

**CHARTER TOWNSHIP OF WATERFORD
ORDINANCE NO. 2017- 008**

RENTAL CERTIFICATION ORDINANCE AMENDMENT

An Ordinance to amend the Rental Certification Ordinance in Article IX of Chapter 4 of the Waterford Charter Township Code, by revising and adding definitions, revising the requirements for local agents, establishing a uniform inspection and certification period, conforming to the State Housing Law applicable to multiple dwellings, and to revise the procedures for inspections, notices, and orders.

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

Section 1 of Ordinance

Section 4-242 of the Waterford Charter Township Code is amended to add new definitions of Local agent and Multiple dwelling, and to modify the definitions of Housing and building codes and Inspection guidelines to read as follows:

Housing and building codes. The Fire Prevention Code adopted in Article II of Chapter 7 of this Code, the State Construction Code described in Article III of this Chapter, the Property Maintenance Code adopted in Article V of this Chapter, the Housing Law of Michigan, MCL 125.401 - MCL 125.543, as related to multiple dwellings, and any other standards of construction and maintenance for residential property in general and residential rental property in particular, as may be adopted in another Article of this Chapter.

Inspection guidelines. The Minimum Standards for Rental Housing as adopted by a Township Board resolution and based on the housing and building codes to be used by the Building Official in conducting inspections and setting forth the minimum requirements for residential rental units under this Article.

Local agent. The responsible local agent for a residential rental building or unit as described in Section 4-244.

Multiple dwelling. A residential rental building containing more than two (2) residential rental units.

Section 2 of Ordinance

Sections 4-244, 4-245, 4-249, 4-250, 4-251, 4-252, and 4-254 of the Waterford Charter Township Code are amended to read as follows:

Sec. 4-244. Responsible local agent.

The responsible local agent shall be an individual person residing in the State of Michigan, who, subject to the rights of occupants, can and shall provide access to the residential rental unit for a Township inspection upon 24 hours verbal, written, or email notice. The responsible local agent may also be designated by the owner as legally responsible for operating and maintaining such premises. The owner may act as the responsible local agent if the owner can and does provide access within the time allowed. All official notices of the Township shall be issued to any designated responsible local agent, and if

that agent has been designated by the owner as responsible for operating and maintaining the premises, any notice so issued shall be deemed to have been issued upon the owner or owners of record.

Sec. 4-245. Period for registration of residential rental buildings.

Residential rental buildings required to be registered pursuant to this Article shall comply with the following provisions:

- (a) All newly constructed residential rental buildings shall be registered prior to the issuance of the certificate of occupancy by the Township;
- (b) A residential rental building which is sold, transferred, or conveyed shall be re-registered by the new owner within 30 days of the date of the deed, land contract, or other instrument of conveyance;
- (c) All existing non-rental dwellings which are converted to residential rental buildings shall be registered, inspected, and certified prior to the date on which the property is first occupied for rental purposes;
- (d) Multiple dwellings shall be registered within 60 days of any residential rental unit being offered for rent.

Sec. 4-249. Certification required.

- (a) No person shall lease, rent or cause to be occupied a residential rental building or residential rental unit unless there is a valid certification issued by the Township in the name of the owner and issued for the specific residential rental building and each residential rental dwelling unit. The certificate shall be issued after an inspection by the Building Official which may include building, mechanical, property maintenance, electrical, plumbing, and fire safety inspections (in instances where the Fire Chief has jurisdiction) to determine that each rental building and rental dwelling unit complies with the housing and building codes. Such inspections shall commence after the effective date of this ordinance and shall continue until all residential rental buildings and all residential rental units in the Township have been inspected. A certification may be issued for a maximum period not to exceed four (4) years.
- (b) The Township will issue a certification if the Building Official determines during the inspection that:
 - (1) Any deficiencies discovered during previous inspections of the rental unit have been corrected; and
 - (2) There are no major violations of the inspection guidelines for rental dwellings (major violations are those violations which create a risk to the health, safety or welfare of occupants).
- (c) If a residential rental unit located in a multi-family residential rental building will receive certification only if all other occupied residential rental units within the residential rental building have a valid certification or are also entitled to receive a certification.

- (d) Notwithstanding the language in subsection (c) and subject to subsection (e), the Building Official shall have the discretion to waive compliance with the criteria set forth in subsection (b) upon determining:
 - (1) A waiver of such criteria will not endanger the health, safety or welfare of occupants; and
 - (2) The owner of the rental unit has demonstrated a history of compliance with the Township's inspection guidelines for residential rental buildings and units.
- (e) Certifications for multiple dwellings shall be subject to the certificate of compliance provisions of the Housing Law of Michigan, MCL 125.529 - MCL 125.531.

Sec. 4-250. Applicability to existing residential rental buildings.

- (a) This ordinance applies to all residential rental buildings and residential rental dwelling units within the Township existing on the effective date of this ordinance and to those subsequently constructed or created. For residential rental buildings and residential rental dwelling units existing on the effective date of this ordinance which have been registered in accordance with the provisions of this ordinance, the prohibitions against leasing, renting and occupying contained in Section 4-248 and Section 4-249 shall be inapplicable to such dwellings or units until 60 days after the Township makes its initial inspections of such buildings or dwellings units. This will permit the owner time to make necessary repairs and obtain a certification while maintaining occupancy of the rental unit; provided, however, that if the defects which must be corrected pose an imminent threat to the health, safety and welfare of the occupants, the Building Official shall commence procedures to vacate the dwelling and Section 4-249 prohibiting occupancy shall be immediately applicable.
- (b) Any residential rental building which is a new construction or renovation which required a comprehensive inspection comparable to an inspection under Section 4-249(a), and which is issued a certificate of occupancy pursuant to an inspection after the effective date of this ordinance will also be issued a certification simultaneous with the certificate of occupancy and an inspection fee pursuant to Section 4-252 shall not then be required. Residential rental buildings which are new constructions shall comply with registration requirement pursuant to Section 4-245.

Sec. 4-251. Inspections.

- (a) The Building Official shall inspect residential rental buildings and residential rental units on a periodic basis pursuant to this Article or under any of the following circumstances:
 - (1) Upon receipt of a complaint from an owner or occupant that the premises are in violation of this Article.
 - (2) Upon receipt of a report or a referral from the Police Chief, other public agencies or departments, or any individual indicating that the premises are in violation of this Article and which is based on the personal knowledge of the person making the report.
 - (3) If an exterior survey of the premises gives the Building Official probable cause to believe that the premises are in violation of this Article.

(4) Upon receipt of information by the Building Official that a rental unit is not registered with the Township as required by this Article.

(5) As required for issuance or renewal of certification, with period of time between inspections of multiple dwellings to be no longer than four (4) years. Inspections under subsections (1) and (2) where the complaint identifies a child under 18 years of age as residing in the residential rental unit shall be performed before inspection of any nonemergency complaint.

(b) In order to provide for the scheduling of inspections, the owner or local agent of registered residential rental buildings is sent a reminder notice regarding the need to schedule an inspection for the renewal of the certification, which shall include notice of the responsibilities under subsection (e). Owners of newly registered units must call to schedule their own inspections. If the owner or agent does not respond to the reminder notice, the following will take place:

- (1) The Building Official shall notify the owner or local agent of a residential rental building of the date and time such building is to be inspected which shall be at least 14 days after the date of the notice. Such notice maybe personally delivered or may be sent by first-class mail.
- (2) The notice shall require the owner or local agent to either:
 - (i) Appear at the date and time scheduled for the inspection; or
 - (ii) Object in writing within ten days of the mailing of the aforementioned notice and:
 - a. Schedule an alternative date for the appointment within thirty (30) days from the date identified in the initial notice; or
 - b. Direct the Building Official to contact the tenant of the residential rental unit directly to schedule the inspection and provide all tenant names, the address and telephone numbers.
- (3) If an owner, local agent or occupant subsequently learns he or she will not be present for a scheduled appointment, the individual must provide the Building Official with at least 24 hours advance notice and must re-schedule an inspection date within 30 days from the scheduled appointment. Unless a right to deny access exists and has been exercised by a tenant under Section 4-251(c), failure to appear for a scheduled appointment without providing the aforementioned notice shall be a violation of this paragraph and a civil infraction. Failure to appear for a scheduled second inspection date shall be a violation of this paragraph and a civil infraction.

(c) The tenant of a single family dwelling residential rental unit or the tenants of residential rental units in a two-family dwelling may deny access for a rental inspection by completing and submitting an "Access Denied" form to the Building Official within ten (10) days of the notice described in subsection (b)(3). The Access Denied form shall be provided by the Building Official and shall describe the purpose of the requested inspection and contain a statement that by signing and submitting it the tenant assumes all risks of injury and damage from conditions that may not comply with the housing and building codes. If that is done, the residential rental unit shall not be inspected without the tenant's subsequent consent or pursuant to

an administrative search warrant. If no such consent or administrative search warrant is obtained the following procedures shall apply and be followed:

- (1) The Certification will be revoked and the unit will be placed in an inactive file with a recheck scheduled for one year's time.
- (2) In the event that the unit becomes vacant, it is the property owner's responsibility to schedule an inspection and to obtain certification prior to allowing occupancy.
- (3) Failure of the owner to arrange for an inspection once the unit becomes vacant is a violation punishable as a civil infraction.
- (4) An owner allowing occupancy of a unit without a valid certification after a vacancy is a violation and punishable as a separate civil infraction.

(d) During the inspection, the Building Official shall note any violations of the housing and building codes and give written notice of any such violations to the owner or local agent. The owner or local agent shall correct all violations within the time set forth in the notice. A reasonable time for correcting violations shall be determined by the Building Official in light of the nature of the violations and all relevant circumstances, but shall not exceed 60 days. Upon written request of the person responsible for correcting violations, the Building Official may extend the time for correcting violations if the Building Official deems such action appropriate under all relevant circumstances, but not to exceed an additional 60 days.

(e) For multiple dwellings, Owners or the responsible local agent shall:

- (1) Provide access to the residential rental unit to be inspected if the owner's lease with the tenant provides the owner with the right of entry.
- (2) Provide access to areas of the residential rental building other than an individual residential rental unit.
- (3) Notify the tenants of a residential rental unit of the Building Official's request to inspect the unit, make a good-faith effort to obtain permission for and arrange the inspection, and notify the Building Official within ten (10) days of the residential rental unit being vacated by the tenants.
- (4) Provide access to a residential rental unit if a tenant of that unit has made a complaint to the Building Official regarding the condition of that unit.

Sec. 4-252. Fees.

- (a) The annual operating fees for periodic inspection of each residential rental building and residential rental dwelling unit and any other fees provided by this ordinance shall be as adopted and/or amended by resolution of the Township Board. The annual operating fee shall cover periodic inspection for the issuance or renewal of a certification, except that such fee shall not cover an inspection made pursuant to a final notice of violation issued under Section 4-254(b).
- (b) If the Building Official determines that a complaint was filed without a factual basis, and an inspection is made on the basis of said complaint the fee for such inspection may be charged to the complainant.

- (c) An administrative late fee of ten (10%) percent of the unpaid balance shall be paid to the Township by the person obligated to pay an annual operating fee under subsection (a) if such fee is not paid within 60 days from date the billing is due, which unless a later date is stated on the billing, shall be the billing date. After 90 days from the date the billing is due, those fees shall become a lien on the real property and shall be reported to the Township Treasurer for certification to and approval by the Township Board for assessment on the real estate tax rolls of the property on which the building is located as provided in Section 1-014 of the Waterford Charter Township Code, to be collected in the same manner as provided for property tax liens under the general property tax act, MCL 211.1 – MCL 211.157.
- (d) The rental inspection program as provided for in this Article shall be operated by the Township on a "break even" basis. This means the fees charged shall be set at a rate to produce sufficient revenue to cover the actual, direct cost of administering the program. In the event the fees as set forth herein or as hereafter amended exceed the actual, direct cost of administering the program, the Township Board, by resolution, shall reduce the fees to an amount which shall produce sufficient revenue to cover the actual, direct cost of administering the program. If at any time the fees being collected are insufficient to cover the cost of the program, the Township Board, by resolution, shall increase the fees to an amount which shall produce sufficient revenue to cover the actual, direct cost of administering the program.

Sec. 4-253. Issuance or renewal of certification.

- (a) At least 30 but no more than 60 days before the expiration date on the certification issued for a residential rental property, the owner or local agent for the property shall apply to the Township for the scheduling of an inspection for the issuance of a new certification for that residential rental property.
- (b) Upon receipt of a timely request for an inspection for the purpose of the issuance or renewal of a certification, the Township shall inspect the premises before the certification expires or is initially issued. Upon failure of the Township to conduct an inspection prior to occupancy or expiration of the certification the owner may rent the property until the Township has conducted an inspection, and the owner will not be deemed in violation of this Article during that time. If, however, the Township's failure to inspect is due to the owner's, local agent's or tenant's action, failure to act, or refusal to permit an inspection after reasonable notice of the intent to inspect, the owner shall not rent the property.

Sec. 4-254. Notices and orders.

- (a) Notice of violation. Whenever the Building Official determines that there has been a violation of any provisions of this ordinance, he shall give notice of such alleged violation and orders for correction of violation as hereafter provided except this Section shall not apply in any way to the prosecution of violations of Section 4-251 or violations of the registration requirements set forth in the ordinance as such may be prosecuted without notice. Such notice, which shall be to the owner or responsible local agent, shall:

- (1) Be in writing;
- (2) Include a statement of the conditions that constitute violations of this Article;
- (3) State the date of the inspection, the name of the official who conducted the inspection, the address of the dwelling, and the date set for re-inspection;
- (4) Specify a time limit for the performance of any act it requires;
- (5) Provide notice of the right to appeal from the notice or order to the construction board of appeals;
- (6) Be served by (i) personal delivery, (ii) electronically to the email address of record, or (iii) first class mail to last known address. Notice given the responsible local agent is deemed as notice given to the owner if the responsible local agent has been designated as legally responsible for operation and maintenance.

(b) Final notice of violation. Upon observing the continued existence of a violation of this ordinance as stated in the notice of violation the Building Official shall send a final notice of violation and order to vacate to the owner or responsible local agent. Such notice shall be sent by certified and first class mail to the last known addresses and shall:

- (1) Specify the date of the inspection;
- (2) Specify the address where the violation was found;
- (3) Include the name, telephone number and signature of the official who conducted the inspection;
- (4) Include a description of each violation observed by the Building Official;
- (5) State that each violation is a separate punishable offense;
- (6) Order the premises to be vacated within a time to be set by the Building Official, the length of which shall be determined by the extent of the danger to the occupants but in no case shall it exceed 30 days, or alternatively:
 - (i) Order correction of all violations within a time period not to exceed 30 days;
 - (ii) State that a re-inspection will be made to determine whether all violations have been corrected by the specified date. A re-inspection fee as adopted by resolution by the Township Board will be required to be paid prior to a re-inspection; and the owner or local agent shall be responsible for contacting the Building Official for scheduling the re-inspection within 10 days of date on the notice;
 - (iii) State that failure to comply with the notice will result in prosecution; or
 - (iv) Employ any other additional or optional corrective or enforcement measure as provided for under this Code or by law.
 - (v) Each re-inspection, as needed, will require an additional re-inspection fee to be paid prior to a re-inspection.

(c) Posting final notice of violation. Upon issuing a final notice of violation for a residential rental building or residential rental unit, or its accessory building, the Township shall affix a copy of same on the residential rental building or unit, and deliver to or leave a copy of the notice in a conspicuous place at an entrance door for, the occupants, if any.

(d) Nuisance per se. Notwithstanding any provision in this Article to the contrary, any residential rental building or unit that is found to be in such condition as to preclude habitation or threaten the health, safety or welfare of the occupants or community shall be considered a nuisance per se, and be subject to abatement in a manner provided in this Code, state statute and/or other applicable law.

Section 3 of Ordinance

Should any section, subdivision, sentence, clause or phrase of this ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part as invalidated.

Section 4 of Ordinance

This Ordinance shall take effect immediately upon publication.

CERTIFICATION

I certify that this Ordinance was adopted by the Board of Trustees of the Charter Township of Waterford at a regular meeting held on _____, 2017.

CHARTER TOWNSHIP OF WATERFORD

Date

By: _____
Sue Camilleri, Township Clerk