancy provisions of section 8:516. A terrace family housing cooperative is dwellings owned by a non-profit corporation and financed pursuant to the National Housing Act, each of which is occupied by a member of the non-profit corporation pursuant to the bylaws and an occupancy agreement providing for exclusive occupancy of the units by members of such corporation. The requests for an exemption shall be accompanied by authorization for the request from the members of the corporation, wherein the membership was informed of its rights under this chapter. The cooperative shall have its own written self-inspection program, for compliance with this code, that includes:

1. An inspection form comparable to that used by the Building Department for identification of code violations.
2. Annual inspection of no less than 25% of all units with each unit inspected no less than once every 4 years.
3. A system for providing copies of all inspection reports, and reinspection reports, including certification of the work completed, following remedial action of any violations of the code identified during the inspection, at least annually to the Building Department.
4. A system for the validation by the department of the reports submitted in paragraph (3) through the inspection, at the cooperative's expense, of up to 25 of the units inspected each year which shall include a method to correct any pattern of deficiencies noted in the validation inspections.
5. A system for the immediate correction of any fire, safety, or health hazards.
6. A system of providing all members at least annually and at the time of move in with a written statement of procedures to be followed if the member has a problem with his/her unit, including a statement that the member may at any time seek and obtain an inspection by the Building Department of physical problems within the unit.
7. If the department concludes, after a self-inspection program has been in operation for at least 1 year, that a cooperative has failed to meet 1 or more of the requirements of 8:511(1)(a)(i) through (vi), it shall notify the cooperative in writing stating the reason(s) for each of its conclusions. The cooperative shall respond to the department

within 30 days of receipt of the notice by accepting or rejecting each of the conclusions. For each conclusion, the cooperative accepts, it shall indicate a time period for corrective action. If the department and the cooperative are unable to resolve the matter, it shall be submitted to the Housing Board of Appeals pursuant to section 8:515. If the board finds against the cooperative, it shall allow the cooperative 180 days to complete corrective action before concluding that the cooperative cannot continue a self-inspection program.

8. The decision of a cooperative to have a self-inspection program shall not preclude any member of the cooperative from requesting and obtaining an inspection of his/her unit by the department nor preclude the cooperative from requesting such inspections by the department as it deems necessary.
 9. A self-inspection program, unless terminated by the city, may continue for a 3-year period. The cooperative shall within 6 months prior to the expiration of any 3-year period reapply, upon approval of the members for an additional 3 years. If a cooperative's participation in such a program has been terminated by either party, the cooperative may reapply at any time after 3 years from the date of termination.
- (b) An inspection shall be conducted in the manner best calculated to secure compliance with the code and appropriate to the needs of the community. Inspections shall be on, but not be limited to, the following basis:
1. An area basis, such that all the regulated premises in a predetermined geographical area will be inspected simultaneously or within a short period of time.
 2. A request basis, such that an owner applying for a certificate of compliance may request an inspection, which shall be made within a reasonable time.
- (c) An inspection shall be carried out by the Building Official and such representatives of other services areas or units as may form a team to undertake an inspection under this and other applicable laws.
- (d) An inspector or team of inspectors may request permission to enter all premises regulated by the Code at reasonable hours to undertake an inspection. Upon an emergency, the inspector or team of inspectors shall have the right to enter at any time. An emergency shall exist for purposes of the chapter when the Building Official has reason to believe that a condition hazardous to health or safety exists requiring immediate attention.

- (e) When a violation is found, the Building Official shall at the expiration of the time set for correcting the violation, or earlier if notified by the owner, reinspect the premises to determine whether the violation has been corrected. If such reinspection is not made, due to the action or inaction of the owner or agent, an occupant may pay his/her rent to the Building Department to be held in escrow until the reinspection is made.
 - (f) The Building Official shall charge the owner a fee for each periodic inspection and each reinspection required to correct violations. The fee for these inspections shall be established by resolution of the City Council upon the recommendation of the City Administrator. The initial inspection fee shall be paid in advance, reinspections shall be billed per the appropriate rate. Unpaid fees may be assessed against all premises in accordance with the procedures specified in section 1:292 of Title I of this Code.
- (2) Complaints.
- (a) The Building Official shall maintain a written record of each complaint concerning a violation of the Code. This record shall include the date and time the complaint was filed and the name and address of the person making the complaint. An inspection of premises for which complaints have been received will be made within 10 working days. In the course of carrying out the inspection, the inspector shall cite any violations noticed, and any additional complaints made by the resident shall be inspected.
 - (b) If a complaint is filed with the Building Official, concerning an alleged violation in a building, the Planning and Development Services Unit shall notify the owner of said complaint. If there are violations, the provisions of section 8:513 shall be applied.
 - (c) When an inspection is made upon a complaint, and it is determined that no violation exists, and that the purpose of the complaint was not harassment, no charge will be made for the inspection.
 - (d) When a violation or violations are found, the person making the inspection shall file a written report of such violation or violations with the Planning and Development Services Unit within 1 week of the inspection.
 - (e) Any person causing an inspection to be made for the sole purpose of harassing any individual, corporation, or governmental agency when no violation is actually present shall be billed twice the ordinary cost of said inspection, and could be subject to civil liability.
- (3) Inspection authorization.

Ordinance No. ORD-17-10 Cont.

- (a) In a non-emergency situation, a request for permission shall be made before an inspection to the owner or his agent, or to the occupant, and to both owner or agent and occupant, if both are present. If the inspection is based upon a complaint, the inspector shall try to schedule the inspection for a time when the complainant will be present. Where the owner or occupant demands a warrant for inspection of the premises, the Building Official shall obtain a warrant from a court of competent jurisdiction. The Building Official shall prepare the warrant, stating the address of the building to be inspected, the nature of the inspection as defined in this Code or other applicable law, and the reasons for the inspection. It shall be appropriate and sufficient to set forth the basis for inspection (e.g. complaint, area) established in this section, in other applicable codes or in rules or regulations. The warrant shall also state that it is issued pursuant to this section, and that it is for the purposes set forth in this and other codes which require that inspections be conducted.
 - (b) If the court finds that the warrant is in proper form and in accord with this section, it shall be issued forthwith.
 - (c) In the event of an emergency, no warrant shall be required.
- (4) Policy regarding inspection.
- (a) It is the policy of the city that the inspection procedures set forth in this Code are established in the public interest, to secure the health and safety and general welfare of the occupants of dwellings and of the general public.
 - (b) The Building Official shall keep a record of all inspections and reports of violations, and the records are to be open to the public for review and copying.
 - (c) The Building Official shall make available to the general public a checklist of commonly recurring violations for use in examining premises offered for occupancy.
 - (d) The Building Official shall submit monthly reports to the City Council specifying the number of initial inspections, reinspections, and buildings certified for occupancy during the month. In addition, the report shall include the number of complaints, buildings razed, appeals heard, abandoned dwellings inspected, certificates suspended, persons using the city escrow account, and tickets issued during the month. The report shall also include notice of public hearings being held on any administrative rules, and the number of inspection reports that have not been prepared within the 10 working days. These monthly reports shall be available to the public upon request through the Planning and Development Services Unit.

- (5) For dwellings that are determined to be in full compliance with this chapter at the first inspection of a periodic inspection, the period between that inspection and the next inspection shall may be extended to 3½ years.

Section 3. That Section 8:522 of Chapter 105 of Title VIII of the Code of the City of Ann Arbor be repealed in its entirety and the section number reserved as follows:

8:522. ~~-Escrow.~~ Reserved.

- (1) ~~Agent. The Building Official or authorized agent is hereby authorized to act as escrow agent and to receive all monies deposited as; security for damages, or because of a dispute between the owner or agent and occupant due to code violations, or due to suspension of the certificate of compliance for the premises.~~
- (2) ~~Agreement information. The standard landlord tenant escrow agreement, which shall be prepared by the City Attorney and approved as to form by the City Council, shall include the following items of information, authorizations, and instructions for action by the Building Official or authorized agent:~~
- ~~(a) The date of execution of the agreement.~~
 - ~~(b) The names and addresses of the landlord and the tenant or tenants respectively.~~
 - ~~(c) The location of the leased or rented premises to which the agreement applies.~~
 - ~~(d) The dates of beginning and termination of the tenancy to which the agreement applies.~~
 - ~~(e) The amount of money deposited under the agreement.~~
 - ~~(f) Instructions for the Building Official or authorized agent to deposit the amount received pursuant to the agreement in a local savings institution, wherein, it may be commingled with the amount received pursuant to escrow agreements between other landlords and tenants with respect to other premises.~~
- (3) ~~Disbursement of funds. The escrow agreement shall establish the terms and methods of disbursal of monies deposited in the account.~~
- ~~(a) If the agreement jointly instructs the Building Official to pay out some or all of the money to the landlord upon resolution of the matter, this joint instruction shall be obeyed and this agreement may be a defense against suit for nonpayment of rent.~~

~~(b) — The tenant(s) has 3 options:~~

~~(i) — Monies in escrow can be established so that they shall be returned to the tenant upon his/her written request. However, the landlord may maintain a suit for nonpayment of rent.~~

~~(ii) — Authorize full distribution of the monies to the landlord upon completion of repairs. This shall be a defense for nonpayment of rent.~~

~~(iii) — Tenant and landlord can jointly authorize any distribution that they want, and it can also be a defense for nonpayment of rent.~~

~~(c) — Nothing in this section shall be construed as a legal defense in a suit for nonpayment for any or all portions of the escrowed monies which are not designated for distribution to the landlord, except as provided by state law. However, an agreement signed by both the landlord and tenant(s) stating this escrow is in lieu of legal action by either or both parties shall be a legal defense to a suit for nonpayment of rent.~~

~~(4) — Accounting/notification. The Building Official shall notify both the tenant and landlord of establishment of an escrow account, or of withdrawal of monies from an escrow account and shall keep a record of all such monies in the accounts.~~

Section 4. That Section 8:524 of Chapter 105 of Title VIII of the Code of the City of Ann Arbor be repealed in its entirety and the section number reserved as follows:

~~8:524. — Information regarding utility charges. Reserved~~

~~No owner of rental property shall lease the property without furnishing to the tenant, before the time of entering into the lease, a budget plan. As used in this section, "budget plan" means a projection of monthly utility costs for primary heating fuel prepared by the public utility company. This section shall apply to the rental of all dwelling units for which budget plan information is available from the utility company without charge and in which the tenant is required to pay the owner or the utility company a utility charge for heating fuel in addition to rent. The budget plan statement shall be in writing, included as part of the leasing agreement, but may be prepared by the owner based on information verbally supplied by the utility company.~~

Section 5. In the event any court of competent jurisdiction shall hold any provision of this Ordinance invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision thereof.

Section 6. This ordinance shall take effect on the tenth day following legal publication.

CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan, at its regular session of July 3, 2017.

(Date)

Jacqueline Beaudry, Ann Arbor City Clerk

Christopher Taylor, Mayor

I hereby certify that the foregoing ordinance received legal publication on the City Clerk's Webpage on July 14, 2017.

Jacqueline Beaudry, Ann Arbor City Clerk