

CITY OF PORT HURON, MICHIGAN



RENTAL CERTIFICATION Article V - Chapter 10 Code of Ordinances

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CHAPTER 10
BUILDINGS AND BUILDING REGULATIONS

ARTICLE V. RENTAL CERTIFICATION

Sec. 10-151. Purpose.

(a) The city recognizes the importance to the general health, safety and welfare of all of its citizens, including its citizens who rent residential rental structures. The city therefore also recognizes a compelling interest in establishing standards for the maintenance of sanitary and safe residential rental structures and residential rental units in the city. This article is designed to promote the continued maintenance of quality and safe rental properties and to enhance and maintain property value of all properties and to reduce the causes of blight and other deleterious factors affecting neighborhoods.

(b) It is the city's policy that all residential rental structures must be registered with the city and a valid and current rental certification be in effect at all times a residential rental structure is being occupied by a tenant. It is also the policy of the city that rental certification only be available for those residential rental structures who meet and maintain the minimum standards set by the city.

Sec. 10-152. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Boarding house means an establishment or building where meals, lodging or both are provided for compensation with the following stipulations:

- (1) Rental shall be prearranged and without limitations or time periods involved.
- (2) No cooking facilities shall be permitted in sleeping rooms.
- (3) There shall not be more than ten sleeping rooms per establishment.
- (4) No more than one person shall occupy each sleeping room.
- (5) Sufficient off-street parking shall be provided pursuant to article VI of this chapter.
- (6) There shall be provided one toilet and bathing facility per three sleeping rooms.

In larger structures, located in A-1 zones, up to a maximum of ten sleeping rooms (bedrooms) may be used in accordance with all other city ordinances and applicable codes.

Building official means the chief inspector of the city or authorized representative.

Certification means a certificate issued by the department of rental inspection which certifies compliance with this article and the date of such certification.

He/his The term "he" shall be synonymous with the terms "she," "it," and "they"; and the term "his" shall be synonymous with the terms "her," "its" and "theirs."

Housing code and building code mean the most recent standards of construction and maintenance for residential property in general and residential rental property in particular, as adopted by the city council.

Inspection guidelines means those guidelines as adopted by the city council to be used by the building official in conducting inspections, setting forth the minimum requirements for dwellings inspected under this article.

Lease means any written or oral agreement that sets forth conditions concerning the use and occupancy of residential rental structures or residential rental units by an entity paying rent or for whom rent is paid.

Manager means a person, partnership, firm or corporation that actively operates or manages a residential rental property for the owner.

Multi-family (rental) dwelling "complex" is a rental complex with 20 or more units on one site under one ownership and one identified complex name. May be separate tax parcel identification numbers or separate mailing addresses, but must be on one contiguous parcel(s) of land in one identified area.

Occupants means tenants, lessees and/or persons residing in a residential rental structure or residential rental unit.

Owner means any person, agent, firm or corporation having a legal or equitable interest in a residential rental structure or a residential rental unit.

Premises means any lot or parcel of land that includes a residential rental structure or a residential rental unit.

Rent includes let, lease, barter or any other arrangement whereby one person pays a consideration to another for the privilege of residing in a residential rental unit for any period of time.

Residential rental structure means any building that contains one or more residential rental units.

Residential rental unit means any apartment, room, rooming house, boarding house, dwelling house or portion thereof or any condominium unit for which a person or group of persons pays rent directly or indirectly to the owner thereof for the purpose of a person to reside therein. This definition includes one- and two-family dwellings, multiple and multifamily dwellings, apartment units, flats, rooming house rooms, and boarding houses. This definition does not include hotels and motels licensed and inspected by the state.

Rooming house means any dwelling occupied in such a manner that certain rooms, in excess of those used by the members of the immediate family and occupied as a home or family unit, are leased or rented to persons outside of the family, without any attempt to provide therein or therewith, cooking or kitchen accommodations for individuals leasing or renting rooms. In the case of single- and two-family dwellings, the number of such bedrooms leased or rented to rooms shall not exceed one unless such dwellings be made to comply in all respects with the provisions of this act relating to multiple dwellings.

To secure means to board up or otherwise make the premises inaccessible by anyone other than the owner or the city inspection department for a temporary purpose and then to glaze all windows and install proper locks for a permanent solution.

Sec. 10-153. Registration required.

(a) Initial Registration. The owner of any residential rental structure or residential rental unit shall register each residential rental structure and all residential rental units contained within the residential rental structure with the city and shall designate a person, as defined in section 10-154, as the responsible local agent who shall be legally responsible for operating the registered residential rental structure or residential rental unit and shall also be responsible for providing access to such premises for making the inspections necessary to ensure compliance with the terms of this article and all applicable codes and ordinances adopted by the city. A certification shall not be issued unless an applicant complies with the registration sections of this article.

(b) Tenant Information. The owner of a single-family dwelling unit may include the name of the tenant on the lease agreement. It shall be the property owner's responsibility to update the registration form as to the name of the tenant if there is a change in lease agreement or tenant status. Where a landlord has complied with this tenant information section, the city may provide blight notifications and enforce yard conditions and junk car violations against the tenant where such violations are the result of the conduct of the tenant and not the property owner. The property owner will remain responsible for any code violations pertaining to two or more multiple unit properties. In the absence of current tenant information, legal action, municipal civil infractions or citations will be issued to the property owner. At all times, the property owner's responsibility for adherence to city codes and ordinances shall remain.

(c) Deposit on New Registrations. On any previously unregistered residential rental unit, or any newly created rental units from a previous single family, owner occupied dwelling, new construction, renovation or conversion of any space shall require the property owner pay a registration fee plus submit a deposit of \$500 per residential rental building. The deposit shall be placed into a non interest bearing account and returned to the property owner if (1) the unit fails the initial inspection and is not provided a rental certification pursuant to Sec. 10-159, or (2) after the initial two year certificate period set forth in Sec. 10-159, there have been no fines issued as the result of a municipal civil infraction under Sec. 10-169. In such a case, the deposit shall be returned to the property owner at the time of issuance of the second rental certificate, however, if there is an unpaid civil infraction as of the time of the expiration of the two year certificate period, the amount of the infraction and any cost incurred by the City to fix the blight shall be deducted from the deposit, and the balance, if any, shall be returned to the property owner. Existing property owners with properly registered and certified rental units in the city, which have had no citations issued during the past two years for building, blight, or rental code violations, are exempt from the requirement for a deposit on newly created units.

Sec. 10-154. Responsible local agent.

For the purposes of this article, the responsible local agent shall be an individual person who represents the owner, a real estate holding company, corporation, partnership or other legal entity and must have a place of residence in the state within 45 miles of the city limits. The responsible local agent shall be designated by the owner as legally responsible for operating such premises in compliance with all the provisions of the city codes and ordinances. The owner may act as the responsible local agent provided he resides in the state and within 45 miles of the city limits. All official notices of the city 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.

Sec. 10-155. Period for registration of residential rental structures.

Residential rental structures required to be registered pursuant to this article shall comply with the following:

- (1) All existing residential rental structures shall be registered.
- (2) All newly constructed residential rental structures shall be registered prior to the issuance of the certificate of occupancy by the city.
- (3) A residential rental structure which is sold, transferred, or conveyed shall be reregistered by the new owner within 30 days of the date of the deed, land contract, or other instrument of conveyance with both the city's Rental Certification Division and the City's Assessor's office. All documents of conveyance, including Land Contracts, shall be recorded with the St. Clair County Register

of Deeds Office and a copy of the same or a Memorandum of Land Contract shall be provided to the Assessor's Office.

(4) All existing nonrental dwellings which are converted to residential rental structures shall be registered, inspected, and certified prior to the date on which the property is first occupied for rental purposes.

Sec. 10-156. Registration forms and fee.

(a) Applications for registration pursuant to this article shall be made in such form and in accordance with such instructions as may be provided by the city inspection department and shall include at least the following information:

(1) The name, address and telephone number of the applicant.

(2) The names, addresses, telephone numbers and dates of birth of all owners of the residential rental structure.

(3) The name, local address, telephone number and date of birth of the responsible local agent.

(4) The number of residential rental structures at each site, the address of and number of residential rental units in each residential rental structure, and the number of occupants in each residential rental unit. If the property is a single-family dwelling, the owner must also provide the legal name and contact information of the tenant as shown on the lease.

(5) An authorization appointing a responsible local agent signed by both the owner and the responsible local agent.

(b) A registration fee for each site where residential rental structures are located shall be paid at the time of registration. No post office box will be accepted as a legal address. A post office box, however, may be accepted as a mailing address for legal correspondence upon written request of the property owner and maintaining the legal street address on file with the city's rental department. Upon registration, the building official or authorized representative shall inform the applicant of certification requirements. The fee for each registration shall be as set by resolution of the city council from time to time. The owner shall be responsible for notifying the city of any change of address of either the owner or the responsible local agent.

Sec. 10-157. Registration term and renewal.

Registration pursuant to this article shall be made prior to the use or occupancy of any residential rental structure or residential rental unit except as otherwise provided by this article. The term of the registration shall be valid as long as ownership remains unchanged.

Sec. 10-158. Transfer of ownership.

(a) It shall be unlawful for the owner of any residential rental structure or residential rental unit who has received a notice of violation of any code or ordinance of the city, including notices that the number of residential rental units exceeds that permitted by chapter 52 which pertains to zoning, to transfer, convey, lease or sell, including by land contract, his ownership and/or interest in any way to another, unless such 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 building official a signed and notarized statement from the grantee, vendee, lessee, or transferee acknowledging the receipt of such notice of violation and acknowledging legal responsibility for correction of the violation.

(b) The new owner, upon acknowledging and accepting property with outstanding code violations must either correct code violations within 30 days of the transfer or due to the extensive nature of the violations, may enter into a work agreement with the city within 10 days of the transfer in order to ensure repairs and renovations are made in accordance with all codes, ordinances and renovations standards established. Failure to do so may result in a municipal civil infraction, declaration of the building as a public nuisance, dangerous structure or blight. These time periods do not apply to property which has been determined by city council to constitute a nuisance under Sec. 10-211 and/or Sec. 34-3 and is the subject of a demolition order, or is, at the time of the transfer, scheduled for a public hearing before city council for such a determination.

Sec. 10-159. Certification required.

(a) No person shall lease, rent or cause to be occupied a residential rental structure or residential rental unit unless there is a valid certification issued by the city inspection department in the name of the owner and issued for the specific residential rental structure and each residential rental unit. The certificate shall be produced upon request. Except to the extent restricted in Section 10-178, the certificate shall be issued after an inspection by the building inspection department which may include inspections by the building inspector, mechanical inspector, housing inspector, electrical inspector, plumbing inspector, and fire department inspectors when fire inspectors have jurisdiction or other building officials to determine that each rental dwelling and rental unit complies with the provisions of the codes and ordinances of the city. Such inspections shall commence after the effective date of the ordinance from which this article is derived and shall continue until all rental dwellings and all rental units in the city have been inspected and continue, thereafter, as required for renewals.

(b) Subject to the restriction in Section 10-178, a certification may be issued for a two year period on existing one- and two-family dwelling units and existing multifamily dwellings (three or more and any rooming house with one or more rooms, or boarding house) in accordance with the following:

(1) The city will issue a certification valid for those years if the inspector determines during the inspection that:

a. Any deficiencies discovered during previous inspections of the rental unit have been corrected; and

b. There are no major violations of the inspection guidelines for rental dwellings. Major violations are those violations which, in the inspector's professional judgment, create a risk to the health or safety of tenants.

c. A residential rental unit located in a multifamily residential rental structure will receive a certification only if all residential rental units within the residential rental structure have a valid certification or are also entitled to receive a certification.

(2) Temporary, one-year certificate.

a. The exterior condition of all rental units are subject to compliance with other related city codes and ordinances, including Section 10-31(b) (including Property Maintenance Code) of this chapter, and chapter 22, article II, blight. If exterior conditions are not in compliance with other city codes and ordinances, but in the opinion of the rental inspector do not present an immediate health or safety hazard, a "Temporary, One-Year Certificate" may be issued. The property owner must renovate the exterior of the unit(s) to established standards outlined in an executed work agreement and in accordance with city codes and ordinances within one year and upon completion, be eligible to receive a valid certification.

Sec. 10-160. Applicability to existing residential rental structures.

(a) This article applies to all residential rental structures and residential rental units within the city existing on the effective date of the ordinance.

(b) Any residential rental structure which is a new construction or renovation which required a comprehensive inspection and which is issued a certificate of occupancy pursuant to an inspection after the effective date of the ordinance from which this article is derived will also be issued a certification simultaneous with the certificate of occupancy, and an inspection fee pursuant to section 10-162 shall not then be required. Residential rental structures which are new constructions shall comply with registration requirement pursuant to section 10-155. Newly constructed residential rental units may be issued a certification valid for six years and then must adhere to the reinspection and recertification process as set forth for all other rental units under this ordinance. Residential rental units with a current, valid and executed lease agreement through the HUD section 8 housing or Michigan State Housing Development Authority (MSHDA) programs may be able to receive a waiver on an initial inspection for certification during the effective date of the lease agreement. This waiver only applies to the interior of the structure and does not relieve property owner from responsibilities for compliance on the exterior of the structure or the property area, nor compliance with any other applicable codes or ordinances.

Sec. 10-161. Inspections.

(a) The enforcing officer for the city inspection department shall inspect the interior and exterior of residential rental units for the purpose of conducting an initial inspection in the case of new rental certification, or on a periodic basis pursuant to this article for the purpose of a renewal. In such case, the inspection fee shall be set by resolution of council, subject to the restrictions of Sec. 10-162. The city inspection department may also conduct an inspection under any of the following circumstances:

(1) Upon receipt of a complaint from an owner or occupant that the premises are in violation of this article.

(2) Upon receipt of a report or a referral from the police department, other public agencies or departments, or any individual indicating that the premises are in violation of this article and which is based on the personal knowledge of the person making the report.

(3) If an exterior survey of the premises gives the enforcing officer probable cause to believe that the premises are in violation of this article.

(4) Upon receipt of information by the enforcing officer that a rental unit is not registered with the city or certified by the city as required by this article.

(b) The owner or local agent shall be sent a reminder notice regarding the need to schedule an inspection for the renewal of certification. Owners of newly registered units must call to schedule their own inspections. If the owner, or agent or tenant does not respond to the reminder notice, the following will take place:

(1) The inspector or clerk shall notify the owner of a residential rental structure of the date and time such structure is to be inspected. Such notice may be personally delivered or may be sent by first class mail.

(2) Upon receipt of the notice, the owner must either:

a. Appear at the date and time scheduled for the inspection or have a representative or the tenant at the site to allow complete access; or

b. Object within ten days of the mailing or delivery of the notice, and:

1. Schedule an alternative date for the appointment within 30 days from the date identified in the initial notice; or

2. Direct the inspector to contact the occupant of the rental unit directly to schedule the inspection and provide the occupant's name and address.

(3) If an owner or occupant subsequently learns he will not be present for a scheduled appointment, the individual must provide the inspector with at least 24 hours' advance notice and must schedule a second inspection date within 30 days from the scheduled appointment. Failure to appear for a scheduled appointment without providing the notice shall require that a reinspection fee be paid for any rescheduled date, and may result in the rental unit's certification to expire.

(c) The tenant of a single- or two-family dwelling unit may have the right to deny access for an interior rental inspection, provided that the following procedures are followed:

(1) The tenant must complete and submit an "access denied" form to the rental certification department within the ten-day timeframe.

(2) The certification will be flagged as a one-year certificate due to "access denied" and a recheck scheduled for one year's time.

(3) If the unit becomes vacant, it is the property owner's responsibility to schedule an inspection and to obtain certification prior to allowing occupancy.

(4) Failure to arrange for an inspection once the unit becomes vacant shall result in a municipal civil infraction.

(5) Allowing occupancy of a unit without a valid certification after a vacancy shall result in a separate municipal civil infraction.

(6) Access denied does not eliminate the requirement for an exterior inspection of the property. The inspector will complete an exterior inspection and the certificate will not be issued unless the property meets all related codes, including blight.

(7) Multifamily dwelling units (three or more, including rooming houses and boarding houses) must be inspected every two years and receive a valid certification. Multifamily dwelling complexes of 20 or more units may be inspected every two years by the rental certification division by randomly selecting 50 percent of the total number of units for inspection. If no violations are noted, the entire complex may be certified for two years. Subsequent complaints may effect the certification if there are valid violations and it is determined that such violations warrant further inspections. The units shall be selected and inspected randomly at the time of scheduling. Additional units may be deemed necessary to inspect at the discretion of the rental certification inspector or building inspector should he/she have reasonable cause to believe other violations exist in uninspected units or the unit(s) inspected is/are found to have significant code violations that may be believed to adversely affect other units or reasonably expected to be found in other units. Failure to correct violations in units inspected will prevent certification of the multi-unit building.

(d) During the inspection, the enforcing officer shall note any violations of this article or other sections of this Code and give notice of the violations to the responsible local agent in accordance with section 10-154. The enforcing officer shall direct the responsible local agent and owner to correct violations within the time set forth in the notice. A reasonable time for correcting violations shall be determined by the enforcing officer in light of the nature of the violations and all relevant circumstances, but shall not exceed 60 days. Upon request of the person responsible for correcting violations, the enforcing officer may extend the time for correcting violations if the enforcing officer

deems such action appropriate under all relevant circumstances, but not to exceed an additional 60 days.

(e) Properties with a valid HUD section 8 or MSHDA inspection certification must provide a copy of said certification to the Rental Certification Division in order to be exempt from the interior inspection requirements of this chapter. These properties are not exempt from exterior inspections and related code compliance.

Sec. 10-162. Annual operating fees.

(a) The annual operating fees for periodic inspection of each residential rental unit and any other fees provided by this article shall be as adopted by resolution by the city council and amended, as necessary, by resolution of the city council. The annual operating fee shall cover the periodic inspection for the issuance or renewal of a certification, except that such fee shall not cover an inspection made pursuant to a final notice of violation issued under section 10-164(b).

(b) If the enforcing officer determines that a complaint was filed without a factual basis and such inspection is made on a complaint basis, or, if the enforcing officer believes the complaint was maliciously filed, he may seek a warrant under section 10-166.

(c) An administrative late fee of the unpaid balance shall be paid to the city by the person obligated to pay an annual operating fee under subsection (a) of this section if such fee is not paid within 60 days from the billing date, as adopted by resolution of the city council. After 90 days from the date of billing, those fees shall become a lien on the property as a single lot special assessment pursuant to section 40-19 and shall be collected as a special assessment.

(d) The rental inspection program as provided for in this article shall be operated by the city on a break-even basis. This means the annual operating fees charged shall be set at a rate to produce sufficient revenue to cover the actual, direct cost of administering the program. If the fees as set forth in this article or as amended exceed the actual, direct cost of administering the program, the city council, by resolution, shall reduce the fees to an amount which shall produce sufficient revenue to cover the actual, direct cost of administering the program. If at any time the fees being collected are insufficient to cover the cost of the program, the city council, by resolution, shall increase the fees to an amount which shall produce sufficient revenue to cover the actual, direct cost of administering the program. Fines and fees due to legal action, enforcement proceedings, civil infractions or citations as a result of non-compliance with this ordinance are exempt and will not be included in this calculation.

Sec. 10-163. Issuance or renewal of certification.

(a) Between 60 and 30 days before the expiration date on the certification issued for a rental property, every owner shall apply to the city inspection department for the scheduling of an inspection for the issuance of a new certification for that residential rental structure.

(b) Upon receipt of a timely request for an inspection for the purpose of the issuance or renewal of a certification, the city shall inspect the premises before the certification expires or is initially issued. Upon failure of the city to conduct an inspection prior to occupancy or expiration of the certification, the owner may rent the property until the city has conducted an inspection, and the owner will not be deemed in violation of section 10-159 during that time. If, however, the city's failure to inspect is due to the owner's, agent's or tenant's action, failure to act, or refusal to permit an inspection after reasonable notice of the intent to inspect, the owner shall not rent the property without a current certification as required by section 10-159.

Sec. 10-164. Notices and orders.

(a) Notice of violation. Whenever the building official or enforcing officer determines that there has been a violation of any section of this article, he shall give notice of such alleged violation and orders for correction of the violation as provided in this section, except this section shall not apply in any way to the prosecution of violations of section 10-161 or 10-166 or violations of the registration requirements set forth in this article as such may be prosecuted without notice. Such notice shall:

- (1) Be in writing.
- (2) Include a statement of the conditions that constitute violations of this article.
- (3) State the date of the inspection, the name of the inspector, the address of the dwelling, and the date set for reinspection.
- (4) Specify a time limit for the performance of any act it requires.
- (5) Notify the responsible local agent or the occupant, as the case may require, of his right to appeal from the notice or order to the rental housing board of appeals.
- (6) Be served upon the owner or the occupant, as the case may require, and on the responsible local agent and that such notice shall be deemed to be properly served if a copy thereof is (i) served personally, or (ii) sent by first class mail to the last known address. Notice given to the responsible local agent is deemed as notice given to the owner.

(b) Final notice of violation. Upon observing the continued existence of a violation of this article or applicable code as stated in the notice of violation, the building official or enforcing officer shall send a final notice of violation and may issue an order to vacate to the responsible local agent. Such notice shall be sent by regular, first-class mail to the last known address of the owner or responsible local agent and shall:

- (1) Specify the date of the inspection.
- (2) Specify the address where the violation was found.
- (3) Include the name, telephone number and signature of the inspector.
- (4) Include a description of each violation observed by the inspector.
- (5) State that each violation is a separate punishable offense.
- (6) Order the premises to be vacated within a time to be set by the inspector, the length of which shall be determined by the extent of the danger to the occupants, but in no case shall it exceed 30 days, or alternatively:
 - a. Order correction of all violations within a time period not to exceed 30 days;
 - b. State that a reinspection will be made to determine whether all violations have been corrected by the specified date. A reinspection fee as adopted by resolution by the city council and amended, as necessary, by resolution of the city council will be required to be paid prior to a reinspection, and the owner or local agent shall be responsible for contacting the rental inspection department for scheduling the reinspection within ten days of the date on the notice;
 - c. State that failure to comply with the notice will result in a fine for failure to correct the final notice of violation, or prosecution. The fine for failure to correct a final notice of violation shall be established by a resolution of the city council.
 - d. Employ any other additional or optional corrective or enforcement measure as provided for under this Code or by law.
 - e. Each reinspection, as needed, will require an additional reinspection fee to be paid prior to a reinspection.

(c) Posting final notice of violation. Upon issuing a final notice of violation for a residential rental structure or residential rental unit or its accessory building, the city may affix a copy of the notice on the residential rental structure or unit and deliver a copy of the notice to the occupants, if any.

(d) Nuisance per se. Notwithstanding any section in this article to the contrary, any residential rental structure or unit that is found to be in such condition as to preclude habitation or threaten the health, safety or welfare of the occupants or community shall be considered a nuisance per se and, as such, subject to abatement in a manner prescribed by the Charter, state statute and/or law.

Sec. 10-165. Inspection guidelines.

The city inspection department shall prepare a list of inspection guidelines to be used in inspections relating to the enforcement of this article. The inspection guidelines are incorporated by reference and shall be effective upon adoption of the ordinance from which this article is derived. The adoption of the inspection guidelines shall not be construed to relieve the owner from compliance with any other requirements of codes adopted by the city, including but not limited to housing, electrical, building, plumbing, mechanical, blight, property maintenance, fire codes and zoning requirements as necessary due to renovations requiring permits.

Sec. 10-166. Harassment.

(a) Under this article, any tenant or other person who shall maliciously or vexatiously cause an inspection to be made for the purpose of harassing any individual, corporation or governmental agency when no violation is present or is de minimis shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished according to section 1-16.

(b) 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 with in the performance of their duties. Notwithstanding any other section in this article, a violation of this subsection shall be a municipal civil infraction and shall subject the violator to the penalty provisions indicated in section 10-169.

Sec. 10-167. Appeal process.

(a) If the owner disagrees with the opinion of the building official as to either the existence of an alleged violation or the period of time that will be reasonably required for the owner to correct the alleged violations as set forth in the notice of violation and order to repair given pursuant to this article, or a finding of a public nuisance under Sec. 10-168(b), the owner may appeal to the rental housing board of appeals, which is hereby designated to hear such appeals. An occupant of a dwelling shall have standing to appeal any notice or order to vacate the dwelling.

(b) The rental housing board of appeals shall consist of five persons appointed by the city manager and confirmed by the city council. The members of the rental housing board of appeals shall consist of persons who are qualified by experience to pass on matters pertaining to this article and who are not employees of the city. Specifically, the membership of the board shall be (i) one licensed builder, construction tradesman, licensed engineer, or licensed architect who is not a rental property owner or occupant (tenant); (ii) two current rental property owners; (iii) one current rental property occupant (tenant); and (iv) one resident of the city at large who is neither a rental property owner nor occupant (tenant). Members are to serve three-year staggered terms, and priority shall be given to city residents. The initial rental housing board of appeals shall adopt rules of procedure to conduct meetings which

shall be made available to all persons upon request. The city manager may appoint more than one rental housing board of appeals to assist in the hearing of appeals.

(c) Any owner or occupant requesting such appeal shall file a written request therefor to the city inspection department within ten days after the date of receipt of the notice of violation or within the time for taking any action indicated on a notice or order, whichever time is shorter, and on a form designated by the building inspection department, and paying a non-refundable application fee as set by resolution of the city council.

(d) As soon as practicable, the rental housing board of appeals shall fix a time, date and place for a hearing and shall hear testimony and argument from the owner and the building official or enforcing officer and shall by a majority vote determine the question at hand. The decision of the rental housing board of appeals shall be binding upon the owner and the city.

Sec. 10-168. Revocation of certification.

(a) If the owner does not correct a violation of any section of this article, the building official shall revoke any existing certification and may bring an action to seek the enforcement of this article by abatement, mandatory injunction to cause correction of a violation, enjoinder of the violation to prevent an act or violation, the vacation of the premises by all occupants and its discontinuance as a residential rental structure, or such other action as provided for under this article. Any structure not in compliance with this article is deemed a nuisance per se. If a residential unit is vacant and not certified, or the certification has expired, or an inspection to certify has not been completed, then the unit may be yellow-tagged to signify that it may not be occupied until a rental inspection has been completed and/or a certificate has been renewed or issued.

(b) A rental certificate may be revoked if the property is declared a "public nuisance" by the City Manager, Chief of Police, and the Building Official, or their designee, under this subparagraph based upon the conduct and activities within a rented property. Evidence of repeated code violations, including blight, or multiple valid police calls or incidences, illegal activity or other activity that threatens the health, welfare or safety of the surrounding residents, whether the result of the activities of the owner, the agent, the tenants, or their guests, may constitute a public nuisance under this subparagraph. A rental certificate revoked under this subparagraph shall be revoked for a minimum period of at least twelve months. Any property owner who wishes to challenge a finding of a public nuisance under this subparagraph, may utilize the procedure set forth in Sec. 10-167 to appeal said finding.

Sec. 10-169. Penalties.

(a) Any owner of a residential rental structure or unit who shall fail to register a residential rental structure as required by this Article or obtain a certification for each residential rental structure or unit prior to occupancy of a residential rental structure or unit, or any owner or occupant who violates any other requirement of this article, shall be responsible for commission of a municipal civil infraction. Inasmuch as municipal civil infractions issued pursuant to this article involve the use or occupancy of buildings, a municipal civil infraction issued under the terms of this article may be served upon the alleged violator, including the owner or tenant, by mailing a copy by first class mail to the last known address of the alleged violator. The fine payable to the municipal ordinance violations bureau for a determination of responsibility by persons served with the municipal civil infraction notice shall be \$250.00 for a first offense. After notification or issuance of the first citation, and upon failure to comply,

for each week that the same offense continues, or for second or repetitive offenses, a separate municipal infraction notice shall be issued in the amount of \$500.00.

(b) An owner or occupant may be charged with more than one violation of this article in a single complaint or appearance ticket, provided that each violation so charged relates to the same property.

(c) Any owner who has not paid in full any outstanding municipal civil infraction or related fee for a period of more than ninety (90) days after either the date of issuance, or the end of any appeal period if an appeal is filed, whichever is later, shall have all of their rental certifications on all other units and properties automatically revoked.

(d) Any owner who rents a residential rental structure for more than sixty (60) days after notice of an order to vacate, shall be guilty of a misdemeanor.

(e) Any owner who fails to comply with the requirements of Sec. 10-171 or the notice provided under Sec. 10-172 or Sec. 10-173, shall be guilty of a misdemeanor.

(f) In addition to fine, imprisonment or corrective action to abate or enjoin the violation, the city's attorney may seek to recover the costs of prosecution or other civil action in either district or circuit court.

Sec. 10-170. Vacating and securing buildings.

The city building official may declare a residential rental structure or residential rental unit to be unfit for human occupancy or entry (i.e., red-tagged):

(1) When a condition exists that constitutes an immediate threat to life or an immediate threat of serious injury to the person or any occupant.

(2) When an emergency or hazardous condition has not been corrected as ordered.

(3) When a vacant dwelling or vacant unit has not been secured as ordered in a notice of violation.

(4) As otherwise provided for in this article.

(5) When any other hazardous or dangerous or unsanitary condition exists as defined in any other code or ordinance adopted by the city, including a requirement for proper installation and operation of utility services and access to water, electricity and heat.

Sec. 10-171. Occupancy prohibited.

No person shall occupy or permit or allow another person to occupy any residential rental structure which has been declared to be unfit for human occupancy or entry.

Sec. 10-172. Notice to vacate.

Upon declaring a residential rental structure to be unfit for human occupancy and entry, the city shall issue a notice to vacate to the occupants by certified mail and by posting the notice to vacate at an entry of each dwelling unit. The notice shall order the occupants to vacate the affected residential rental structure no later than 72 hours after such notice.

Sec. 10-173. Notice to secure.

Upon declaring a residential rental structure as unfit for human occupancy and entry, the city shall issue a notice to secure to the owner. The notice to secure shall order the owner to secure the residential rental structure. The notice shall order the securing of a vacant building or unit within 48 hours and the securing of an occupied dwelling or unit within 48 hours of becoming vacant.

Sec. 10-174. Posting of building unfit for human occupancy.

Upon issuing a notice to vacate or a notice to secure pursuant to this article, the city shall place signs upon or near the entryways to any dwelling or unit cited in the notice. The sign shall state the address or unit number of the structure or unit and the name of the owner. It shall inform the public that it is a violation of this Code to enter the building or unit unless authorized in writing by the city.

Sec. 10-175. Securing by city.

If the owner has failed to comply with a notice to secure given pursuant to this article, the city may secure the structure or unit. The cost of such action shall be a personal debt of the owner to the city and may be assessed as a lien against the property as in a single lot special assessment pursuant to section 40-19 and may be collected as in a special assessment.

Sec. 10-176. Reliance on certification.

(a) Issuance of a certification pursuant to this article shall not constitute a guarantee or warranty of the habitability or complete compliance of the building or structure to code requirements, and the occupant of any residential rental structure or residential rental unit shall not rely on any certificate as such a guaranty or warranty. The certification shall contain a notice to this effect.

(b) The city shall not assume any liability to any person by reason of the inspections required by this article or issuance of a certification.

Sec. 10-177. Authority of building official.

(a) This article shall not impair or diminish the authority of the building official or duly authorized representative to employ any alternative action or corrective measure provided for under any housing or building codes as adopted or recognized by the city, where applicable.

(b) This article shall not be construed so as to limit the application and enforcement of the city zoning ordinance in chapter 52, the blight ordinance in article II of chapter 22, or housing and building codes adopted or recognized by the city which touch upon the maintenance of residential dwellings or the health, safety, and welfare of occupants residing in residential dwellings, where applicable.

Secs. 10-178--10-210. Reserved.