

Chapter 18 – Buildings and Building Regulations

Article VIII – Residential Rental Code

Section 18-137 – Findings, purposes, scope, and administration.

(a) *Legislative finding.* It is hereby found that there exist and may in the future exist, within the City, residential rental premises, rooming units or parts thereof, and renter-occupied mobile homes which, by deficiencies in their structure, equipment, sanitation, maintenance, use or occupancy, affect or are likely to affect adversely the public health, including the physical, mental and social well-being of people, their safety, and general welfare. To correct and prevent the existence of such adverse conditions, to achieve and maintain such levels of residential environmental quality that will protect and promote public health, safety and general welfare, preserve property values and prevent blight, it is further found that the establishment and enforcement of minimum rental housing standards are required. It is further found that a municipal registration program is appropriate to effectively enforce residential rental unit maintenance standards and correct or prevent law violations, nuisances and other disturbances and disorders involving residential rental units within the City.

(b) *Purpose.* It is hereby declared that the purpose of this Article is to protect, preserve and promote the physical and mental health and social well-being of the people, to prevent and control the incidence of communicable diseases, to reduce environmental hazards to health, to regulate rental units for the purpose of maintaining adequate sanitation and public health, to maintain a quality of character and stability of rental housing, to prevent possible blight, to protect the safety of the people, and to promote the general welfare by legislation, which shall be applicable to all rental units, as defined herein, now in existence or hereafter constructed. It is hereby further declared that the purpose of this Article is to ensure that the quality of rental units is adequate for protection of public health, safety and general welfare; and to determine an adequate level of maintenance, the responsibilities of owners, operators and occupants of dwellings, and provision for the administration and enforcement thereof.

(c) *Scope.* The provisions of this Article shall apply uniformly to the construction, maintenance, use, and occupancy of all dwellings and rental units, inclusive of rental units in mixed-use structures, and to all renter-occupied mobile homes within the jurisdiction of the City, irrespective of when or under what code or codes such buildings or structures were originally constructed or rehabilitated. However, the provisions of this Article shall not apply to state or federally licensed facilities/units that are regularly inspected by the applicable agency, and to congregate living facilities.

(d) *Administration.* This Article shall be enforced by a Housing and Rental Ordinance administrator appointed by the City Administrator.

Section 18-138 – Definitions.

CITY. The City of Marshall or its representative.

DWELLING. Any building or other structure, including a manufactured home, which is wholly or partly used, or intended to be used, exclusively for living and sleeping by human occupants on a permanent basis. Consequently, hotels and motels are not considered dwellings.

OCCUPANT. Any person residing in a rental unit on a permanent or short-term basis.

PERMANENT BASIS. Any consecutive term 30 days or more or inconsecutive terms adding up to more than 30 days in a calendar year.

PROPERTY MANAGER. A natural person who is authorized by the rental unit owner to make decisions for the owner about rental, occupancy, and maintenance of the rental unit.

RENT or LEASE. The offering of a rental unit to a non-owner on a permanent basis, based on a written agreement covering applicable conditions, and with rent paid in money or labor, whereby non-payment of a periodic payment means the occupants may be evicted without the necessity of either a statutory mortgage foreclosure procedure, a statutory termination of contract for deed procedure or a statutory repossession procedure.

RENTAL UNIT. Any house, apartment, condominium, townhouse, manufactured home, or room or group of rooms constituting, or located within, a dwelling and intended for rent or lease to a person or a group of persons. Consequently, a room offered for rent or lease to a roomer or boarder is considered a rental unit.

SHORT-TERM RENT. The offering of a rental unit to a non-owner for a fixed period of time of less than 30 days, based on a written agreement covering applicable conditions. Examples of short-term rent are Bed and Breakfast and VRBO.

Other applicable terms are as defined in the State Building Code and City Zoning Ordinance.

Section 18-139 – Conflict of Ordinances; effect of partial invalidity.

(a) In any case where a provision of this Article is found to be in conflict with a provision of any zoning, building, fire safety or health ordinance or code of the City existing on the effective date of this section, or of any state or federal statute, rule or regulation, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this Article is found to be in conflict with a provision of any other ordinance or code of the City existing on the effective date of this section which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this Article shall be deemed to prevail to the extent allowed by the State and Federal law.

(b) If any division, paragraph, sentence, clause, or phrase of this Article should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Article, which shall remain in full force and effect; and to this end, the provisions of this section are hereby declared to be severable.

Section 18-140 – Registration requirements.

(a) No person or entity may hereafter allow to rent or lease their rental unit within the scope of this Article to another person or entity for occupancy unless the dwelling in which this rental unit is located is registered as required by this Article.

(b) Each dwelling containing rental units shall have separate registration, unless rental units within such dwelling have different property owners, in which case each rental unit shall be registered separately. When multiple dwellings containing rental units exist on one property, a separate registration shall be required for each dwelling.

(c) Each rental unit shall have an owner who is able to respond to urgent complaints within one hour and address them within 48 hours or a designated property manager who shall be able to provide the same response time to occupants' complaints and maintenance requests.

(d) Any person or entity desiring to rent or lease their residential rental unit(s) shall apply for registration by using website designed by the City for that purpose. The applicant must provide the following information:

- (1) Name, address, phone number, and e-mail address of the property owner.
- (2) Name, address, phone number, and e-mail address, of a designated property manager, if any.
- (3) The full street address of the rental property.
- (4) The number and types (number of bedrooms per unit) of rental units within the rental property.
- (5) For dwellings containing multiple rental units, a sketch of the property identifying all rental units by assigned number, and a sketch of the parking lot, unless all required parking is provided within enclosed attached garages or off-street parking is not required by Ordinance.
- (6) For dwellings containing common entry/space, fire sprinkler system, fire panel, and fire extinguishers' most recent testing dates, when applicable.
- (7) An acknowledgment that the applicant has conducted inspections of the dwelling and certify that the building is in full compliance with the requirements of the City of Marshall Housing Code.
- (8) An acknowledgment that the applicant has reviewed and understood the provisions of this Article, intends to abide by its provisions and will include reference to this Article in any written agreement used in renting the property.

Section 18-141 – Registration; renewal; terms.

(a) The initial registration of all existing rental properties shall be completed by June 30, 2023. Thereafter, all rental properties brought to the market shall be registered prior to occupancy.

(b) Upon receipt of a completed registration application and payment of the registration fees, the City shall issue a Registration Certificate for the specified property, except as provided in Section 18-147 Failure to grant registration.

(c) After obtaining the initial registration certification, rental property owners or their designated property managers will receive a renewal notice on or before November 1st of the expiration year (the second year of the term). Renewal application shall be completed no later than December 31st of such year. Failure of the City to deliver renewal application and/or failure of an owner or local property manager to receive a renewal application, does not excuse or waive the renewal requirement of this Article. Renewal applications shall contain all information as required by Section 18-140 Registration requirements.

(d) The Registration Certificate terms shall be two years with the first full term starting on January 1, 2023. Thereafter, all rental properties brought to the market shall have their first terms started at the beginning of the then-current term.

Section 18-142 – Transfer of property.

Every new owner of an existing rental property shall furnish to the City information as listed in Section 18-140 Registration requirements, subsection (d), items (1), (2), and (8) before taking possession of the rental property upon closing the transaction. No new registration application or fee is to be required of the new owner, provided that the previous owner has paid all applicable fees and has complied with all requirements of this Article and corrected any violations of health, zoning, fire or safety codes of the city or state law. If any change in the occupancy as originally registered is contemplated by the new owner, a new complete registration application will be required.

Section 18-143 – Posting of certificate.

Each registration holder must post the registration certificate, retain its copy on file, and be able to produce said copy upon demand. Registration certificate shall be posted in a conspicuous spot near the common front entry, such as a public corridor, hallway or lobby, for all dwellings with common front entry. In dwellings without common entry, a copy of the registration certificate shall be posted in each rental unit next to the unit's electrical panel or in other conspicuous location.

Section 18-144 – Fees; fines.

- (a) The council may, by resolution, establish fees for the filing of applications for dwelling registration, registration renewal, inspections, and other related activities. The fee shall be paid in full before the application shall be considered and shall not be refundable. No prorating for partial terms shall be permitted.
- (b) The council may, by resolution, establish fines for non-compliance with this Article, including, but not limited to, failure to apply for a registration or renewal and failure to comply with Section 18-145 Maintenance Standards, subsection (a). All unpaid fines may be assessed to the property owner.

Section 18-145 – Maintenance standards.

- (a) Every rental property shall be maintained by its owner in compliance with the current City Housing Code and relevant provisions of the City Ordinance and State Fire Code. Dwelling registration does not constitute certification of full compliance with such codes, standards, ordinances or statutes by the City, and is therefore just an acknowledgement of the completion of the registration process.
- (b) Each rental property shall limit tenant street parking to within the property width on the property side of the street, unless off-street parking is not required by the Ordinance.

(c) Responsibilities of occupants.

- (1) Every occupant of a rental unit shall not remove any smoke or CO detectors or remove the batteries powering the said detectors or render them inoperable in any other way; regular replacement of expired batteries or detectors is the responsibility of the owner.
- (2) Every occupant of a rental unit shall store and dispose of their rubbish, garbage, refuse and any other waste in accordance with their lease or rental agreement and the City Ordinance, and shall not accumulate any of the above on the property except within the garbage enclosure if provided on the premises.

Section 18-146 – Inspections and investigations.

(a) No regular inspections of the dwellings or rental units are mandated under this Article. Full rental unit inspections shall be conducted in accordance with the current City Housing Code based on valid complaints only. A valid complaint is a complaint that brings up an item covered by the City Housing Code and made after the landlord or manager was notified prior to complaint and at least 48 hours passed with no response, or five working days passed with no action taken after an initial response to a complaint. The rental unit owner shall be given a reasonable time to correct violations and deficiencies. The City shall have the right to conduct additional inspections of all properties based on complaints of landlords, tenants, occupants, neighbors or other individuals.

(b) All persons authorized by the City to inspect dwellings shall have the authority to enter, with three days' notice to the registration holder or property manager, any rental unit or dwelling containing a rental unit, registered or required to be registered, for the purpose of enforcing this Article. All registration holders shall, as a condition of registration, consent to such entries for inspection without warrant, and agree to be present, in person or through property manager, during required inspections. All registration holders shall include, as a condition of any lease or rental agreement, that tenants or occupants agree to such entries for inspection without warrant. This provision does not limit or preclude any other right of entry authorized by law.

Section 18-147 – Failure to grant registration; revocation; suspension; failure to renew registration.

(a) The City reserves the right to not register a dwelling in case it does not comply with the requirements of this Article, has unresolved City Ordinance violations, or is a subject to unpaid taxes and assessments.

(b) Any registration issued under this Article is subject to the right, which is hereby expressly reserved by the City, to deny, suspend, revoke or not renew should the registration applicants and holders or their agents, employees, or representatives, directly or indirectly, provide false or misleading information on application, fail to pay appropriate fees, or fail to comply with the requirements of this Article in any other way, including, but not limited to, refusal to provide access to premises for inspections or operate and maintain the dwelling or rental unit according to Section 18-145 Maintenance standards of this Article, any ordinance of the City, any special permit issued by the City, or the laws of the state. However, a registration shall not be denied,

suspended, revoked or not renewed if the registration holder complies with a correction order or orders in a reasonably timely manner as determined by the City.

(c) The City shall notify, in writing, the applicant that registration application has been denied, or the registration holder that registration is about to be suspended, revoked or not renewed. The suspension, revocation or non-renewal shall occur 30 days after the date of the notification order, or at such later date as set out in the notification. Additionally, the revocation shall never occur until a 60-day minimal grace period of suspension expiration.

(d) Any applicant or registration holder, whose application for registration or renewal, respectively, is denied or whose registration is suspended or revoked, may request, and shall be granted, a hearing in the matter before the City Council. The request shall be made in writing and shall state the City action being appealed and the reason for appeal. The request shall be made within 14 days of the City action and the hearing shall be granted within 30 days of the request.

(e) As an alternative to suspension of the dwelling registration, in dwelling containing multiple rental units, the City may exclude a non-compliant rental unit from registration. The procedure for such exclusion shall be the same as for registration suspension.

Section 18-148 – Special conditions for short-term rental units.

(a) No additional occupancy in recreational vehicles, campers, and tents shall be permitted. Off-street parking shall be provided as required by the parking Ordinance. No more than two guest parking on the street shall be permitted.

(b) Exterior appearance, landscaping, and lighting shall be compatible and blend with the neighborhood. No identification signs shall be permitted, except Bed and Breakfast facilities may have one four-square-foot sign mounted on a building near main entrance door.

(c) The property shall not be listed for sale at the time of initial application for registration or any renewals.

(d) If a short-term rental unit is located in a single-family residence or a duplex, the property lines shall be clearly marked with hedge line, fencing, corner posts, etc. If pets are permitted, the entire yard shall be fenced off with a solid fence.

(e) The facility shall comply with all health, fire, safety rules and other regulations of the state and the city, including current Housing Code and City Ordinance. This condition shall be confirmed by a City inspection prior to issuing a registration certificate.

(f) In Bed and Breakfast facilities, the owner shall operate and permanently occupy such facility, shall not operate other commercial enterprises, including food and beverage services to anyone other than registered guests, from such facility, and shall not permit or provide cooking equipment in guest bedrooms.

Section 18-149 – Conduct on registered premises.

(a) The registration holder shall be responsible for preventing repeat instances of disorderly conduct by tenants, occupants, members of their households and guests on the premises. For

the purposes of this section, “disorderly conduct” means any offence involving public safety, public peace and order, and public moral as defined in Chapter 42 of the City Ordinance or violation of any State or Federal law of same nature, that generate police involvement.

(b) If more than three instances of disorderly conduct occur on the premises within twelve consecutive months, the registration holder may be issued a written warning. Another instance of a disorderly conduct within four months of a warning issuance or issuance of two warnings within any three-year time period may be a reason for registration suspension or revocation.

(c) No suspension or revocation shall be imposed where the instance of disorderly conduct on the premises occurred during the pendency of eviction proceedings (unlawful detainer) or within 30 days of notice given by the registration holder to a tenant to vacate the premises where the disorderly use was related to and occurring in the unit for which eviction proceedings were undertaken or notice to vacate was given. Eviction proceedings shall not be a bar to sanctions unless they are diligently pursued by the registration holder.

Section 18-150 – Interim housing.

In the event that the registration is denied, suspended, revoked, or not renewed or any rental unit is excluded from the registration, due to the relevant action or inaction of the dwelling owner or manager, all tenants or occupants of the dwelling or excluded rental unit shall be provided, at the owner’s expense, suitable interim housing similar to the existing living conditions. The owner shall provide such interim housing until the registration is granted or restored or until the end of the lease term, whichever is shorter.

Section 18-151 – Applicable laws.

Registration holders are subject to all of the ordinances of the City and state laws relating to rental dwellings and this Article shall not be construed or interpreted to supersede or limit any applicable ordinance or law.

Section 18-152 – Violations; injunctive relief.

(a) Nothing in this Article prevents the City from taking enforcement action under any of its fire, housing, zoning, health safety or other codes, ordinances and state laws for violations thereof, or to seek injunctive relief and criminal prosecution for violations of any ordinance, code or law. Nothing contained in this Article prevents the City from seeking injunctive relief against a property owner or designated property manager who fails to comply with the terms and conditions of this Article or to obtain an order closing such rental units until violations of this particular Article have been remedied by the property owner or designated property manager.

(b) Violation of this Article is a misdemeanor and each separate day on which a continuing violation occurs is a separate violation. All costs of prosecution for such misdemeanor will be assessed to the property owner.

(c) No provision of this Article designating the duties of any official or employee of the City shall be so construed as to make such official or employee liable for the penalty provided in this Section due to failure to perform such duty.