

Chapter 82-A - Rental and Dwelling Inspection and Enforcement

1. Purpose and Reference to State Act

The inspection procedures set forth in this Chapter are established in the public interest, to secure the health and safety of the occupants of dwellings and of the general public.

This Chapter is enacted pursuant to the Housing Law of Michigan, found at Michigan Compiled Laws § 125.401 et. seq and is to be construed in conjunction and interpreted to comply with the language of said law and any subsequent amendments.

2. Definitions

- 1) For the purposes of this Chapter, certain terms, words and phrases shall, whenever used in this Chapter, have the meaning herewith defined as follows:
- 2) Terms not herein defined shall have the meaning customarily assigned to them.

(03-23-09; Effective: 07-01-09)

Apartments: The dwelling units in a multiple family dwelling as defined herein.

(Rev. 03-23-09; Effective: 07-01-09)

Child: An individual under 18 years of age.

(03-23-09; Effective: 07-01-09)

Dwelling Unit: A residential structure, or portion thereof, permanently sited on a continuous frost free masonry foundation, containing all required plumbing, heating and electrical systems attached to the available public utilities, designed for the occupancy of one (1) family with cooking facilities.

(Rev. 03-23-09; Effective: 07-01-09)

Leasehold: A private dwelling or separately occupied apartment, suite, or group of rooms in a 2-family or in a multiple dwelling if the private dwelling or separately occupied apartment, suite, or group of rooms is leased to the occupant under the terms of either an oral or written lease.

(03-23-09; Effective: 07-01-09)

Multiple Family Dwelling: A building or portion thereof, designed for occupancy by three (3) or more families living in individual dwelling units.

(Rev. 03-23-09; Effective: 07-01-09)

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Premises: A building which is enclosed by continuous exterior walls and is covered by a single roof, except that the roof does not have to be continuous and may be of several types or elevations and may be on different levels.

(Rev. 03-23-09; Effective: 07-01-09)

Rooming House: Any dwelling occupied in such a manner that certain rooms, in excess of those used by the members of the immediate family and occupied as a home or family unit, are leased or rented to persons outside of the family, without any attempt to provide therein or therewith, cooking or kitchen accommodations for individuals leasing or renting rooms.

(Rev. 03-23-09; Effective: 07-01-09)

(Renumbered: 03-23-09; Effective: 07-01-09)

3. Designation of Enforcement Body

The Building Department, through its Director of Building and Zoning, his authorized representatives and employees, shall enforce the provisions of this Chapter, and shall have jurisdiction to establish the registration, inspection, violation, and certification procedures to implement the said enforcement.

4. Joint Implementation

The Chapter herein may be enforced by any other governmental agency by joint agreement where joint enforcement is practicable.

(Rev. 04-17-00)

5. Registry of Owners and Premises

- 1) A registry of owners and premises shall be maintained by the Director of Building and Zoning or his authorized representatives and employees.
- 2) The owner(s) of a multiple family dwelling or rooming house which contains any apartment(s) or unit(s) which will be offered to rent, let, or to hire, for more than six months of a calendar year, shall register their names and places of residence or usual places of business and the location of the premises regulated by this Chapter with the Director of Building and Zoning or his authorized representatives or employees. The owners shall complete this registry within sixty days following the day on which any part of the premises is offered for occupancy.
- 3) If the premises are managed or operated by an agent, the agent's name and place of business shall be placed with the name of the owner in the registry. Any change in agency status shall be immediately reported to the Director of Building and Zoning or his authorized representatives or employees.

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- 4) If there is a transfer of ownership or a transfer of management by an agent, the new owner(s) shall register their names and places of residence or usual places of business and the location of the premises regulated by this Chapter with the Director of Building and Zoning or his authorized representatives or employees. This registration shall be completed within sixty days following the date of the transfer of ownership.
- 5) The owner(s) of a multiple family dwelling or rooming house shall pay an initial registration fee of \$50 per premises.

(Rev. 03-23-09; Effective: 07-01-09)

6. Certificate of Compliance; No Occupancy Unless Certificate Issued; Hazardous Conditions; Inspections.

- 1) In addition to registering each premises, owner(s) of a multiple family dwelling or rooming house shall apply for a certificate of compliance. Inspection and issuance of certificates shall be in accordance with the requirements of this Chapter and with procedures established by the Director of Building and Zoning or his authorized representative or employee.
- 2) An application for a certificate shall be made when the owners, or any of them, enroll in the registry of owners and premises. If the owner fails to register, any occupant of unregistered or uncertified premises may make application.
- 3) Apartments or units in multiple family dwellings or rooming houses shall not be occupied unless a certificate of compliance has been issued by the Building Department. The Certificate of compliance shall be issued only upon an inspection of the premises by the Director of Building and Zoning or his authorized representatives or employees, except that the inspection required for the first issuance of a certificate of occupancy shall also serve as the initial inspection for a certificate of compliance. The required inspections shall be conducted as soon as possible, but in no event later than 15 days after written application for a certificate of compliance.
- 4) A violation of this Chapter shall not prevent the issuance of a certificate, but the Building Department shall not issue a certificate when the existing conditions constitute a hazard to the health or safety of those who may occupy the premises.

(Rev. 04-17-00)

- 5) A certificate of compliance shall be issued on condition that the premises remain in safe, healthful and fit condition for occupancy.
- 6) If an inspection reveals condition(s) that constitute a hazard to health and safety, the certificate of compliance shall be immediately suspended as to the affected

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areas. Those premises which have been or are occupied for dwelling or rooming purposes may be ordered vacated until re-inspection and proof of elimination of the condition constituting a hazard to health and safety. On re-inspection and proof of compliance, the order shall be rescinded and a certificate of compliance shall be re-issued.

- 7) The Director of Housing and Zoning or his authorized representatives or employees shall charge a \$20 per apartment or dwelling unit fee for each inspection required by this Chapter. An owner or property manager shall not be liable for an inspection fee if the inspection is not performed and the Director or Building and Zoning, his designee or employee is the direct cause of the failure to perform.

(Rev. 03-23-09; Effective: 07-01-09)

7. Inspection; Intervals; Basis; Inspectors

- 1) The Director of Building and Zoning or his authorized representatives or employees shall inspect, on a periodic basis, multiple family dwellings and rooming houses regulated by this Chapter. The period between inspections shall be no longer than two years, unless the most recent inspection of the premises revealed no violations of this Chapter, in which event the maximum period between inspections may be extended to three years.
- 2) An inspection shall be conducted in the manner best calculated to secure compliance with the Chapter and appropriate to the needs of the community. Inspections may be conducted for one or more of the following basis:
 - a) 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.
 - b) A complaint basis, such that complaints of violations will be inspected within a reasonable time.
 - c) A recurrent violation basis, such that those premises which are found to have a high incidence of recurrent or uncorrected violations will be inspected more frequently.
 - d) A compliance basis, such that a premises brought into compliance before the expiration of a certificate of compliance or any requested repair order may be issued a certificate of compliance for the maximum renewal certification period authorized by the City.
(03-23-09; Effective: 07-01-09)
 - e) A percentage basis, such that the City may establish a percentage of units in a multiple dwelling to be inspected in order to issue a certificate of compliance for the multiple dwellings.
(03-23-09; Effective: 07-01-09)

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- 3) An inspection shall be carried out by the Director of Building and Zoning or his authorized representatives or employees, which may include representatives of other agencies as permitted by law.
- 4) Except in the case of an emergency, the owner of the premises regulated by this Chapter shall request and obtain permission to enter before entering a premises regulated by this Chapter. In the case of an emergency, including but not limited to, fire flood, or other serious injury or death, the owner may enter at any time.
- 5) The Director of Building and Zoning or his authorized representatives or employees shall require the owner of the premises regulated by this Chapter to do one or more of the following:
 - a) The owner of a premises regulated by this Chapter shall provide the Director of Building and Zoning or his authorized representatives or employees and/or inspection team with access to the premises if the lease provides the owner a right of entry.
(Rev. 04-17-00)
 - b) If the lease does not provide the owner with a right of entry, then the owner of a premises regulated by this Chapter shall make a good faith effort to obtain the tenant's permission for an inspection, and arrange for the inspection. The owner is further required to notify the enforcing agency when a tenant vacates a dwelling after an inspection has been requested. This notification shall be provided within ten days after the leasehold is vacated.
(Rev. 03-23-09; Effective: 07-01-09)
 - c) The owner of a premises regulated by this Chapter shall provide the Director of Building and Zoning or his authorized representatives or employees and/or inspection team with access to areas other than a dwelling or areas open to the public view or both.
 - d) The owner of a premises regulated by this Chapter shall provide access to the dwelling if a tenant of the premises has made a complaint to the City of Troy.
- 6) In the case of an emergency, which is defined as an occurrence or imminent threat of severe damage, injury, or loss of life or property resulting from a natural or man made cause, including but not limited to fire, flood, snow, ice, windstorm, utility failure, epidemic, air contamination, blight, drought, infestation, explosion or civil disorder, or upon presentment of a warrant, the inspector or team of inspectors shall have the right to enter at any time.
- 7) If a complaint identifies a dwelling or rooming house regulated under this Chapter in which a child is residing, the dwelling or rooming house shall be inspected prior to inspection of any nonemergency complaint.

(03-23-09; Effective: 07-01-09)

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- 8) If the apartment or dwelling unit regulated by this Chapter houses more than one tenant, then the requirements of this Chapter are satisfied when notification is provided to and permission is received from at least one tenant in a multiple tenant apartment or dwelling unit.

(Renumbered: 03-23-09; Effective: 07-01-09)

8. Inspection; Warrants for Non-Emergency Situation; No Warrant Required in Emergency

- 1) In a non-emergency situation, the Director of Building and Zoning or his authorized representatives or employees shall request and receive permission, either oral or written, from a tenant or the landlord as set out herein, before entering an apartment or dwelling unit regulated by this Chapter. If permission is not received, the Director of Building and Zoning or his authorized representative shall obtain an administrative search warrant from a court of competent jurisdiction. The affidavit for the administrative search warrant and proposed warrant shall include the address of the premises or apartment or unit to be inspected, the nature of the inspection, as defined in this Chapter or other applicable acts, and the reasons for the inspection. It shall be appropriate and sufficient to set forth the basis for inspection (e.g. complaint, area or recurrent violation basis) established in this Chapter, in other applicable acts and/or ordinances or in rules or regulations. The affidavit for the administrative search warrant and proposed warrant shall also state that periodic inspections of rental dwelling(s) are mandated by both state and local law. Inspections and the execution of administrative search warrants shall be conducted at reasonable hours. Reasonable hours shall include the hours from 8:00 a.m. to 4:30 p.m. on Mondays through Fridays on days considered regular work days for the Director of Building and Zoning or his authorized representatives or employees, or on days and hours agreed to by appointment, either orally or in writing by a tenant, or landlord or the landlord's property manager. An inspection or execution of an administrative search warrant carried out on a date and time not specified in this Chapter is not per se unreasonable.

(Rev: 03-23-09; Effective: 07-01-09)

- 2) If the court finds that the proposed warrant is in proper form and in accord with this section, it shall be issued forthwith.
- 3) In the event of an emergency, as herein defined, no warrant shall be required.

9. Inspection; Policy; Records; Checklist of Recurring Violation; Non- Discrimination.

(Rev. 03-23-09; Effective: 07-01-09)

- 1) The inspection procedures set forth in this Chapter are established in the public interest, to secure the health and safety of the occupants of dwellings and of the general public. (Rev.04-17-00)

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- 2) The Director of Building and Zoning or his authorized representatives or employees shall keep a record of all inspection reports, code violation notices, and the results of enforcement actions for all premises regulated by this chapter. These records shall be made available to the general public for inspection and copying during business hours. Any or all parts of this file may be stored on an electronic medium.

(Rev. 03-23-09; Effective: 07-01-09)

- 3) The Director of Building and Zoning or his authorized representatives or employees shall make available to the general public a check list of commonly recurring violations for use in examining premises offered for occupancy.

(Rev. 03-23-09; Effective: 07-01-09)

- 4) Neither the Director of Building and Zoning, his authorized representatives or employees nor the owner of any leasehold, may discriminate against an occupant on the basis of whether the occupant requests, permits, or refuses entry to an apartment or dwelling unit. The Director of Building and Zoning, his authorized representatives or employees shall not discriminate against an owner who has met the requirements of subsection 7. 5. (b) but has been unable to obtain the permission of the tenant or occupant, based on the owner's inability to obtain that permission.

(03-23-09; Effective: 07-01-09)

- 5) The City shall produce a report to a requesting party on the income and expenses of the inspection program for the preceding fiscal year. The report shall contain the fees assessed by the City, the cost incurred in performing inspections, and the number of units inspected. The report shall be provided to the requesting party within 90 days of the request. The City may produce the report electronically. If the City does not have readily available access to the information required for the report, the City may charge the requesting party a fee no greater than the actual reasonable cost of providing the information. If the City charges a fee under this section, the City shall include the costs of providing and compiling the information in the report.

(03-23-09; Effective: 07-01-09)

10. Penalties for Violations: Except as otherwise provided by other sections of this Chapter, a violation of any section of Chapter 82-A is a Municipal Civil Infraction subject to the provisions of Chapter 100 of the Code of the City of Troy. Each day that a violation continues is a separate Municipal Civil Infraction violation. Sanctions for each violation of Chapter 82-A shall include a fine of not more than \$500, costs, damages and injunctive orders as authorized by Chapter 100.

(03-01-06)