

## Chapter 18 – Buildings and Building Regulations

### Article VIII – Rental Code

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

(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 and inspection 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 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 county, state, or federally licensed facilities/units that are generally regularly inspected by the applicable agency, and to college dormitories.

#### 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, 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 temporary 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 for a fixed or non-fixed period of time of at least 30 days, 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 lease or rent to a person or a group of persons. Consequently, hotel and motel rooms are not considered rental units.

**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.

Other applicable terms are as defined in the State Building Code.

### **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 and licensing 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 that rental unit is registered and licensed as required by the Article.

(b) Each rental unit shall have separate registration except dwellings containing multiple rental units accessed by common entryway, in which case one registration shall be required for the entire dwelling, unless rental units within such dwelling have different property owners. When multiple dwellings containing rental units exist on one property, a separate registration shall be required for each dwelling.

(c) Each rental unit must have an owner who resides within 20 miles of the City or a designated property manager who shall be able to provide a reasonable response time to occupants' complaints or maintenance requests.

(d) Any person or entity desiring to rent or lease their rental unit shall apply for registration by using forms furnished 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) For dwellings containing multiple rental units, a sketch of the property to be rented identifying all rental units by number, and a sketch of the parking lot, unless all required parking is provided within enclosed garages or off-street parking is not required by Ordinance.
- (5) The number and types of rental units within the rental property.
- (6) The maximum number of bedrooms and occupants permitted for each rental unit.
- (7) Appropriate insurance including liability insurance for a minimum amount of \$1,000,000.00.
- (8) An acknowledgment that the applicant has reviewed and understood the provisions of this section, intends to abide by the provisions and will include reference to this section in any written agreement used in renting the property.
- (9) A preferred method of receiving communication from the City, which shall be either first class US Mail or e-mail.

#### **Section 18-141 – Registration; license issuance and renewal; license terms**

- (a) The initial registration of existing rental properties must be done by **January 1, 2021**. Thereafter, all rental units brought to the market must be registered and licensed prior to occupancy.
- (b) Upon receipt of a completed registration application, payment of all registration fees, and successful completion of all required inspections for compliance with Section 18-145 Maintenance standards, the City shall issue a license to the applicant for the specified property for the term determined by this Section.
- (c) A provisional license may be issued after initial registration for a period of up to 12 months until the City conducts the first complete inspection of the facility. Such license shall clearly state its provisional nature and shall include a disclosure that the dwelling or rental unit has not been inspected for compliance with Section 18-145 Maintenance standards.
- (d) After issuing the initial license for specified property, the City will deliver, by the owner's preferred method of communication indicated on the registration form, a license renewal application to rental unit owners or their designated property managers on or before January 1st of the license expiration year. Completed license renewal application must be delivered to the City no later than March 1st 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 license required by this Article.

- (e) The license term shall be two years for all rental units within dwellings consisting of one or two units and shall be three years for all other dwellings and/or rental units.

### **Section 18-142 – Transfer of property**

Every new owner of an existing rental unit shall furnish to the City the information as listed in Section 18-140 (d) before taking possession of the rental property upon closing the transaction. No new registration fee is to be required of the new owner during the year in which such possession takes place, provided that the previous owner has paid all registration 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 registration application will be required.

### **Section 18-143 – Posting of license**

Each rental unit registration holder must post the rental unit license, retain a copy of the rental unit registration on file, and be able to produce said copy upon demand. Such license shall be posted in a conspicuous spot near the common front entry, such as a public corridor, hallway or lobby, for dwellings containing multiple rental units, or inside individual rental units for dwellings without common front entry.

### **Section 18-144 – Fees.**

The council may, by resolution, establish fees for the filing of applications for rental unit registration and license, license renewal, and other related activities. The fee shall be paid before the application shall be considered and shall not be refundable.

### **Section 18-145 – Maintenance standards.**

(a) Every rental unit must be maintained by its owner in compliance with the current City Housing Code and relevant provisions of the City Ordinance and State Fire Code. Rental unit registration or granting a license does not constitute certification of full compliance with such codes, standards, ordinances or statutes by the City.

(b) Responsibilities of occupants.

- (1) Every occupant of a rental unit shall make no modifications to the rental unit that would make that unit non-compliant with this Section.
- (2) 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 yearly replacement of old batteries is the responsibility of the owner.

- (3) Every occupant of a rental unit located in dwellings containing four or fewer rental units shall store and dispose of their rubbish, garbage, refuse and any other waste in accordance with the City Ordinance and shall not accumulate any of the above on the property. Every occupant of a rental unit located in dwellings containing more than four rental units shall store and dispose of their rubbish, garbage, refuse and any other waste in accordance with their lease or rental agreement and, if collected outside, within garbage enclosure provided by the owner.
- (4) Every occupant of a dwelling containing a single rental unit shall be responsible for the extermination of bed bugs and roaches on the premises.

#### **Section 18-146 – Inspections and investigations.**

(a) Initial inspections of all registered properties will occur within a year of the registration. Properties will have re-inspections done on a schedule determined by license renewal terms in accordance with Section 18-141. The City shall have the right to make 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 rental units 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 shall include, as a condition of any lease or rental agreement with any tenant or occupant, that such tenants or occupants consent to such entries for inspection without warrant. This provision does not limit or preclude any other right of entry authorized by law.

(c) Initial inspections of all registered units and all re-inspections required for license renewals shall be based on the "Rental Properties Inspection Checklist" developed by City staff. Such inspections will not constitute certification for full compliance with all codes, standards, ordinances or statutes by the City beyond inspected items.

(c) Written notice of a violation of this ordinance shall be delivered, by the owner's preferred method of communication indicated on the registration form, directly to the address of the registration holder as shown on the registration application file. The notice shall contain a compliance date and shall advise the registration holder that the property will be re-inspected after that date.

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

(a) The City reserves the right to not register a rental unit in case it does not comply with the requirements of this Article, has unresolved City Ordinance violations, or is a subject of 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 the license should the registration holder 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 in accordance 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 license 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 the applicant that registration has been denied, or the registration holder that license is being 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.

(d) Any applicant or registration holder, whose application for registration or renewal, respectively, is denied or whose license 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.

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

- (a) No additional occupancy in recreational vehicles, campers, tents, etc. shall be permitted. Off-street parking shall be provided as required by the parking Ordinance. No more than one 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.
- (c) The property shall not be listed for sale at the time of initial application for registration or any license renewals.
- (d) If the short-term rental unit is located in an R-1 single family residence district or an R-2 one to four family residence district, 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.

#### **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 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 license suspension.

(c) No suspension or revocation shall be imposed where the instance of disorderly conduct on 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**

As a condition of receiving a rental unit registration, the registration holder agrees that in the event that the registration or license is denied, suspended, revoked or not renewed due to the action or inaction of the registration holder, all tenants or occupants of the rental unit shall be provided, at the registration holder's expense, suitable interim housing similar to the registered unit. The registration holder shall provide such interim housing until the registration and/or license for the unit is 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 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.