

## **ARTICLE IV. LANDLORDS AND TENANTS**

### **Sec. 18-180. Preamble.**

The city council finds that properties which are rented, as opposed to those which are owner-occupied, have a greater tendency to fall into disrepair and need maintenance either because of landlord negligence or tenant negligence and/or destruction; further pose a danger to the health, welfare and safety of the community. As a consequence and in order to prevent those conditions from occurring, the city determines it necessary to provide for regulation of these properties through mandatory registration, inspection and licensing, in order to insure proper maintenance and to prevent deterioration.

(Ord. No. 363-01, pt. I, 12-3-2001)

### **Sec. 18-181. Definitions.**

For the purpose of this article, the words set forth in each section shall have the following meanings:

*Enforcing officer or enforcing agent* means the Lathrup Village Building Official.

*Landlord* means the owner or lessor of the rental unit or property of which the rental unit is a part and in addition means a person authorized to exercise any aspect of the management of the premises.

*Leasing or renting* means providing property to a person or entity for any period of time in exchange for monetary remuneration or other benefit.

*Rental unit or premises* means a structure or part of a structure used as a home, residence, or sleeping unit by a person(s), or other grounds, or other facilities or area promised for the use of a residential tenant and includes, but without limitation apartment units, boarding houses, rooming houses, mobile homes, and single and two-family dwellings. It also includes office and commercial structures used for office or commercial purposes.

*Tenant or occupant* means a person who occupies a rental unit or property for residential purposes with the landlord's consent for an agreed upon consideration.

(Ord. No. 363-01, pt. I, 12-3-2001)

### **Sec. 18-182. Compliance with article; owner; occupant.**

- (a) The owner of premises regulated by this article shall comply with all applicable provisions hereof.
- (b) The occupant of premises regulated by this article shall comply with the provisions hereof specifically applicable to him or her.

(Ord. No. 363-01, pt. I, 12-3-2001)

### **Sec. 18-183. Registration and fee schedule.**

- (a) Each rental unit, as categorized in the fee schedule set out below, shall be registered with the city clerk, or designated agent, on an annual basis prior to any premises or part thereof being offered for occupancy, and shall not be occupied without acquiring a landlord license in accordance with the requirements of this article.

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- (b) A registration year shall be deemed to be 365 days from the date of issuance.
  - (c) The annual registration fee schedule shall be established by city council resolution in the following categories:
    - (1) Single-family dwelling;
    - (2) Two-family dwelling;
    - (3) Multiple-family dwellings, apartment, etc. containing three to ten units;
    - (4) Multiple-family dwellings, apartments etc. containing eleven to fifty units;
    - (5) Multiple-family dwellings, apartments, etc. containing in excess of 50 units;
    - (6) Commercial and office structures;
    - (7) Penalty fee for renting without license;
    - (8) Inspection trip charge (in excess of three trips in a single registration period).
    - (9) Late registration fee.
    - (10) Conditional license fee.
  - (d) Rental unit registration is construed to be an application for a rental license, and an admission of fact by the applicant that the applicant is conducting a rental unit operation as defined by this article. It shall be the duty of all landlords to apply for the rental license required by this article and obtain all necessary inspections, repairs, approvals required and/or necessary to obtain the license. A registration and/or fee, once tendered, may not be refunded or transferred.
  - (e) Rental units must be currently registered during all periods of occupancy. All unpaid registration and inspection fees shall be specially assessed against the property as provided by City Charter.
  - (f) Rental units shall not be occupied unless and until a license has been issued by the city clerk. A license shall only be issued upon inspection of the premises by the enforcing agency and compliance with the provisions of this article, except as provided in section 18-189.

(Ord. No. 363-01, pt. I, 12-3-2001)

### **Sec. 18-184. Rental licenses.**

- (a) All rental units must be licensed during any period of occupancy. Rental licenses are not transferable between landlords or rental units.
- (b) The following approvals must be obtained by the landlord in order to obtain a rental license:
  - (1) The building official shall determine that the rental unit under application has been inspected and approved within the past 18 months as in compliance with the various codes appropriate to property maintenance and construction trades, as codified in chapter 14 of the Lathrup Village Municipal Code, and, that the mechanical system has been checked and certified by a licensed mechanical contractor that the system is in safe and proper working order according to the applicable code. A building approval that has been issued within the past eighteen months does not restrict the official from requiring additional inspections as permitted by the chapter 14 codes, or when there is a complaint or other probable cause to suspect that a violation or violations of any code or section of this article may exist.
  - (2) A building official shall determine whether the structure(s) and uses comply with, or are exempt from, the city zoning requirements. All rental units shall comply with the city zoning ordinance or obtain a

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determination of lawful nonconformity from the building official or zoning board of appeals, as provided for in the zoning ordinance.

- (3) Fire marshal approval shall be required for commercial structures and those residential uses regulated by the National Fire Prevention Code.
  - (4) Water department approval shall be required, certifying that the water account for the structure is not delinquent.
  - (5) City treasurer approval shall be required, certifying that the property taxes for the parcel in question are not delinquent.
- (c) Upon a finding of compliance with the provisions hereof and payment of the required fees a license shall be issued.
  - (d) At any time, that a finding is made by the enforcing agency that a condition exists which would constitute a hazard to health or safety, No license shall be issued and a license issued shall be suspended and an order to comply with this article shall be issued immediately and served upon the owner in accordance with section 18-196. On reinspection and proof of compliance, the order shall be rescinded and a license issued or reinstated.

(Ord. No. 363-01, pt. I, 12-3-2001)

**Sec. 18-185. Vacation of premises while license withheld; issuance on condition; suspension of rent; escrow; actions for rent and possession.**

- (a) When a license has been withheld, or suspended pending compliance, or revoked no premises which have not been occupied shall be so occupied and those premises which have been or are occupied may be ordered vacated until reinspection and proof of compliance, in the discretion of the enforcing agency.
- (b) A license may be issued on condition that the premises remain in safe, healthful and fit condition for occupancy. If upon reinspection the enforcing agency determines that conditions exist which constitute a hazard to health or safety, the license shall be immediately suspended and the premises may be vacated as provided in subsection (a).
- (c) The duty to pay rent in accordance with the terms of any lease or agreement, or under the provisions of any statute shall be suspended and the suspended rentals shall be paid into an escrow account as provided in subsection (d), during that period when the premises have not been issued a license, or when such license, once issued, has been suspended or revoked. This subsection does not apply when a license has been suspended until the owner has had a reasonable time, not to exceed 30 days, after notice of violations to make application for a temporary certificate, as provided in section 18-189. Nor does this subsection apply where the owner establishes that the conditions which constitute a hazard to health or safety were caused by the occupant or occupants. The rent, once suspended, shall again become due in accordance with the terms of the lease or agreement or statute from and after the time of reinstatement of the license, or where a temporary license has been issued, as provided in section 18-189.
- (d) Rents due for the period during which rent is suspended shall be paid into an escrow account established by the enforcing officer or agency, to be paid thereafter to the landlord or any other party authorized to make repairs, to defray the cost of correcting the violations. The enforcing agency shall return any unexpended part of sums paid under this section, attributable to the unexpired portion of the rental period, where the occupant terminates his tenancy or right to occupy prior to the undertaking to repair.
- (e) When the license has been suspended, or has not been issued, and the rents thereafter withheld are not paid into the escrow account, actions for rent and for possession of the premises for nonpayment of rent may be maintained, subject to such defenses as the tenant or occupant may have upon the lease or contract.

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(Ord. No. 363-01, pt. I, 12-3-2001)

**Sec. 18-186. Right of inspection.**

- (a) City inspectors are duly authorized to inspect properties in conjunction with this article. Inspectors shall not be harassed, stalked, threatened, hindered, assaulted or otherwise interfered within the performance of their duties. In the event that an inspection request is refused, the inspector or code officer is authorized to seek an administrative search warrant through a court of competent jurisdiction.
- (b) In the event of an emergency no warrant shall be required.

(Ord. No. 363-01, pt. I, 12-3-2001)

**Sec. 18-187. Liability.**

The issuance of approvals and a license does not grant a warranty, express or implied, as to the health, safety and welfare of life and property in conjunction with the property. The city and its agents shall not be held liable for any damages in conjunction with inspections, approvals or licensing acts that are conducted in good faith or in the lawful discharge of duties in conjunction with this article.

(Ord. No. 363-01, pt. I, 12-3-2001)

**Sec. 18-188. Cleanliness of dwellings.**

Every dwelling and every part thereof shall be kept clean and shall also be kept free from the accumulation of dirt, filth, rubbish, garbage, or other matter in or on the same, or in the yards, connected therewith; The owner shall be responsible for complying with the provisions of this section except that the tenants shall be responsible for the cleanliness of those parts of the premises and yard that they occupy and control.

(Ord. No. 363-01, pt. I, 12-3-2001)

**Sec. 18-189. Conditional licenses.**

- (a) A conditional license, not to exceed 120 days, may be authorized by the enforcing officer under the following conditions:
  - (1) Application is made by the owner for a conditional license;
  - (2) No violations are in existence which would preclude habitation or threaten the health, safety or welfare of the occupants or community, or, create nuisance conditions;
  - (3) Conditions set forth by any approving agent or agency are set forth in writing on the conditional license. The duration of the conditional license, not to exceed 120 days, shall be established by the enforcing officer and be set forth in writing on the license;
  - (4) A cash bond, in the amount of \$500.00, must be posted to guarantee compliance with the conditions, including deadlines, of the conditional license;
  - (5) The water account has no delinquent balances;
  - (6) The applicant has not defaulted on previously issued conditional licenses and/or no conditional license for the property in question has been previously defaulted upon.

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- (7) Payment of a non-refundable conditional license fee in an amount established by resolution of city council.
- (b) Conditional licenses shall be revoked when there is noncompliance with any condition stated therein, fraud or misrepresentation by the applicant, violations of city codes or ordinances, or for other just cause. Revocation or expiration of a conditional license without compliance on the conditions stated therein shall result in the forfeiture of the aforementioned bond.
- (Ord. No. 363-01, pt. I, 12-3-2001)

**Sec. 18-190. Code compliance.**

All rental units must comply with the applicable portions of the Lathrup Village Municipal Code. The standard for maintenance shall be the BOCA Property Maintenance Code, as amended or a state approved successor code; however, all other codes not in conflict shall also apply. A violation of an applicable code is cause for denial, suspension or revocation of a rental license.

(Ord. No. 363-01, pt. I, 12-3-2001)

**Sec. 18-191. Inspection; policy; records; checklist of reoccurring violations.**

- (a) It is the policy of this city that the inspection procedures are established in the public interest, to secure the health and safety of the occupants of dwellings and of the general public.
- (b) The enforcing agency shall keep a record of all inspections.
- (c) The enforcing agency shall make available to the general public a checklist of commonly reoccurring violations for use in examining premises offered for occupancy.

(Ord. No. 363-01, pt. I, 12-3-2001)

**Sec. 18-192. Violations; recording in registry; notice; order to correct, reasonable time; reinspection.**

- (a) If, upon inspection, the premises or any part thereof are found to be in violation of any provision of this article, the violation shall be recorded by the enforcing agency in the registry of owners and premises.
- (b) The owner, and in the discretion of the enforcing agency the occupant, shall be notified in writing of the existence of the violation. The notice shall state the date of the inspection, the name of the inspector, the nature of the violation and the time within which the correction shall be completed.
- (c) A violation which is determined by the inspector to constitute a hazard to the health or safety of the occupants, under circumstances where the premises cannot be vacated, shall be ordered corrected within the shortest reasonable time and notice of having begun compliance shall be given the enforcing agency by the owner within three days. All other violations shall be corrected within a reasonable time as determined by the enforcing agency.
- (d) The enforcing agency shall reinspect after such reasonable time for the purpose of ascertaining whether the violations have been corrected.

(Ord. No. 363-01, pt. I, 12-3-2001)

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**Sec. 18-193. Action to enforce provisions of act; injunction; parties; temporary relief; service of complaint and summons; order; removal of building; expenses of repair or removal**

- (a) If the owner or occupant fails to comply with the order contained in the notice of violation, the enforcing agency may bring an action to enforce the provisions of this act and to abate or enjoin the violation.
- (b) An owner or occupant of the premises upon which any violation exists may bring an action to enforce the provisions of this article in his own name. Upon application by the enforcing agency, or upon motion of the party filing the complaint, the local enforcing agency may be substituted for, or joined with, the complainant in the discretion of the court.
- (c) When the violation is uncorrected and creates an imminent danger to the health and safety of the occupants of the premises, or if there are not any occupants and the violation creates an imminent danger to the health and safety of the public, the enforcing agency shall file a motion for a preliminary injunction or other temporary relief appropriate to remove the danger during the pendency of the action.
- (d) Owners and lienholders of record, or those who are found by the complainant upon the exercise of reasonable diligence shall be served with a copy of the complaint and a summons. The complainant shall also file a notice of pendency of the action in the office of the Oakland County Register of Deeds.
- (e) The court, having obtained jurisdiction, shall make such orders and determinations as are consistent with the objectives of this article. The court may enjoin the maintenance of any unsafe, unhealthy, or unsanitary condition, or any violations of this article, and may order the defendant to make repairs or corrections necessary to abate the conditions. The court may authorize the enforcing agency to make repairs or to remove the structure. When an occupant is not the cause of any unsafe, unhealthy, or unsanitary condition, or any violation of this article, and is the complainant, the court may authorize the occupant to correct the violation and deduct the cost thereof from the rent upon such terms as the court determines to be just. Whenever the court shall find that the occupant is the cause of any unsafe, unhealthy, or unsanitary condition, or any violation of this act, then the court may authorize the owner to correct the violation and assess the cost thereof against the occupant or his security deposit.
- (f) No building shall be removed, pursuant to this article, unless the cost of repair of the building will be greater than the state equalized value of the building.
- (g) When the expenses of repair or removal 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 order may establish the priority of the lien and may provide that it shall be a lien senior to all other liens, except taxes and assessments; except that a mortgage of record having a recording date prior to all other liens of record shall retain its first priority if, at the time of recording of that mortgage or at any time subsequent thereto, a certificate of compliance as provided for in this article is in effect on the subject property, the order may also specify the time and manners for foreclosure of the lien if not satisfied. A true copy of the order shall be filed in the Office of the Oakland County Register of Deeds within ten days after entry thereof in order to perfect the lien granted in the order.
- (h) This section does not preempt, preclude or interfere with the authority of the city to pursue enforcement or order demolition of any building or structure declared to be a nuisance per se pursuant to chapter 14, article VIII.

(Ord. No. 363-01, pt. I, 12-3-2001)

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### **Sec. 18-194. Denial, suspension and revocation—Appeal.**

The enforcing officer may deny, suspend or revoke a rental license for just cause. Notice of the action must be sent to the landlord by first class mail advising of the adverse action. Landlords may appeal such actions in the following manner:

- (1) All code violations may be appealed to the city council, as enumerated in the respective code, but not later than 21 days after the violation is issued;
- (2) All zoning violations may be appealed to the zoning board of appeals as enumerated in the zoning ordinance.

(Ord. No. 363-01, pt. I, 12-3-2001)

### **Sec. 18-195. Limits on remedy.**

It is the duty of the landlord to annually acquire a landlord license in order to be designated a landlord with the city and be entitled to rents and/or to evict tenants and/or occupants residing or located on the premises, except as otherwise provided in section 18-185.

(Ord. No. 363-01, pt. I, 12-3-2001)

### **Sec. 18-196. Notice.**

Constructive and actual notice shall be deemed to have occurred when notice is sent via first class mail to the landlord at the address listed on the most recent rental registration and/or first class mail notification to the taxpayer of record, personal delivery to the landlord or publication of the notice in a newspaper of general circulation in the community.

(Ord. No. 363-01, pt. I, 12-3-2001)

### **Sec. 18-197. Nuisance per se.**

A rental unit in violation of this article is considered to be a nuisance per se, and, as such, subject to abatement in a manner prescribed by the City Charter, state statute, city ordinance, or other law.

(Ord. No. 363-01, pt. I, 12-3-2001)

### **Sec. 18-198. Violation—Penalty.**

A violation of any provision of this article shall be a misdemeanor and shall be punishable by a fine of not less than \$100.00, nor more than \$500.00 and/or imprisonment, of not more than 90 days or any combination thereof. Individuals, partnerships, corporations and/or their agents or managers may be cited for noncompliance with this article.

(Ord. No. 363-01, pt. I, 12-3-2001)

### **Sec. 18-199. Separate offenses.**

Each day upon which a violation of the article occurs shall be considered a separate offense.

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(Ord. No. 363-01, pt. I, 12-3-2001)

**Secs. 18-200—18-209. Reserved.**

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