ORDINANCE NO. 7-500

RENTAL INSPECTIONS

THE CITY OF ISHPEMING ORDAINS:

Preamble.

The City of Ishpeming recognizes the importance of the rental housing segment of the overall City housing stock inasmuch as it provides housing options and opportunities to those citizens of the community who are unable to attain or do not desire home ownership. It is in the interest of the City to ensure that all residential rental dwelling units, structures and grounds are in compliance with the minimum property maintenance standards adopted and enforced by the City. Benefits to the City include:

(1) Protection of the health, safety and welfare of residents of rental properties and adjacent properties. Existing structures and premises not in compliance will be repaired to provide a minimum level of health and safety as required herein.

(2) Maintenance of property values and "quality of life" within the immediate neighborhoods in which residential rental dwelling units are located.

(3) Enforcement of common minimum standards for all residential rental dwelling units, structures and premises.

Section 1. Definitions.

The following words, terms and phrases when used in this Ordinance shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(a) "Certificate of Compliance" means the official certificate issued by the Code Enforcement Officer stating that a residential rental dwelling unit, a residential rental dwelling structure, or a residential rental premises meets the minimum standards established by this Ordinance for occupancy or use.

(b) "Code" means the International Property Maintenance Code, January 2006 Edition, and as amended thereafter.

(c) "Code Enforcement Officer" means the person appointed to that position by the Ishpeming City Manager.

(d) "Local Agent" means an individual or company representing the owner and having a place of residence or business within Marquette County, Michigan. The Local Agent is responsible for the operation of the owner's residential rental dwelling unit(s) located within the City of Ishpeming. A Local Agent is required if:

(1) the owner resides outside of Marquette County, Michigan; or

(2) The owner is absent from Marquette County, Michigan

(e) "Owner" means the individual(s), company, corporation, governmental or private agency, or any other entity listed on the recorded deed, or the purchaser under a

recorded land contract, or a person otherwise legally responsible for, real property containing one or more residential rental dwelling unit(s).

(f) "Residential rental dwelling structure" means every building containing one or more residential rental dwelling units, including all common areas accessible to the residents of those dwelling units, and including restricted portions of the structure and the building interior that are not intended to be accessible to the residents of the residential rental dwelling units.

(g) "Residential rental dwelling unit" means a distinct individual living quarters within a building intended for occupancy by a person or persons other than the owner and the family of the owner. Single-family residences, condominiums, duplexes, apartments and rooming houses may all contain and be classified as residential rental dwelling units.

(h) "Residential rental premises" means the site upon which a residential rental dwelling structure is located including, but not limited to, yards, walkways, stairways or stairwells, driveways, patios, decks, porches, garages, outbuildings, accessory structures, fences, and landscaping.

Section 2. Certificate of Compliance Required.

(a) No person shall lease, rent or cause to be occupied a residential rental dwelling unit and/or structure unless a valid Certificate of Compliance is issued by the Code Enforcement Officer in the name of the owner and/or Local Agent for the specific rental structure and each residential rental dwelling unit in the structure. A Certificate of Compliance shall be issued only upon the successful completion of an inspection of the residential rental dwelling unit and/or structure and/or premises by the Code Enforcement Officer. The Certificate of Compliance shall be retained by the owner or Local Agent and produced upon the request of any official of the City of Ishpeming.

(b) A Certificate of Compliance shall be valid for a period of three years from the date of issuance unless earlier revoked by the Code Enforcement Officer.

(c) Dwelling units in existence and registered with the City at the time this Ordinance goes into effect may continue to be occupied until such time as the initial inspection is scheduled and completed, and a Certificate of Compliance is issued.

(d) A Certificate of Compliance cannot be issued for a residential rental dwelling unit unless it is registered with the City.

(e) A copy of the Certificate of Compliance shall be posted in a conspicuous place in the residential rental dwelling structure, and shall also be furnished by the owner or Local Agent to the lessee of each residential rental dwelling unit in the structure.

Section 3. Affected and Exempt Units/Structures

All residential rental dwelling units and residential rental dwelling structures, including boarding houses as defined in the City Zoning Ordinance, located within the City of Ishpeming shall comply with the requirements of this Ordinance, unless specifically exempted. The following are exempted from the requirements of this Ordinance:

(a) All residential rental dwelling units and/or complexes currently inspected by the Federal Housing and Urban Development Department (HUD) or the

Federal Housing Administration (FHA) or other federal agency or an agency of the State of Michigan or of Marquette County. Proof of inspection and compliance must be provided to the Code Enforcement Officer upon request.

(b) Hotels, motels, bed and breakfast establishments and units which are rented for rental periods of less than thirty (30) days.

(c) Homeless shelters.

Section 4. Basis for Inspection.

The Code Enforcement Officer shall have the authority to inspect all residential rental dwelling units, all residential rental dwelling structures, and all residential rental premises, as follows:

(a) In the course of an initial scheduled inspection and each tri-annual renewal inspection for the issuance of a Certificate of Compliance.

(b) Upon request by the property owner or Local Agent.

(c) Upon a request for inspection by a tenant.

(d) Upon receipt of information that a residential rental dwelling unit or units are not registered with the City of Ishpeming.

(e) Upon receipt of information of an imminent threat to the public health, safety or welfare, or an imminent threat to the safety of any person.

(f) Upon receipt of information of a violation of any of the provisions of this Ordinance or Ordinance No. 7-400.

(g) Upon the conversion of a unit from exempt status under Section 3., above, to a status which is not exempt under this Ordinance.

Section 5. Inspection Criteria.

(a) The Code Enforcement Officer shall utilize the International Property Maintenance Code, January 2006 Edition, published by the International Code Council, ("Code" herein) which Code is hereby adopted by the Ishpeming City Council as the basis for regulating the inspection of all residential rental dwelling units, residential rental dwelling structures, and residential rental dwelling premises.

(b) The Code Enforcement Officer shall prepare a standardized checklist of representative items to be inspected, consistent with the standards of the Code. The checklist shall be available to all owners, Local Agents, and tenants prior to an inspection. In his/her inspection, the Code Enforcement Officer shall not be limited to the items on the checklist.

(c) All residential rental dwelling units, residential rental dwelling structures, and residential rental premises shall comply with the Code.

(d) The Code is adopted by reference herein, except as follows:

1. Section 605.2, Receptacles, is hereby amended to read as follows:

"Receptacles. Every habitable space in a dwelling shall contain at least two separate and remote electrical receptacle outlets. Every laundry area shall contain at least one grounded-type electrical receptacle or an electrical receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one electrical receptacle. Every electrical receptacle in a bathroom shall have a ground fault circuit interrupter. Every new or replacement bathroom electrical receptacle shall have a ground fault circuit interrupter. Every electrical receptacle within six (6) feet of a water source shall be a grounded-type electrical receptacle or an electrical receptacle with a ground fault circuit interrupter."

2. Sections 111.1 and 111.2 are deleted, except that Subsections 111.2.1 through 111.2.5 are retained.

3. Section 111.3 is amended to read as follows:

"111.3. Notice of Meeting. The Board shall meet upon notice from the chairman, within 45 days of the filing of an appeal, or at stated periodic meetings."

Section 6. Inspection Procedures.

(a) For the initial round of inspections, the Code Enforcement Officer shall prepare an inspection schedule for existing residential rental dwelling units and residential rental dwelling structures registered with the City of Ishpeming. The schedule shall be based on a three-year inspection cycle and shall be developed so as to:

(1) Not concentrate on a single geographic area in a given year; and

(2) Limit the number of inspections for a single property owner with six or more residential rental dwelling structures to not more than three structures in a calendar year, where it is possible to do so and otherwise comply with this Ordinance.

(b) Newly constructed residential rental dwelling units shall be scheduled for an inspection at the time they are registered, and shall be inspected and obtain a Certificate of Compliance prior to occupancy, unless exempted under Section 3(a) above.

(c) At least 30 days prior to an inspection, the Code Enforcement Officer shall send in writing a notification of inspection to the property owner or Local Agent, which notice shall include the date, time, and the residential rental dwelling unit or units to be inspected. All inspections shall take place during normal business hours, Monday through Friday, except in the case of an emergency inspection. It shall be the responsibility of the property owner or Local Agent to notify the affected tenant(s). The property owner or Local Agent may request a change in the inspection appointment not less than ten days prior to the scheduled inspection. The property owner or Local Agent will only be granted one (1) change in the original inspection date. A rescheduled inspection shall take place not more than 30 days after the original inspection date. If the Code Enforcement Officer is unable to gain entry to make an inspection at the time of the original inspection date or the rescheduled inspection date because no one is present to let the Code Enforcement Officer into the residential rental dwelling unit, a fee as determined by a resolution of Council and included in the City Fee Schedule shall be imposed upon the owner. This fee shall be paid within 30 days after written notice of imposition of the fee is mailed to

the owner, and no Inspection shall take place nor a Certificate of Compliance shall be issued until the fee is paid.

(d) A property owner, Local Agent, or tenant shall provide the Code Enforcement Officer with access to his/her residential rental dwelling unit(s) and/or residential rental dwelling structure(s) for an inspection. An individual refusing entry to the Code Enforcement Officer shall be notified of the Code Enforcement Officer's authority to inspect the property and that the Code Enforcement Officer will take appropriate and necessary action including, but not limited to: imposition of the fee set forth in paragraph (c) above, obtaining a search warrant, posting the unit as uninhabitable, and/or instituting other legal action for a violation of this Ordinance as prescribed in Section 10 below.

(e) A residential rental dwelling unit in compliance with the requirements of the Code shall be issued a Certificate of Compliance valid for a period of three years from the date of issuance, unless revoked by the Code Enforcement Officer.

(f)(1) For residential rental dwelling units with a Code violation, the Code Enforcement Officer shall provide a written notice of the noted violation(s) to the property owner or Local Agent by mail or by personal service. The property owner or Local Agent shall then have a "cure period" to correct the code violation(s), as follows:

i) for a Code violation(s) found in the interior of the Residential rental dwelling structure or the interior of the Residential rental dwelling unit, the cure period shall be not greater than thirty (30) days.

ii) For a Code violation found in or on the exterior of the Residential rental dwelling structure or the exterior of the Residential rental dwelling unit, the cure period shall be not greater than one hundred eighty (180) days.

iii) For a Code violation found in, on, over, across or under the Residential rental premises, the cure period shall be not less than thirty (30) days and not more than one hundred eighty (180) days.

iv) The cure period shall be determined by the Code Enforcement Officer in his/her discretion, but within the time limits set forth above, and shall be stated in the written notice of violation.

v) An "interior" Code violation means a violation that can be corrected entirely inside the Residential rental dwelling structure or the Residential rental dwelling unit. An "exterior" Code violation means a Code violation that can only be corrected entirely outside the Residential rental dwelling structure or the Residential rental dwelling unit. In the case of a Code violation that requires interior and exterior work to make the correction(s), the Code Enforcement Officer shall set forth in the written notice of violation which correction work must be done to the interior and which correction work must be done to the exterior, with separate cure periods for each.

vi) The cure period shall start on the third (3rd) day after the date of mailing, if the written notice of violation is served by mail. If the written notice of violation is personally served, the cure period shall start on the day after the date of personal service.

(2) The property owner or Local Agent shall contact the Code Enforcement Officer and arrange for a re-inspection within ten (10) days after expiration of the cure period. An additional ten days may be granted by the Code Enforcement Officer in those situations in which the property owner or Local Agent can demonstrate a justifiable need for a time extension, and that additional time will not result in conditions deteriorating further. If a ten (10) day extension is granted, the property owner or Local Agent shall contact the Code Enforcement Officer and arrange for a re-

inspection within ten (10) days after expiration of the extended cure period. In the alternative, the Code Enforcement Officer may, at his or her discretion, specify the date and time for re-inspection within the time frames and cure periods as set forth above.

(3) The notice from the Code Enforcement Officer may require immediate repairs or corrections of the Code violations if the Code Enforcement Officer determines that an imminent threat to life, property or public safety exists, irrespective of the cure periods set forth above. If immediate repairs or corrections are required, the owner or Local Agent shall contact the Code Enforcement Officer within five (5) days after receipt of the notice and arrange for an immediate re-inspection. A re-inspection fee is payable each time the Code Enforcement Officer must return to the premises after the first re-inspection, until compliance is established to the satisfaction of the Code Enforcement Officer.

(4) If the code violations are not corrected by the property owner or Local Agent within the cure period established under Subsection (f) above, the City or any contractor hired by the City may enter upon the property where the code violations exist and correct the code violations. The cost of correcting the code violations shall be paid by the owner within thirty (30) days after the owner is billed for such costs, and in default thereof the City shall have a lien against the real property where the code violations occurred. The lien for the cost of such repairs shall be enforced in the manner prescribed by the general laws of the State providing for the enforcement of real property tax liens.

(g) Decisions of the Code Enforcement Officer may be appealed to the Housing Appeals Board.

(h) The Code Enforcement Officer shall be responsible for scheduling a renewal inspection at least 45 days prior to the expiration of an existing Certificate of Compliance. However, failure of the Code Enforcement Officer to make a renewal inspection prior to the expiration of an existing Certificate of Compliance shall not invalidate any action taken by the Code Enforcement Officer in the renewal process.

(i) The inspection fee or renewal inspection fee is payable at or before the time of the inspection. The Code Enforcement Officer will not make any inspection unless all assessed fees are paid. Failure to pay any assessed fee in a timely manner shall constitute a violation of this Ordinance.

Section 7. Revocation of Certificate of Compliance.

A Certificate of Compliance may be revoked by the Code Enforcement Officer under the following circumstances:

(a) A residential rental dwelling unit or residential rental dwelling structure is not operated as a rental unit or structure for 90 consecutive days, or is removed by the property owner or Local Agent from the City of Ishpeming's rental registration list. In such cases, a new Certificate of Compliance must be obtained, including the required inspection, prior to occupancy.

(b) A property owner or Local Agent has failed to correct Code violations within the required time frames as set forth in Section 6(f)(1).

(c) A residential rental dwelling unit continues to be operated as a rental unit without a valid certificate of compliance.

Section 8. Appeal Process.

(a) A property owner or Local Agent disagreeing with a decision of the Code Enforcement Officer relative to the existence of a violation or the time frame in which to make corrections may appeal that decision to the Housing Appeals Board. The Housing Appeals Board is hereby designated to hear such appeals. A tenant of a residential rental dwelling unit shall have standing to appeal a notice or order to vacate a residential rental dwelling unit.

(b) The Housing Appeals Board shall consist of three members, appointed by the Ishpeming City Council. Each member of the Housing Appeals Board shall serve for a period of three years.

(c) To take an appeal from the decision of the Code Enforcement Officer, a property owner, Local Agent, or tenant shall file with the City Clerk a written appeal on a form provided by the Code Enforcement Officer, and pay the appeal fee, within 21 days after receipt of a notice of violation. The City Clerk, upon receipt of an appeal, shall immediately deliver a copy thereof to the Code Enforcement Officer and to each member of the Housing Appeals Board. If an appeal is timely filed, the decision or order of the Code Enforcement Officer shall be held in abeyance until such time as the appeal is acted upon by the Housing Appeals Board.

(d) If an appeal is timely filed, the person filing the appeal shall be deemed to have consented to allowing any of those persons identified in Section 11 below to enter upon and/or into the property that is the subject of the appeal, for the purpose of taking photographs and conducting such other inspection of the property as may be necessary to prepare a full and complete report regarding the condition of the subject property. If entry upon and/or into the subject property is not granted to the Section 11 officials within 21 days after the appeal is filed, the appeal shall be deemed to be denied, no hearing under Section 8(d) below shall be held, and the decision or order of the Code Enforcement Officer shall be final.

(e) The Housing Appeals Board shall convene and hold a public hearing on the appeal within 45 days after the appeal is filed with the City Clerk, with written notice served on the Code Enforcement Officer and the appealing party of the date, time, and location of the hearing. The Housing Appeals Board shall cause a record to be made of the entire proceedings. Said record may be made by tape recording or by other electronic recording device. The Board shall hear testimony and take evidence from the appealing party, the Code Enforcement Officer, and any other witnesses that may be called, and shall, by majority vote, render a decision on the appeal. The decision shall be based upon competent, material, and substantial evidence on the whole record. In making a decision, the Housing Appeals Board shall not be bound by the strict rules of evidence, and may take into account evidence that would be relied on by reasonably prudent persons in the conduct of their affairs. The decision of the Housing Appeals Board shall be final.

(e) This appeal process shall supercede the appeal provisions in Sections 111.1 and 111.2 of the Code. Provided, however, that the provisions of Sections 111.2.1 through 111.2.5 of the Code shall apply in appeal proceedings.

(f) Every party appearing before the Housing Appeals Board may be represented by an attorney.

(g) An appeal shall be based on a claim that the true intent of the Code or the rules legally adopted thereunder, or the terms of this Ordinance have been incorrectly interpreted, do not apply, or that the requirements of the Code have been satisfied.

(h) The Housing Board of Appeals may direct a fee paid by a property owner or local agent to be refunded if it determines that an avoidable mistake was made by the City in a determination.

Section 9. Fees.

Fees for inspections, missed appointments, denied entry, re-inspections, late fees and appeals shall be as prescribed in a fee schedule adopted by the Ishpeming City Council. All fees shall be paid at the office of the City Clerk. A late payment fee shall be charged for all fees not paid on time. The City shall not issue a Certificate of Compliance and shall revoke any existing Certificate, where any fee is not paid. Fees remaining unpaid and all accumulated charges may be added to the real property tax rolls relative to the property(s), and such charges shall become a lien enforceable in the same manner as unpaid taxes with respect to such premises, until such charges are paid. See City of Ishpeming Fee schedule for listing of fees.

Section 10. Failure to Comply.

Failure or refusal to have a residential rental dwelling unit or residential rental dwelling structure inspected in accordance with this Ordinance, or failure to comply with any provision of this Ordinance, the Code, or any notice or order given pursuant thereto, shall constitute a municipal civil infraction punishable a civil fine in an amount not to exceed Five Hundred ($500.00) Dollars per violation, plus costs and other fees allowed by law. Violations of this Ordinance shall also constitute a public nuisance, which may be enjoined as provided by Michigan law. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 11. Enforcement Authorization.

The Code Enforcement Officer, City Fire Chief, City Police Officers, and the City Manager are also authorized to enforce the provisions of this Ordinance and the Code.

Section 12. Program Implementation.

The Code Enforcement Officer, under the direction of the Chief of Police, shall be primarily responsible for the implementation and ongoing operation of the City of Ishpeming Residential Rental Dwelling Unit Inspection Program.

Section 13. Interpretive Guidelines.

In the case of a conflict between the terms of this Ordinance and the provisions of the Code, the terms of the Code shall control unless otherwise specifically provided in this Ordinance.

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