

**CHAPTER 1448**  
**NON-OWNER OCCUPIED RESIDENTIAL PROPERTY REGISTRATION AND INSPECTION**

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**1448.01 PURPOSE**

The purpose of the subchapter is to ensure that all non-owner occupied dwellings and units within the city maintain minimum maintenance standards for public health, safety, and welfare. This subchapter will set safeguard controls for one- and two-family dwelling units, multiple family dwelling units, and apartment units, boarding and rooming houses, group homes, hotels, motels, and flats.

**1448.02 DEFINITIONS**

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

Terms not herein defined shall have the meanings customarily assigned to them.

***Bed and Breakfast:*** A dwelling or non-owner occupied unit operating as a business that offers overnight accommodations that is neither a hotel nor a motel.

***Certificate of Compliance:*** A certificate issued by the City which certifies compliance with the codes and ordinances of non-owner occupied dwellings and units in the City.

**Code Official:** The official, who is charged with the administration and enforcement of this article, or any duly authorized agent.

**Duly Authorized Agent:** An individual legally empowered to act on behalf of the Code Official.

**Dwelling or Non-owner Occupied Unit:** Any non-owner occupied structure, or part of a structure in the case of multiple-family structures, containing one or more rooms including a kitchen and designed as a unit for occupancy by one family for the purpose of cooking, living and sleeping, which is used as a home or residence by a person or household unit, or any grounds, or other facilities or area promised for the use of a residential tenant, whether for any form of compensation or not, including without limitation, apartment units and one- and two-family dwellings. A unit that is rented or leased with an option to purchase is considered a rental agreement until the lessee fully exercises the option to purchase as evidenced by a recorded deed or land contract.

**Furnace Report:** A report provided by a certified contractor of the inspection of any furnace, gas, electric, or oil-fired heating unit, and/or climate-control unit for the heating purposes in a dwelling or non-owner occupied unit.

**Immediate Family Member:** As defined by the Michigan Compiled Laws, Section 37.2503(2); a spouse, parent, child, or sibling of the building owner.

**Landlord:** Means the owner, lessor, or sublessor of a non-owner occupied unit, or the property which it is a part of, and, in addition, means a person authorized to exercise any aspect of the management of the premises, whether for any form of compensation or not, including a person who, directly or indirectly, acts as a rental agent, receives rent, other than as a bona fide purchaser, and who has no obligation to deliver the receipts to another person.

**Non-tenant in Residence:** Any person not the owner of a residential dwelling or non-owner occupied unit occupying said dwelling or unit with the benefit of neither a written nor oral agreement constituting a lease.

**Notice of Violation:** A notice issued to the owner or responsible local agent stating that there has been a violation of a provision of the subchapter or any other applicable codes, ordinances, rules, or regulations concerning the premises.

**Non-Owner Occupied:** A dwelling or non-owner occupied unit that is occupied by any person or persons not the owner for a period of at least twelve (12) hours or overnight, whichever is the lesser duration of time.

- a) Exception: A dwelling or non-owner occupied unit occupied by an immediate family member and/or that family member's immediate family (i.e. - the daughter of the owner and/or her spouse and/or children). This exemption is not to exceed three (3) properties

in the owner's possession within the City. This exemption does not apply to property owned under a corporation name or any name that is not that of a person.

- b) **Exception:** An additional non-owner occupied unit which is occupied by an immediate family member in a dwelling occupied by its owner, shall be required to be registered but shall be exempt from fees and standard rental inspections. Verification of the relationship and occupancy shall be provided upon request. This exemption does not apply to property under a corporation name or any name that is not that of a person.

**Owner:** Any person, agent, firm or corporation having a legal or equitable interest in the premises.

**Owner Occupied:** The actual owner of record, surviving spouse, children, parents, or siblings occupying a dwelling or non-owner occupied unit as defined by this article.

**Renewal Date:** The expiration date of a previous or current certificate for the same owner and the same property.

**Responsible Local Agent:** The responsible local agent shall be an individual person, and shall be either the property owner, representative of a corporation, partnership, firm, joint venture, trust, association, organization, or other entity having a legal or equitable interest in the property, or designated by the owner as responsible for operating the premises in compliance with all the provisions of the city codes and ordinances. All official notices and violations may be issued to the responsible local agent, and any notice so issued shall be deemed to have been issued upon the owner of record.

**Tenant:** A person who occupies property rented from a landlord.

#### **1448.03 REGISTRATION REQUIRED**

- a) The owner of any non-owner occupied dwelling or unit shall register with the City and shall designate a person as the responsible local agent who shall be legally responsible for operating the premises in compliance with all the provisions of the city codes and ordinances, and shall also be responsible for providing access to the premises for making the inspections necessary to ensure compliance with the terms of all applicable codes and ordinances adopted by the City. Each responsible local agent shall maintain a current list of the number of occupants of each non-owner occupied unit for which they are responsible. Registration is still applicable for units occupied by owners and/or immediate family members of the owner, although no inspections are required except under possible circumstances as may be addressed in 1448.11, 1448.15, or 1448.16. This exception shall also apply to foster parents/children, and persons under legal guardianship or a legal guardian of an immediate family member of an owner who lives in the owner's dwelling or non-owner occupied unit. The owner exemption shall not exceed three (3) properties in any owner's possession of properties owned within the

City. The properties that exceed this threshold shall be registered and inspected as demanded by this article. It shall be the burden of the owner and tenant to establish by a preponderance of evidence that the family relationship described herein exists. A certificate of compliance shall not be issued if the requirements subsequent to registration are not completed as required by this article.

- b) Any owner of a non-owner occupied dwelling or unit with a non-tenant in residence, commonly referred to as a squatter, shall have inspections suspended for a period of six (6) months while legal proceedings are underway to evict said non-tenant. The code official may require documentation of legal proceedings as evidence of eviction proceedings. The suspension may be extended at the code official's discretion.

#### **1448.04 CERTIFICATE OF COMPLIANCE REQUIRED**

- a) No person shall rent, lease, advertise, or offer for rent or lease, or occupy any dwelling or non-owner occupied unit unless there is a valid certificate of compliance issued by the City in the name of the owner/responsible local agent and issued for each specific dwelling and unit. Certificates are not transferable between landlords, dwellings, or units. Registration of a non-owner occupied dwelling or non-owner occupied unit is an admission of fact by the applicant that the applicant is conducting a rental dwelling operation as defined by this article. It shall be the duty of all landlords to apply for the non-owner occupied certificate, and certificate renewals, as required by this article and obtain all required inspections, repairs, and approvals prior to the occupancy date, or the expiration date of any current certificate, whichever occurs first.
- b) Occupancy of any dwelling or non-owner occupied unit by a person other than the owner shall be presumed to require a certificate of compliance, except as exempted in the definitions in this article. This presumption may be rebutted by evidence that the occupant has ownership equity in the dwelling as evidenced by a recorded deed, a recorded land contract, or a recorded memorandum of land contract. A dwelling that is occupied, rented, or leased with an option to purchase is considered as non-owner occupied under the terms of this article until the lessee fully exercises the option to purchase as evidenced by recorded documentation.
- c) A certificate of compliance shall be issued by the City if the applicant meets all of the following requirements:
  - 1) A completed registration form is submitted pursuant to the provisions of 1448.05.
  - 2) All registration, inspection, and late fees are paid.
  - 3) The inspection(s) have been performed at the premises sought to be certified and all violations disclosed have been corrected.
  - 4) All re-inspections have been approved to confirm the correction of violations.
  - 5) No certificate of compliance will be issued until all of the following fees and debts to the City have been paid full:
    - i) All previously billed property taxes;
    - ii) All current or past due special assessments;

- iii) Water or sewer bills outstanding;
  - iv) All charges against the property for mowing, cleanup, debris removal, or similar charges by the City;
  - v) Any fees, fines, penalties, or debts of any sort arising from provisions of property maintenance, including blight violations.
- d) The term of the certificate shall be established by resolution of City Council. The non-owner occupied certificate is valid for the established period from the date of application for a new certificate, or the expiration date of the previous certificate for a renewal, unless suspended or revoked for cause by the city. Licensees shall apply for certificate renewal sixty (60) days prior to the expiration date of the current certificate. Sale or otherwise change in ownership of the subject premises results in immediate termination of the certificate. Failure to obtain or renew a certificate or failure to pay any inspection fee is a violation of this article.
- e) Failure to register a non-owner occupied dwelling or non-owner occupied unit, complete required inspections or re-inspections, provide a furnace report from a licensed mechanical contractor, obtain a certificate of compliance or renew a certificate of compliance prior to the expiration date, or failure to pay any fee is a violation of this article and may result in additional fees and penalties, up to and including court action.

#### **1448.05 REGISTRATION FORMS AND FEES**

- a) Applications for registration will be available at the City Hall and shall include at least the following information:
  - 1) The name, address, telephone number, driver's license or State ID card, and date of birth of the applicant; no post office box shall be accepted as legal address;
  - 2) The names, addresses, and telephone numbers of all owners of the dwelling or units;
  - 3) The name, address, telephone number, driver's license or State ID card, and date of birth of the responsible local agent; no post office box shall be accepted as legal address
  - 4) The authorization appointing a responsible local agent signed by both the owner and the responsible local agent;
  - 5) The number of units in each building, if multiple units exist.
- b) A one-time registration fee is required for each property owner or entity per dwelling and shall be paid at the time of registration. No post office box will be accepted as legal address.
- c) An inspection fee for each unit shall be paid at the time of registration for a new certificate or renewal of an existing certificate. This inspection fee shall include an initial inspection, and one (1) re-inspection as needed. Third and subsequent inspections that are required shall be charged an additional fee per inspection. If an owner or registered agent fails to provide access for an inspection, or the inspector cannot gain access to any non-owner occupied dwelling or unit, this shall be considered as a 'lock out' and be subject to an additional inspection fee.

- d) Registration fees, inspection fees, late fees, as well as any other charges in connection with non-owner occupied registration and compliance shall be established by resolution of City Council.

#### **1448.06 BUSINESS REGISTRATION AND LICENSE REQUIRED**

- a) Any person, agent, firm, or corporation that meets one (1) or more of the following conditions will be considered to be operating a business in the City and will be required to obtain a business license from the City Clerk. The business license is in addition to the required certificate of compliance:
  - 1) Any non-owner occupied dwelling or non-owner occupied unit that is registered in the name of a corporation, incorporation, limited liability company, DBA, or other business entity, and evidenced by deed, land contract, property transfer affidavit or other documentation showing legal interest and ownership;
  - 2) Any person, agent, firm, or corporation, identified by name, corporation, incorporation, limited liability company, or any combination thereof, having ownership in three (3) or more non-owner occupied dwelling units;
  - 3) Any non-owner occupied dwelling or non-owner occupied unit that operates as a Bed and Breakfast.
- b) Any entity that is required under this subsection to obtain a business license must include with application a list of all properties owned in the City, and provide proof that said properties have been registered with the Assessor for the City, the Building Department, and the Community and Economic Development Department.
- c) Any entity that is required under this subsection to obtain a business license and has properties registered under two (2) or more names, need only obtain one (1) name under which each property is registered, and provide proof that said properties have been registered with the Assessor for the City, the Building Department, and the Community and Economic Development Department.
- d) Business licenses for non-owner occupied properties are non-transferable. Upon changes in ownership, the new owner, if required by this subsection, must submit application for a new business license.
- e) Fees for owners of non-owner occupied dwellings' business licenses shall be established by resolution of City Council.

#### **1448.07 DESIGNATION OF RESPONSIBLE AGENT REQUIRED**

The owner of any dwelling or non-owner occupied unit as defined by this article shall designate an individual person as the responsible local agent who shall be responsible for operating the dwelling or non-owner occupied unit and who shall provide access for inspection by the code official or duly authorized agent for compliance with the applicable ordinance requirements. The responsible local agent shall reside within a fifty (50) mile radius of the City. The owner may act as the responsible local agent.

#### **1448.08 TRANSFER OF OWNERSHIP**

- a) Certificates of compliance shall not be transferable as to person or place. Upon transfer of ownership of any dwelling or non-owner occupied units, the new owner shall apply for a new certificate no later than thirty (30) days after the transfer of ownership.
- b) It shall be unlawful for the owner of any non-owner occupied dwelling or non-owner occupied unit who has received a notice of violation to transfer, convey, lease, or sell (including by land contract) their ownership and/or interest in any way to another, unless the owner shall have first furnished to the grantee, lessee, vendee, or transferee a true copy of any notice of violation and shall have furnished to the code official a signed and notarized statement from the grantee, lessee, vendee, or transferee acknowledging the receipt of the notice of violation.

#### **1448.09 INSPECTION OF DWELLING OR NON-OWNER OCCUPIED UNIT**

- a) *Access of Code Official or Duly Authorized Agent:* The code official or duly authorized agent shall be granted access by the owner, agent, or occupant of the dwelling or non-owner occupied unit on the date of requested inspection for the purpose of conducting a compliance inspection. If any owner or occupant refuses to provide access to the premises for a compliance inspection, or fails to show up for the inspection, the inspection shall be recorded as a 'lock out' and a re-inspection fee assessed. All dwellings and non-owner occupied units shall comply with the minimum standards set forth in the International Property Maintenance Code as adopted by council at the December 5, 2016 city council meeting.
- b) *Inspection Required.* All dwellings and non-owner occupied units shall have an inspection to ensure compliance with all requirements of the International Property Maintenance Code as adopted by council at the December 5, 2016 city council meeting.
- c) *Re-inspection required.* Re-inspection shall be required when violations are found to exist during a prior inspection. Before a certificate of compliance is issued, all violations must be corrected and approved. The violations shall be corrected and a re-inspection completed within thirty (30) days after the initial inspection or by the renewal date, whichever occurs first, except in dangerous conditions which must be remedied immediately.
- d) *Additional inspections.* In addition to regular or renewal inspections, inspections may be scheduled on one (1) or more of the following bases:
  - 1) Complaints of violations from tenants residing in the dwelling unit will be inspected within a reasonable time if they allege sufficient facts that would give reasonable cause to believe a violation of this ordinance exists.
  - 2) Whenever a code official duly authorized agent has a reasonable cause to believe that there is a violation of this ordinance or other conditions which make the structure or premises unsafe, dangerous, or hazardous.

#### **1448.10 POSTING OF CERTIFICATE OF COMPLIANCE**

No dwelling or non-owner occupied unit as defined by this article may be occupied unless a copy of the current certificate of compliance is displayed in an eight and one-half (8½) by eleven (11) inch frame securely affixed to the interior wall adjacent to the primary entrance door to the dwelling or non-owner occupied unit. A multiple-family dwelling or apartment complex shall display the license in the same manner at the primary entrance of each building unit.

#### **1448.11 ADDITIONAL VIOLATIONS**

The following are additional violations subject to enforcement:

- a) No person shall occupy for sleeping purposes, and no owner or responsible local agent shall allow a person to occupy for sleeping purposes, a basement without compliant emergency egress or any non-habitable spaces of a dwelling or non-owner occupied unit
- b) No person shall harass, stalk, threaten, hinder, assault, bring to harm, or otherwise interfere with a code official or duly authorized agent during the performance of their duties
- c) No person shall knowingly make any false statement or provide any false information on a non-owner occupied certificate registration application or any other information to any employee of the City or other authorized person in relation to any investigation of a violation of this article
- d) Every dwelling and non-owner occupied unit and the yard connected therewith shall remain clean and kept free from any accumulation of dirt, filth, rubbish, or garbage
- e) Each day upon which a violation of this article occurs shall be considered a separate offence and is subject to additional fees.

#### **1448.12 COMPLIANCE WITH CODE OF ORDINANCES**

All non-owner occupied dwellings and non-owner occupied units shall comply with all provisions of this article, the International Property Maintenance Code as adopted by council at the December 5, 2016 city council meeting, and all other applicable ordinance requirements. After inspection, all non-owner occupied dwellings and non-owner occupied units in compliance with applicable ordinances shall receive a certificate of compliance consistent with the provisions in 1448.04. Those non-owner occupied dwellings and non-owner occupied units that are not in compliance with applicable ordinances shall be brought into compliance within thirty (30) days of the date of notice of the violations or by the renewal date, whichever occurs first, and a subsequent inspection scheduled to verify compliance. Upon request and submission of proof of extenuating circumstances, the code official may grant an extension to make the non-emergency repairs necessary to bring the property into compliance.

#### **1448.13 COURT ACTIONS FOR RENT AND/OR POSSESSION**



- a) When information is requested from court of any action for rent or possession filed on an unregistered or uncertified property, the court shall be notified of any violation of this article
- b) When so instructed by the court, the owner or responsible agent shall register the property as a non-owner occupied dwelling or non-owner occupied unit
- c) If previously unregistered, or registered but not certified, the owner or responsible agent shall pay for and schedule inspections no later than ten (10) days after the completion of proceedings by the court with the exception of one of the following:
  - 1) An affidavit of non-rental is filed by the owner;
  - 2) The owner provides proof of primary residence within ten (10) days of the date of notification from the court;
  - 3) The owner provides proof that court action for possession has not been completed after thirty (30) days, at which time an extension shall be granted for an additional thirty (30) days.

#### **1448.14 AFFIDAVIT OF VACANT DWELLING OR NON-RENTAL**

- a) Any dwelling or dwelling unit that is to remain unoccupied shall register the property as vacant with the City and comply with all inspections in compliance with the Vacant Property Ordinance and the International Property Maintenance Code as adopted by City Council in order to obtain a certificate of compliance.
- b) Any dwelling or non-owner occupied unit that is to remain unoccupied is subject to vacant property registration and fees.
- c) At such time the vacant dwelling or non-owner occupied unit is to be occupied as a non-owner dwelling, it shall be the owner's responsibility to notify the City to remove the affidavit or Vacant Property Registration and to register the property as a non-owner occupied dwelling or non-owner occupied unit.
- d) Any property that has such an affidavit filed that is found to be occupied by any person other than the property owner listed on the affidavit shall be in violation of this article and subject to the penalties herein.
- e) Any dwelling or non-owner occupied unit, which has had an affidavit filed, is subject to inspection by a code official or duly authorized agent to insure vacancy of the dwelling or unit. No schedule is needed for the inspections which may take place at any time.
- f) The owner of any dwelling or non-owner occupied unit that has a valid certificate of compliance and becomes owner occupied shall file an affidavit of non-rental with the City within fifteen (15) days of the change in occupancy.

#### **1448.15 SUSPENSION OF CERTIFICATE OF COMPLIANCE**

- a) A certificate of compliance issued by the City may be suspended by the code official for any of the following conditions:
  - 1) A condition exists contrary to the public health, safety, or welfare;

- 2) Unauthorized use or beyond the scope of the certificate issued;
  - 3) Any condition forbidden by the provisions of this article or any other established city ordinance or other regulation;
  - 4) Violation of any criminal law;
  - 5) A verified complaint of violations of this article.
- b) Upon suspension, the owner or agent shall be notified in writing of the suspension and violations, corrective action, and the time allotted for the violations to be corrected
  - c) If a certificate of compliance has been suspended, either by complaint or otherwise, the owner or agent shall be assessed a re-inspection fee and shall schedule a re-inspection in order to insure all violations have been corrected.
  - d) If a certificate of compliance has been suspended for any reason, the code official shall have the right to permanently revoke the certificate if the owner or responsible local agent has allowed the violation or violations resulting in suspension to remain uncorrected after thirty (30) days have elapsed from the date of notice, or has not paid the re-inspection fee and contacted the Building Department to schedule a re-inspection for a date within thirty (30) days of the notice of suspension to verify that the violation or violations have been corrected.

#### **1448.16 DANGEROUS CONDITIONS**

Should the code official, upon inspection, determine that there are conditions which constitute an imminent danger to health and safety, the code official may order the conditions to be remedied and may limit or prohibit occupancy where appropriate.

#### **1448.17 DISCLAIMER OF LIABILITY**

- a) A certificate of compliance is not a warranty or guarantee that there are no defects in the dwelling or non-owner occupied unit and the City shall not be held responsible for defects not noted in the inspection report.
- b) The inspection of the land use, exterior posture, and interior accessories of the structure is limited to visual inspection only. The City does not guarantee or approve by inference any latent, structural, or mechanical defects thereto or other items that are not apparent by a visual inspection.
- c) The City shall not assume any liability to any person by reason of the inspections required by the subchapter or the code adopted herein or the issuance of a certificate of compliance or a certificate of occupancy.

(Reserve 1448.18-1448-50)