



Legislation Text

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An Ordinance to Amend Sections 8:513, 8:516, 8:517, 8:519, 8:525, 8:528, and 8:530 of Chapter 105 (Housing Code) of Title VIII of the Code of the City of Ann Arbor (Ordinance No. ORD-19-19)

This ordinance amendment updates the penalty provisions in the Housing Code, which has not been done in well over a decade. The ordinance amendment makes all violations civil infractions instead of criminal misdemeanors. The ordinance amendment also consolidates all penalties into one section (section 8:519) and increases the maximum fine from \$500.00 to \$1,000.00.

Prepared by: Glen Dempsey, Building Official

Reviewed by: Kristen D. Larcom, Senior Assistant City Attorney and Derek Delacourt, Community Services Area Administrator

Approved by: Howard S. Lazarus, City Administrator

ORDINANCE NO. ORD-19-19

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HOUSING CODE

AN ORDINANCE TO AMEND SECTIONS 8:513, 8:516, 8:517, 8:519, 8:525, 8:528, and 8:530 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 8:513 of Chapter 105 of Title VIII of the Code of the City of Ann Arbor be amended to read as follows:

8:513. - Notices and orders.

(1) *Form of notice.* Whenever the Building Official determines that there has been a violation of any provisions of this chapter or any rule or regulation adopted pursuant thereto, he shall give notice of such alleged violation and orders for correction of violation to the person or persons responsible therefor, as hereinafter provided. Such notice shall:

- (a) Be in writing;
- (b) Include a statement of the conditions that constitute violations of this chapter and what must be done to correct same;
- (c) State the date of the inspection, the name of the inspector, and the address of the dwelling;
- (d) Specify a time limit for the performance of any act it requires. Said time limit shall be a

reasonable time, not to exceed 60 calendar days unless:

- (i) The work is major exterior work including but not limited to work such as painting, gutters, foundations, or roof work, weather dependent, and therefore, could not reasonably be completed within 60 calendar days based on the period of the year in which the inspection is done. In such cases, the time limit for the weather dependent work shall be 60 calendar days after a date when favorable weather conditions could be expected. All said time limits shall commence from the date of the inspection report;
 - (ii) The owner or agent intends to make substantial renovations which must be directly linked to the correction of the violation(s), and he/she applies for permits, submits required plans, and a schedule of proposed renovations as per section 8:518.
 - (e) Notify the owner or agent, the occupant, or the complainant as the case may require, of the right to appeal;
 - (f) Be served within 10 working days upon the owner or his agent, or the occupant, as the case may require, provided that such notice shall be deemed to be properly served upon such owner or agent or upon such occupant if a copy thereof is served upon him personally, or if a copy thereof is sent by certified mail to his last known address, or if he is served with such notice by any other method authorized or required under this Code or the laws of this state;
 - (g) A duplicate shall be sent to the occupant in cases where the owner or his agent are the appropriate parties to be served, and be sent to the owner or his agent in cases where the occupant is the appropriate party to be served. If the violation or violations concern a common area rather than an individual dwelling unit or rooming unit, the notice shall be sent to all occupants of the dwelling, or may also be posted in a conspicuous location in said dwelling if, in the judgment of the Building Official, such posting is necessary to provide adequate notice. If the violation is a major one, posting shall be mandatory, whether the violation concerns a common area or an individual dwelling unit or rooming unit. Any person removing such posted notice without authorization of the Building Official shall be fined \$50.00. **No person shall remove a posted notice without authorization of the Building Official.** Notice to occupants by mail or posting shall be given within 10 working days after the date of inspection;
 - (h) Include a statement that any full certificate of compliance has been suspended and that rent may be paid into the escrow fund maintained by the Building Department if the repair of conditions is not made within the time limit set in the notice of violation or lawful extensions thereto, and a statement that civil actions for compelling the repairs and for damages may be available.
- (2) *Appeal when no violation found.* If the inspection is based upon a complaint and it is determined upon inspection that no violation exists, the complainant may appeal said determination to the Housing Board of Appeals, and the complainant shall be notified of this right to appeal.

- (3) Failure to complete work within the time limits specified in subsection 8:513(1)(d) shall constitute a separate violation of this chapter.

Section 2. That Section 8:516 of Chapter 105 of Title VIII of the Code of the City of Ann Arbor be amended to read as follows:

8:516. - Certificate of compliance.

- (1) *Definitions:* The following definitions shall apply to this chapter:

- (a) *Full certificate:* A certificate of compliance issued for a dwelling with no violations of this Code, which certificate shall be valid unless suspended by the Building Official upon a subsequent reinspection, disclosing violations, or upon expiration of the certificate.
- (b) *Temporary certificate:* A certificate of compliance issued for a dwelling displaying on its face any remaining violations to be corrected, prior to the expiration date on the certificate.
- (c) *Partial certificate:* The Building Official may issue a partial certificate of compliance for dwelling units without code violations. The certificate shall designate the units certified. It shall only be issued if violations in the remainder of the building do not affect the health and safety of the certified units.

- (2) *Application:*

- (a) An owner or agent shall apply for a certificate of compliance. Inspection and issuance of certificates shall comply with this Code and regulations of the Building Official. If any owner or agent fails to make such application, any occupant of the dwelling may apply for a certificate.

- (3) *Issuance:*

- (a) A certificate shall be issued only upon inspection of the premises by the Building Official, except as provided in subsection (b) below. If a dwelling conforms to this Code at the time of the application, a certificate of compliance shall be issued within 1 week.
- (b) The Building Official shall authorize the issuance of temporary certificates, upon application, without inspection for those premises in which:
 - (i) There are no violations of record; and
 - (ii) An inspection has been scheduled; and
 - (iii) The requested inspection cannot be conducted prior to the expiration of the present certificate because of service unit scheduling.

- (c) Temporary certificates shall also be issued for premises with violations of record only when:

- (i) The owner has been ordered to make repairs and the time limit, including lawful extensions, has not expired; or
 - (ii) When the city has been authorized to make repairs; or
 - (iii) When a receiver has been appointed; or
 - (iv) When an owner's rehabilitation plan has been accepted by the court; or
 - (v) When a scheduled reinspection cannot be conducted prior to the expiration of a temporary certificate and if the owner has not delayed the reinspection for more than 2 days.
- (d) A full certificate of compliance shall be issued for a dwelling when no violation is found and the dwelling is in compliance with the Code.
- (4) No person shall lease or otherwise make a dwelling or rooming unit available for occupancy if a certificate of compliance is not in effect for the unit. Violators of this subsection who the city has notified at least 10 days prior to prosecution shall be punished by a fine of not less than \$200.00.
- (5) If a dwelling or rooming unit lacks a current certificate, instead of paying rent to the owner, tenants may pay the rent into the escrow account established by section 8:522. The Building Official shall notify tenants of the lack of a certificate and its effect on rental payments.
- (6) The lack of a certificate will not justify the removal of a tenant without court action following notice under MCR 4.201.
- (7) If a dwelling is ordered vacated because of violations of this chapter, the landlord must pay relocation costs except in cases where state law shifts the burden to the tenant.
- (8) The owner or agent of a dwelling shall permit a tenant or prospective tenant to examine the certificate of compliance. The Building Official shall permit any person to examine the city copy of every certificate of compliance.
- (9) Certificates of compliance shall expire 2½ years after the expiration of the previous full certificate. The date of expiration shall be on the certificate. It is the responsibility of the owner of a dwelling to arrange an inspection prior to the expiration of the certificate of compliance.

Section 3. That Section 8:517 of Chapter 105 of Title VIII of the Code of the City of Ann Arbor be amended to read as follows:

8:517. - Registry of owners and premises.

- (1) *Registry maintained by Building Department.* A registry of owners and premises shall be maintained by the Building Department.

- (2) *Registration of owners.* The owners of all rental dwelling units and abandoned dwellings, shall register their names, date of birth, both the street address and the mailing address of the business, the location of the dwellings and the number of dwelling units or rooming units to be offered to let prior to leasing. If a dwelling registered as an occupied dwelling becomes abandoned or vacant, it shall be re-registered as abandoned or vacant. Owners of properties which are rented, yet are owner-occupied per the definition in section 8:500(23) shall also register their properties to be offered for let prior to leasing.
- (3) *Registration of agent.* If the premises are managed or operated by an agent, the agent's name, date of birth and both the street address and mailing address of the business shall be placed with the name of the owner in the registry.
- (4) *Residence requirement.* The owner, representative, or the agent who was to receive notices and process under this chapter, shall reside or have an office within 25 miles of Ann Arbor.
- (5) *Corporation owned property.* If the owner is a corporation, the name and address of its registered agent shall be listed.
- (6) *Registration of changes.* Any change in address of owner or agent, and any change in number of units offered, shall be noted in the registry by said owner or agent.
- (7) *Failure to register.* Any person failing to register as required by this section shall be fined not less than \$100.00, nor more than \$500.00, unless that person voluntarily registers the property prior to being identified by the bureau.

Section 4. That Section 8:519 of Chapter 105 of Title VIII of the Code of the City of Ann Arbor be amended to read as follows:

8:519. - Remedies for correction of violations.

(1) *Action by Planning and Development Services Unit on noncompliance.* If the owner or occupant fails to comply with the order contained in the notice of violation, the Building Official may bring an action to enforce the provisions of this chapter and to abate or enjoin the violation; in the case of an emergency violation, the city may cause the necessary repairs to be made, and the charges may be collected as a special assessment against the property in accordance with section 1:292 of this Code.

(2) *Penalties.*

(a) Violations of this chapter, for which no penalty is otherwise provided, shall be punishable by a fine of not less than \$50.00 plus court costs. Legal proceedings shall commence against violators with the issuance of a ticket by the department. The service unit shall indicate on the ticket, when issued, the amount of the fine, should the violator plead guilty without a court appearance. In the event there is a court appearance and a conviction results, the prosecutor shall recommend, after consultation with the service unit, a fine of not less than \$50.00 nor

more than \$500.00 for each ticket. shall be civil infractions punishable by a civil fine of no less than \$200.00 and no more than \$1,000.00, plus costs and all other remedies available by statute.

(b) The service unit shall issue tickets under this chapter when violations of the chapter are found by any method of discovery, and are not corrected within the time period provided by the service unit and/or the Housing Board of Appeals.

(c) When an imminently hazardous situation exists which endangers the health or safety of tenants, the service unit shall shorten the time given to correct the problem to a reasonable period of time.

(d) When the imminently hazardous situation involves inadequate heat in the winter, flood, sewage backup, or any situation that requires tenants to vacate the premises, the owner or agent is required to provide alternative housing until the repair is made unless clauses in the lease by operation of the law terminate the tenancy. This subsection does not preclude the tenant from exercising other remedies provided by law or equity.

(e) In the event the owner or agent does not complete the repair within the time allowed, the service unit shall issue a ticket each week until the repair is completed, or for 8 weeks which ever occurs sooner.

(f) In the event the repair is not made after 8 weeks of tickets, or the time allowed by the service unit, or a shorter time if it is a hazardous situation, the service unit shall suspend the owner's certificate of compliance and notify the owner's tenants that the obligation to pay rent is suspended.

(g) In the event the repairs are not made 90 calendar days after the suspension of the certificate of compliance, the City Attorney shall institute receivership proceedings. Any occupant, tenant's group, or any other person may initiate such proceedings.

(h) Each day of violation of a provision of this chapter relating to the physical condition of any dwelling shall constitute a separate violation.

(i) A violation proved to exist on a particular day shall be presumed to exist on each subsequent day unless it be proved that the violation no longer exists.

(j) If a provision of this chapter is found to be violated in more than 1 dwelling unit or rooming unit in a multiple dwelling or rooming dwelling, each such violation shall constitute a separate violation.

(k) Abandonment of a dwelling shall not constitute a defense to the imposition of fines under this section.

(l) In the event any decision to impose penalties under this section is appealed to the Housing Board of Appeals, the penalties imposed after the appeal are held in abeyance until the

Housing Board of Appeals has made its decision. Then either the fee will be paid including interest, or not paid depending on its decision.

(3) Receivership.

(a) When a suit has been brought to enforce this chapter against the owner, the court may appoint a receiver of the premises.

(b) When the court finds that there are adequate grounds for the appointment of a receiver, it shall appoint the municipality or a proper local agency or officer, or any competent person as receiver. The court shall give first priority to appointment of a qualified non profit receivership. In the discretion of the court, no bond need be required. The receivership shall terminate at the discretion of the court.

(c) The purpose of a receivership shall be to repair, renovate and rehabilitate the premises as needed to make the building comply with the provisions of this chapter, and where ordered by the court, to remove a building. The receiver shall promptly comply with the charge upon him in his official capacity and restore the premises to a safe, decent and sanitary condition, or remove the building.

(d) Subject to the control of the court, the receiver shall have full and complete powers necessary to make the building comply with the provisions of this chapter. The court may collect rents and additional revenue, subject to other legal remedies, hold them against the claim of prior assignees of such rents and other revenue, and apply them to the expenses of making the building comply with the provisions of this chapter. The court may manage and let rental units, issue receivership certificates, contract for all construction and rehabilitation as needed to make the building comply with the provisions of this chapter, and exercise other powers the court deems proper to the effective administration of the receivership.

(e) When expenses of the receivership are not otherwise provided for, the court may enter an order approving the expenses and providing that there shall be a lien on the real property for the payment thereof. The provisions of subsection (7) of section 8:519 as to the contents and filing of an order are applicable to the order herein provided for.

(f) In ordering receivership for a specified premise, the court shall, if necessary to enforce this provision, seek receivership on other units within the building that may currently carry a valid certificate.

(4) Actions for damages.

(a) When the owner of a dwelling regulated by this chapter permits unsafe, unsanitary, or unhealthful conditions to exist, unabated in any portion of the dwelling, whether a portion designated for the exclusive use and occupation of residents or a part of the common areas, where such condition exists in violation of this chapter, any occupant, after notice to the owner and a failure thereafter to make the necessary corrections, shall have an action against the owner for such damages he has actually suffered as a consequence of the occupation of the premises. The occupant shall also have injunctive and other relief appropriate to the abatement of the condition.

(b) Remedies under this section shall be in addition to such other relief as may be obtained by seeking enforcement of the section authorizing suits by the Building Official. The remedies shall be concurrent. When several remedies are available hereunder, the court may order any relief not inconsistent with the objectives of this chapter, and calculated to achieve compliance with it.

(5) Additional legal remedies. Nothing contained herein shall be deemed to abolish or impair existing legal remedies of the City of Ann Arbor or its officers or agencies, or of any individual, even though such remedies may not be specifically enumerated or mentioned herein.

Section 5. That Section 8:525 of Chapter 105 of Title VIII of the Code of the City of Ann Arbor be amended to read as follows:

8:525. - Information concerning tenants rights.

- (1) The city shall provide the City Clerk with booklets explaining the rights of tenants under city and state law. The City Clerk shall make such booklets available to local landlords and their agents to pick up at the Clerk's office without charge for distribution by local landlords to tenants and prospective tenants. In the event the Clerk makes available to local landlords sufficient copies of the booklet to permit those landlords to comply with this section, no owner of rental property located in Ann Arbor or agent of such an owner shall lease or contract to lease such property without furnishing to the tenant, before the time of leasing or contracting, a copy of said booklet. In the event a housing unit is being leased to more than 1 tenant, it shall be sufficient to offer a single booklet for each housing unit. In the event the lease or contract to lease is accomplished by mail, rather than face to face, the booklet shall be furnished to the tenant by mail. A landlord shall be deemed to have furnished a tenant a copy of the booklet if the landlord mails it to him or proffers a copy of the booklet to the tenant face to face, whether or not the tenant chooses to receive the booklet. For purposes of this section, the renewal of a lease shall be considered the same as the making of a new lease; however, if a landlord has previously furnished the tenant or tenants of a unit with a copy of the booklet, the landlord is not required to furnish another copy upon lease renewal. This section shall only apply to leasing and contract to lease transactions entered into 30 calendar days after the City Clerk has published in a newspaper of general circulation in Ann Arbor a notice to landlords informing them of this section and of the availability of said booklets at the Clerk's office. The Clerk shall publish such notice promptly upon receipt of such booklets from the City of Ann Arbor.
- (2) At the same time an owner or agent of an owner furnishes a tenant with the booklet explaining the rights of tenants under city and state law required in subsection (1) above, each tenant shall also be provided by the landlord with specific information on how to register to vote and the requirements to register, notice that election information and further registration information is available on the Secretary of State's website as well as the city's website through the City Clerk's webpage and a copy of the State of Michigan Voter Registration Application. The City Clerk shall make available without charge for distribution by local landlords to tenants and prospective tenants copies of State of Michigan Voter Registration Application and the above election information on registration. The City Clerk may incorporate the election information as part of the above tenants' booklet or it may be produced separately.

- (3) This section shall apply only to residential leases. Violations of this section shall be punishable by a fine up to \$500.00 but may not be punished by jail.
- (4) The failure of an owner or owner's agent to do any act required by this section shall not be construed to affect the validity of the lease or the enforcement of any of the lease provisions.

Section 6. That Section 8:528 of Chapter 105 of Title VIII of the Code of the City of Ann Arbor be amended to read as follows:

8:528. - Basic winterization in rental housing.

- (1) *Weatherization requirements.* In order to help reduce the high cost and ecological harm of excess energy use, it is hereby ordained that no person shall let to another for occupancy any dwelling or dwelling units which are not equipped with weatherization in safe, good order as follows:

- (a) All cracks or gaps in or between building materials which are used on exterior building surfaces or on surfaces which interface between heated and unheated spaces within the building, which allow loss of heat from the interior to exterior of the dwelling, or from heated to unheated spaces, including as well, where necessary, cracks or gaps in the interior or exterior walls, shall be sealed with weatherstripping or caulking or other insulation device or system so as to assure reasonable weatherization. Such weatherization shall include but not be limited to the following: All cracks at window frames where glass meets frame, and where frame meets wall, shall be applied with sealant material or weather resistant caulking outside the dwelling as needed. Cracks at door frames of doors providing access from unheated to heated space where any glass meets frame and where frame meets wall shall be applied with a sealant material or weather resistant caulking, both inside and outside the dwelling as needed. Cracks in windows or doors where sliding or swinging windows or doors meet their frames shall be sealed with spring steel, rubber, foam or other weatherstripping or insulation device, except where such window or door fits so tightly in its frame that such insulation is not useful to prevent heat leakage. Cracks at locations where the building structure is penetrated by utility connections, pipes, wires, dryer vents, exhaust fans or other objects, devices or systems, shall be applied with a sealant material or weather resistant caulking as needed. Accessible cracks where building foundation and structure meet, and where exterior siding material meets trim, and where exterior siding boards or pieces have separated due to warping, and at all fixed joints on the building, shall be repaired, if needed, and applied with a sealant material or weather resistant caulking.

- (b) In every unheated attic or other unheated top story directly under the roof, the floor shall be fitted with insulation of such quality and grade that the insulation material alone, exclusive of the floor material, provides an R insulation value of not less than R-30.

- (c) In every heated attic or other heated top story directly under the roof, the roof shall be fitted on its underside with insulation material of such quality and grade that the insulation material alone, exclusive of the roof material provides an R insulation value of not less than R-30.

- (d) In the case of an unheated attic or other unheated top story, a variance may be granted in

the proper circumstances for insulation under the roof rather than on or in the floor.

(e) If prior to December 1, 1985 the attic floor or roof has been insulated such that the insulation R value of the installed insulation alone, disregarding the insulating value of the structural elements is at least R-19, then the R-19 insulation shall remain sufficient and in compliance with this section.

(2) *Exceptions.* This section does not apply in the case of:

(a) An owner-occupant landlord;

(b) A bona-fide nonprofit cooperative;

(c) A bona-fide tenant subletting his or her residence;

(d) A homemaker on sabbatical or temporary leave or whose personal home is rented up to 2 years while it is for sale;

(e) A landlord who pays all of the utility heat bills for the dwelling and does not charge the tenant for heat or increases in utility heat bills;

(f) Where due to the unusual structural characteristics of the building or unit, the required weatherization cannot possibly be installed without extraordinary and unusual structural change, or would have no weatherization or insulating value, or is unnecessary because the respective floor or roof is so constructed as to continuously and at all places exceed without insulation the R value of the required insulation.

(g) Buildings constructed later than 1977, with the exterior envelope in compliance with Model Energy Code requirements, shall be exempt from the R-30 insulation provisions provided the exterior envelope and component materials are maintained.

(3) *Effective date.* The effective date for this section (8:528) shall be December 1, 1985. Required weatherization shall be kept in good order.

(4) *Violations.* Violations of this section shall be punishable by a fine of \$1.00 to \$100.00 at the discretion of the court, but no more than \$50.00 for a person's first offense, and shall not be punishable by jail.

Section 7. That Section 8:530 of Chapter 105 of Title VIII of the Code of the City of Ann Arbor be amended to read as follows:

8:530. - Entry to show premises and time for rental agreements.

(1) Notwithstanding any other provisions of this chapter, a landlord of residential premises shall not:

(a) Enter the leased premises for the purpose of showing the premises to prospective tenants until 70 days of the current lease period has passed; or

- (b) Enter into an agreement to rent the leased premises to another tenant for a subsequent lease period until 70 days of the current lease period has passed.
- (2) This section does not apply under any of the following conditions:
- (a) The entry is for the purpose of subletting;
 - (b) The current lease period is less than 9 months in its entirety;
 - (c) A summons and complaint to recover possession of the premises has been filed and served on the current tenant in accordance with all laws and rules applicable to summary proceedings to recover possession of premises;
 - (d) The tenant, of his or her own will, has terminated his or her occupancy of the leased premises and his or her right under the lease to possession of the premises.
- (3) Except as otherwise provided in this section, at the time of entering into a written lease agreement a landlord shall provide to each tenant a copy of this entire Code section separate from the written lease agreement, until such time that this ordinance is incorporated into the "Rights and Duties of Tenants" booklet.
- (4) If there is no written lease, then the landlord shall provide a copy of this entire code section, upon which is written the term of the current unwritten lease, to each tenant, until such time that this ordinance is incorporated into the "Rights and Duties of Tenants" booklet.
- (5) A violation of this section shall be a civil infraction punishable by a civil fine of up to \$1,000.00, plus costs and all other remedies available by statute.

Section 8. This Ordinance shall take effect ten days after passage and 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 June 17, 2019.

(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 June 20, 2019.

Jacqueline Beaudry, Ann Arbor City Clerk