

**CITY COMMISSION
CITY OF OTSEGO
Allegan County, Michigan**

Commissioner Wieber, supported by Commissioner Shankle, moved the adoption of the following ordinance:

ORDINANCE NO. 156

AN ORDINANCE TO AMEND ARTICLE III, DIVISION 1 OF CHAPTER 10 OF THE CODE OF ORDINANCES OF THE CITY OF OTSEGO, MICHIGAN, TO PROVIDE FOR THE REGISTRATION AND INSPECTION OF RENTAL DWELLINGS

THE CITY OF OTSEGO ORDAINS:

Section 1. Amendment. Chapter 10, "Building and Building Regulations," Article III, "Housing Code," Division 1, "Housing Code," Sections 10-81 through 10-91, of the Code of Ordinances of the City of Otsego, Michigan, are hereby amended to read as follows:

Division 1. Rental Dwellings

Sec. 10-81. Definitions.

(a) The following definitions shall apply to this division:

- (1) *Building Inspector* means the official appointed by the city commission charged with the administration and enforcement of this division, or his or her duly authorized representative.
- (2) *Local agent* means an individual, fiduciary, partnership, association, corporation or other entity, residing or located within 60 miles of the city, who represents the owner of a rental dwelling during periods of occupation by a tenant(s) for purposes of this division.
- (3) *Owner* means an individual, fiduciary, partnership, association, corporation or other entity holding legal or equitable title in a rental dwelling.
- (4) *Rental dwelling* or *rental property* means any dwelling unit which is in whole or in part occupied by one or more person(s) pursuant to an oral or written agreement for monetary or any other consideration, but which person(s) is not acquiring an ownership interest in the dwelling. This shall include one-family, two-family and multiple family dwellings, boarding and/or rooming houses. It does not include hotels, motels, bed-and-breakfasts or dwellings that are occupied only by members of the owner's immediate family.
- (5) *Tenant* or *Occupant* means any person, other than an owner, occupying all or part of a rental dwelling.

(b) In addition to the definitions listed above, all words and terms defined within division 2 of this article are adopted by reference and made a part of this section as if fully set forth in this division.

Sec. 10-82. Registration of rental dwellings.

(a) *Registration required.* Within 120 days of the effective date of the ordinance from which this division is derived, all owners of rental dwellings shall register such properties with the city on an application in a form provided by the city. At the time an application is filed, a registration fee in an amount established from time to time by resolution of the city commission shall be paid in full.

(b) *Validity of registration.* Every registration under this division shall be effective for a period of five years, unless revoked prior to its expiration pursuant to subsection 10-83(e) below, and may be renewed for successive periods of five years. Renewal shall be the sole responsibility of the owner.

(c) *Registration of new rental dwellings.* The owner of a new rental dwelling or of any dwelling newly converted to a rental dwelling shall register the rental dwelling prior to allowing occupancy.

(d) *Change in registration information.* The owner of a rental dwelling previously registered with the city under this division shall re-register within 60 days after any change occurs in registration information. At the time an application to re-register is filed, a registration fee in an amount established from time to time by resolution of the city commission shall be paid in full.

(e) *New ownership of registered rental dwelling.* A new owner of a registered rental dwelling shall re-register the dwelling within 60 days of assuming ownership. At the time an application to re-register is filed, a registration fee in an amount established from time to time by resolution of the city commission shall be paid in full.

(f) *Registration of rental dwellings.* Application for registration or re-registration shall be made in accordance with such instructions as may be provided with the registration application which shall include:

(1) The address of the rental dwelling.

(2) The number of rental dwelling units. If the premises also provides for temporary dwelling, the application shall also state the number of temporary dwelling units in the premises for purposes of distinguishing them from the rental dwelling units.

(3) The name, residence address, business address, business phone number, and personal phone number of the owner and/or the local agent, if applicable.

(4) The address where the owner and/or the local agent, if applicable, will accept notices or orders from the city.

(5) Verification that all state and city taxes levied and assessed against the rental dwelling that are due and payable at the time of the filing of the application have been paid. Delinquencies on such taxes may result in the denial of an application for registration or re-registration under this division.

(6) A diagram or sketch of the floor plan of the rental dwelling sufficiently detailed to identify the square footage of living rooms, dining rooms, bedrooms and other habitable areas.

(7) The number of off-street parking spaces.

(8) Verification that the owner and/or local agent, if applicable, will permit and arrange for inspection of the rental dwelling as required by this division.

(g) *Inaccurate or incomplete registration information.* It shall be a violation of this division for an owner to provide inaccurate information for the registration or re-registration of rental dwellings or to fail to provide information required by the application.

(h) *Designation of local agent.* If the owner of a rental dwelling, or a responsible member or officer of the owner, does not reside within 60 miles of the city, during periods of occupation by a tenant(s), the owner shall designate a local agent who shall be responsible for operating such rental dwelling in compliance with this division, this code of ordinances, and other applicable laws or regulations. All official notices may be served on the local agent, and any notice so served shall be deemed to have been served upon the owner of record.

(i) *More than one owner or ownership by entity.* Where more than one person has an ownership interest, the required information shall be provided for each owner. In those cases in which the owner is not a person, the information required for registration shall be provided for the organization owning the rental dwelling and for the president, general manager or other chief executive officer(s) of the organization.

Sec. 10-83. Certification of rental dwellings required.

Rental dwellings shall not be occupied without a valid certificate of compliance or a valid temporary certificate of compliance.

(a) *Issuance of certificate of compliance.* The city shall issue a certificate of compliance for a rental dwelling registered pursuant to section 10-82 above when, following an inspection by the building inspector, it is determined that the rental dwelling complies with the requirements of this division.

(b) *Validity of certificate of compliance.* A certificate of compliance shall be valid for three years for all rental dwellings, unless suspended or revoked as set forth below.

(c) *Temporary certification authorized.* Prior to the expiration of a certificate of compliance, the city may issue a temporary certificate of compliance upon submission by the owner, or if one is required, the local agent, of a completed city-designated checklist in compliance with section 10-86 below, for a rental dwelling registered pursuant to section 10-82 above, if the building inspector had determined during his or her most recent inspection that no deficiencies or violations exist within the rental dwelling. Inspection fees shall not be imposed in conjunction with the issuance of a temporary certificate of compliance by the City.

(d) *Validity of temporary certificate of compliance.* A temporary certificate of compliance shall be valid for two years or until such time as an inspection or re-inspection of the rental dwelling may be conducted and a certificate of compliance is issued pursuant to subsection (a) above, whichever shall occur first.

(e) *Revocation.* A certificate of compliance and/or a temporary certificate of compliance may be revoked subsequent to its issuance by the building inspector upon

findings that a rental dwelling fails to comply with this division and/or for repeated violations of this code of ordinances or other applicable laws and regulations.

(f) *Appeal.* Any person aggrieved by certificate revocation under subsection (e) above may appeal such action to the city's construction board of appeals. Enforcement of such revocation shall be stayed while the appeal is pending before the construction board of appeals.

(g) *Transfer prohibited.* Except for a rental dwelling that is sold within one year of its receipt of a certificate of compliance with the written consent of the building inspector, no certificate issued under this division shall be transferred.

Sec. 10-84. Violations.

(a) *Municipal civil infraction.* A violation of this division shall be a municipal civil infraction. Any person, including without limitation an owner, local agent, tenant or occupant, who is found responsible for a violation of this division shall be subject to the fines and penalties provided in section 1-15 of this code of ordinances.

(b) *Additional penalty.* In addition to the penalties provided in subsection (a) above, any owner, local agent, tenant or occupant may be cited for other acts or omissions that violate this code of ordinances or state law.

Sec. 10-85. Inspections.

(a) *Compliance inspection.* Before issuing a certificate of compliance, the building inspector shall inspect all rental dwellings in order to determine whether they are in compliance with this division, this article, the city's property maintenance code, and other applicable laws and regulations.

(b) *Scheduling of inspections.* Upon written notice from the city, it shall be the owner's responsibility to schedule and allow the building inspector's inspection of the rental dwelling. When an inspection is required for the renewal of an existing certificate, the owner shall schedule and permit that inspection prior to the expiration of that certificate. Unless the city agrees to other arrangements, inspections shall occur during the city's regular business hours and all fees owed under this division shall be paid prior to inspection.

(c) *Deficiencies or violations.* If an inspection reveals that the rental dwelling is not in compliance with this division, this article and/or the city's property maintenance code, the owner shall be provided a written list of deficiencies or violations that must be corrected before a certificate is issued.

(d) *Required inspections.* Every rental dwelling shall be inspected at least once every five years.

(e) *Additional inspections.* Between required inspections under subsection (d) above, the building inspector may conduct additional inspections in the manner best calculated to secure compliance with this division and this code of ordinances upon one or more of the following bases:

(1) *A complaint basis.* Complaints of violations of this code of ordinances, this division, or other applicable laws or regulations will be inspected within a reasonable time.

(2) *A violation basis.* If the city has reasonable cause to believe a rental dwelling is in violation of city ordinance or applicable law or regulation, the rental dwelling will be inspected within a reasonable time.

(3) *A recurrent violation basis.* Rental dwellings that are found to have a high incidence of recurrent or uncorrected violations (based upon prior inspections by the building inspector) may be inspected more frequently.

(f) *Certificate issuance.* The issuance of a certificate of compliance and/or the issuance of a temporary certificate of compliance pursuant to section 10-84 above shall not be deemed to waive owner liability relating to a rental dwelling.

(g) *Fees.* The City shall charge nonrefundable fees for inspections under this division. Inspection and re-inspection fees shall be set by resolution of city commission and shall be paid in advance of inspection. The fee for inspection covers the initial inspection and one complete re-inspection. If any subsequent re-inspections are required, the city commission shall establish by resolution a re-inspection fee that shall increase at a progressively higher rate for each re-inspection. Failure on the part of the owner or local agent to provide a 48-hour notice of inspection cancellation and/or failure to keep a scheduled inspection time may result in the assessment of a nonrefundable late fee, as established by city commission resolution.

Sec. 10-86. Record keeping.

(a) *Tenant acknowledgment.* Each tenant of a rental dwelling shall sign a document acknowledging the occupancy limitations and city regulations applicable to the rental property, which document shall be maintained by the owner or, if one is required, the local agent for inspection and copying by the city.

(b) *Tenant update.* The information required under subsection (a) above shall be updated by the owner or, if one is required, the local agent, for each rental to different tenants or occupants.

(c) *Checklist.* Prior to the issuance of a temporary certificate of compliance pursuant to section 10-83 above, the owner or, if one is required, the local agent may inspect the rental dwelling using a city-designated checklist to ensure that all smoke detectors, lights, doors, locks, windows, screens, plumbing, appliances, heating, ventilation and air conditioning units, railings, ceiling fans and furnishings are in a safe and working condition. The owner or, if one is required, the local agent shall sign and date the checklist and shall submit a copy to the building inspector.

(d) *Display of certificate.* Each rental dwelling shall display a full-size copy of the certificate of compliance or the temporary certificate of compliance in a prominent location inside the rental property.

Sec. 10-87. Rental dwelling requirements.

(a) *Parking.* Each rental dwelling shall maintain a minimum number of off-street parking spaces as required by the city's zoning ordinance and as established at the registration of the rental dwelling.

(b) *Occupancy limitations.* Rentals dwellings shall not be occupied by more tenants or occupants than permitted by the following minimum area requirements as determined by the building inspector:

| Space | 1-2 tenants/occupants | 3-5 tenants/occupants | 6 or more tenants/occupants |
|--------------|--|--|--|
| Living room | Efficiency unit; no requirements | min. 120 sq ft | min. 150 sq ft |
| Dining room | Efficiency unit; no requirements | min. 80 sq ft | min. 100 sq ft |
| Bedrooms | Every bedroom occupied by (1) one person shall contain a minimum of 70 sq ft of floor area, and every bedroom occupied by more than one person shall contain at least 50 sq ft of floor space for each occupant thereof. | Every bedroom occupied by (1) one person shall contain a minimum of 70 sq ft of floor area, and every bedroom occupied by more than one person shall contain at least 50 sq ft of floor space for each occupant thereof. | Every bedroom occupied by (1) one person shall contain a minimum of 70 sq ft of floor area, and every bedroom occupied by more than one person shall contain at least 50 sq ft of floor space for each occupant thereof. |

(c) *Signs.* Signage for rental dwellings shall comply with the city's code of ordinances, as it may from time to time be amended.

(d) *Ordinance requirements:* In addition to the requirements of this division, each rental dwelling shall be subject to applicable provisions of the city's code of ordinance, including, but limited to, provisions regulating exterior property maintenance and blight, the keeping of animals, the storage of inoperable vehicles or equipment, buffering, screening and lighting requirements.

(e) *Advertisement.* The owner or, if one is required, the local agent of each rental dwelling shall not advertise or permit an occupancy load that is greater than the maximum occupancy load limit permitted by this division, city ordinance or other applicable law or regulation.

Sec. 10-88. Fair housing.

This division does not discriminate against any person on the basis of race, color, religion, national origin, age, sex, height, weight or marital status in the area of equal, fair housing. The city will continue this policy as reflected by this division.

Sec. 10-89. Conflicts.

In the event that the provisions of this division conflict with any other provision within this code of ordinances, the provision that is more restrictive shall apply.

Secs. 10-90--10-110. Reserved.

Section 2. Effective Date. Following its final adoption and publication in accordance with the City Charter, this ordinance shall take effect on July 1, 2014.

YEAS: Commissioner: Tom Gilmer, Kathy Misner, Cyndi Trobeck, Ryan Wieber & Matt Shankle

NAYS: Commissioners: None.

ABSTAIN: Commissioners: None

ABSENT: Commissioners: None.

ORDINANCE ADOPTED.

CERTIFICATION

I certify that this is a true and complete copy of an ordinance adopted by the City Commission of the City of Otsego at a regular meeting held on March 17, 2014.

Dated: March 17, 2014

Angela Cronen, City Clerk

Introduced: March 3, 2014
Adopted March 17, 2014
Published: March 31, 2014
Effective: July 1, 2014