

PROPOSED AMENDMENTS

Amendment 1: Compliance Period Timing

Section to Amend: Chapter 105, Section 8:534(3) and (4)

Section 8:534(3) shall be amended to read:

“Compliance Period 1 shall begin three (3) years after the effective date of this ordinance and shall end six (6) years after the effective date.”

Section 8:534(4) shall be amended to read:

“Compliance Period 2 shall begin six (6) years after the effective date of this ordinance.”

Rationale:

This amendment aligns the compliance periods with Ann Arbor’s existing three-year rental inspection cycle. It allows landlords and property owners to plan for compliance in tandem with inspections they already undergo, preventing duplication of effort. This approach ensures that city staff are not overwhelmed by a compressed rollout and gives time for the development of necessary infrastructure, such as the availability of qualified energy assessors and administrative systems.

Amendment 2: Alternatives to HERS Assessments

Section to Amend: Chapter 105, Section 8:537(1)(b)

Section 8:537(1)(b) shall be amended to read:

“In lieu of the Checklist described in subsection (a), a property owner may submit a certified energy assessment conducted by a professional rater certified under an alternative credentialing body recognized by the State of Michigan. A RESNET-certified HERS rater may only be used for a HERS index assessment. No other raters may perform a HERS assessment unless RESNET-certified.”

Rationale:

This amendment corrects a misinterpretation of the ordinance’s structure. It clarifies that only HERS-certified raters may conduct HERS assessments, but property owners should have the option of engaging other state-recognized professionals if they are not pursuing the HERS pathway. Given the limited number of RESNET-certified professionals in Michigan, this provision ensures compliance is feasible and equitable without undermining performance standards.

Amendment 3: Definition of Low-Income Owner

Section to Amend: Chapter 105, Section 8:538(2)(a)

Section 8:538(2)(a) shall be amended to read:

“A ‘low-income qualified owner’ means an owner whose total household income is at or below eighty percent (80%) of the Area Median Income (AMI), as defined annually by the U.S. Department of Housing and Urban Development. Or (1) at least fifty percent (50%) of tenants utilize Housing Choice Vouchers or similar rental assistance programs; (2) the property is subject to an enforceable affordability covenant; or (3) the average unit rent is below sixty percent (60%) of AMI-adjusted Fair Market Rent as defined by HUD”

Rationale:

This option provides a widely accepted and administratively straightforward income threshold. The 80% AMI standard is already used in numerous federal, state, and local programs and ensures consistency and legal defensibility.

Amendment 4: Mandatory Waiver Approval When Criteria Are Met

Section to Amend: Chapter 105, Section 8:538(2)

Section 8:538(2) shall be amended to add the following language:

“The Office of Sustainability and Innovations shall publish and maintain a written waiver eligibility policy within sixty (60) days of the effective date of this ordinance. This policy shall define the criteria under which waivers may be granted and shall be applied uniformly.”

Rationale:

A point-based system provides structure to waiver decisions while allowing nuanced consideration of multiple factors. It reduces discretion by replacing subjective judgments with quantifiable criteria, enhancing procedural fairness. This method supports data-driven administration but may require initial resource investment to create and maintain the evaluation framework.

Amendment 5: Limit Frequency of Civil Fines

Section to Amend: Chapter 105, Section 8:540(1)

Section 8:540(1) shall be amended to read:

“No civil fine assessed under this ordinance shall accrue more than once per calendar month for any individual Dwelling or Dwelling Unit.”

Rationale:

Daily fines can quickly accumulate to punitive levels, especially for multifamily property owners, potentially creating financial burdens disproportionate to the violation. Weekly accrual provides a meaningful incentive to comply without triggering excessive costs or prompting displacement of tenants due to sudden repair-related rent increases. This amendment also allows time for scheduling work by qualified contractors.

Amendment 6: Appeals Timeline and Tolling of Fines

Section to Amend: Chapter 105, Section 8:538(4)

Section 8:538(4) shall be amended to include the following provisions:

“The City Administrator *shall* issue a written decision on any waiver appeal within thirty (30) calendar days of receipt. No civil fines *shall* accrue during the pendency of an appeal. If the appeal is denied, fines shall begin accruing as of the date of the written decision and shall not be applied retroactively.”

Rationale:

This amendment establishes a clear timeline for appeal resolution and ensures that no punitive fines are assessed while an appeal is under active review. It preserves the rights of property owners to due process and protects them from retroactive penalties. This structure encourages timely review by the City and reassures applicants that engaging in the appeals process will not result in financial harm.

Amendment 7: Definition of Equitable Relief and Remedies

Section to Amend: Chapter 105, Section 8:540(3)

Section 8:540(3) shall be amended to read:

“In addition to civil fines, the City may seek equitable relief, including but not limited to injunctive relief or specific performance, provided that such relief is proportionate to the nature and extent of the violation. The Office of Sustainability and Innovations shall publish and maintain a set of enforcement guidelines identifying the types of equitable relief the City may pursue under this ordinance.”

Rationale:

This amendment defines “equitable relief” in a way that is legally sound and proportionate. It ensures that remedies are targeted to bring properties into compliance rather than impose punitive or vague enforcement. Clear language benefits both city enforcement efforts and the legal rights of property owners.

This provision emphasizes transparency and predictability in enforcement. By publishing the types of remedies available, the City provides clarity to rental owners and tenants alike. This also allows for public feedback and helps ensure consistency across cases.

Addition of Equity Requirements and Implementation Support to Green Rental Housing Regulations

Amend the ordinance by adding a new Section 8:540.1 titled “Equity Implementation Requirements,” to read as follows:

8:540.1 – Equity Implementation Requirements

(1) Prior to enforcement of the requirements in Sections 8:533 through 8:540, the City shall establish a Green Rental Equity Implementation Plan to ensure that compliance with the Green Rental Housing Checklist does not result in housing displacement, increased rent burdens, or disproportionate hardship to small landlords and tenants in naturally occurring affordable housing.

(2) The Green Rental Equity Implementation Plan shall include, but not be limited to:

(a) An Equity Impact Analysis, assessing the likely distribution of costs and compliance barriers by rental type, unit count, building age, and tenant income levels.

(b) A Financial Assistance Program, including at least one of the following:

- Direct grants, rebates, or subsidies to offset capital upgrade costs;
- Low- or no-interest loan options;
- Bulk purchasing or cooperative procurement options for high-impact items such as HVAC upgrades, insulation, or smart thermostats.

(c) A Tiered or Phased Compliance Option, applicable to buildings with four (4) or fewer rental units, that allows extended timelines or alternative compliance pathways when full checklist compliance would cause undue financial burden.

(d) Displacement Prevention Measures, including requirements for:

- Notification to tenants of planned upgrades and cost implications;
- Reasonable limits on cost pass-throughs tied to checklist compliance; and
- Monitoring of rents in properties that receive city incentives or meet compliance thresholds using bonus items.

(3) The Office of Sustainability and Innovations, shall publish the Green Rental Equity Implementation Plan within six (6) months of the effective date of this ordinance and prior to the start of Compliance Period 2.

(4) Failure to publish and make available the Equity Implementation Plan shall result in suspension of enforcement of increased Energy Efficiency Score thresholds under Compliance Period 2 until such time as the plan is implemented.

Amendment to Section R.3(5) – Scoring Pathway Structure

This amendment directs staff to revise the checklist scoring system to ensure that point values reflect the **actual carbon emissions impact** of each item. It creates a clear distinction between **core energy-related upgrades** and **indirect or educational measures**, preserving flexibility for property owners while maintaining the ordinance's environmental integrity.

The Green Rental Housing Checklist shall be structured into two categories:

1. Core Items – Measures with a direct, measurable impact on building energy performance or carbon emissions, including but not limited to insulation, electrification, appliance efficiency, air sealing, and renewable energy adoption.
2. Bonus Items – Measures that are behavioral, educational, community-oriented, or supportive of sustainability goals, but do not directly reduce building emissions. Examples include swap days, tool libraries, CSA delivery coordination, educational flyers, and paperless communication.

For compliance using the Checklist Pathway:

- Dwellings must first apply all earned points from Core Items toward the minimum required Energy Efficiency Score (70 or 110, depending on the compliance period).
- If a dwelling does not reach the minimum score through Core Items alone, it may use Bonus Item points to make up the difference.
- There shall be no cap on the number of Bonus Item points that may be used to reach the minimum required score.

The Office of Sustainability and Innovations shall:

- Maintain and publish a list of Core and Bonus Checklist Items.
- Ensure all items, Core or Bonus, are verifiable through documentation or inspection.

Green Rental Housing Ordinance (Chapter 105, §§8:533–8:540)

Amend Section R.3(5) to add the following language at the end of the section:

(c) Scoring System Reform and Categorization

The Green Rental Housing Checklist shall be revised to categorize each item as either a **Core Item** or a **Bonus Item**, based on its relative impact on carbon emissions and building energy performance.

1. **Core Items** shall include measures that have a direct, quantifiable effect on reducing greenhouse gas emissions or improving building energy efficiency. These items shall be prioritized and used first to achieve the minimum Energy Efficiency Score required for compliance.
2. **Bonus Items** shall include measures that are community-building, educational, or supportive of sustainability principles but do not significantly affect emissions or energy consumption. Bonus Items may be used to fulfill remaining points only if the minimum score is not reached through Core Items alone.
3. The Office of Sustainability and Innovations shall:
 - Conduct a review of all checklist items to evaluate their emissions-reduction potential;
 - Assign point values to Core and Bonus Items in proportion to their relative climate impact;
 - Publish and maintain a categorized list of checklist items and ensure all items are independently verifiable;
 - Ensure that the revised checklist scoring system is adopted and published prior to the start of Compliance Period 2.