

AN
ORDINANCE
of the City Council of the City of Berkley, Michigan to Amend Article V, Rental
Property, in Chapter 30, Business of the City of Berkley Code of Ordinances to update
provisions for rental property registrations and inspections.

**THE CITY OF
BERKLEY ORDAINS:**

SECTION 1: Article 5 of Chapter 30 of the Berkley City Code is amended, as follows:

ARTICLE V. – RENTAL PROPERTY

DIVISION 1. – GENERALLY

Sec. 30-186. - 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:

All terms used in this article ~~shall be~~ are defined in accordance with the housing law of Michigan, viz., Public Act No. 167 of 1917 (MCL 125.402 et seq.)

Owner, operator, person, premises, occupant and structure: As found in accordance with the 2015 International Property Maintenance Code as adopted in chapter 26 of the Code of the city.

Cross reference – Definitions generally, §1-2.

Sec. 30-187. – General provisions.

No person ~~shall~~ may rent, lease or let any real property for any amount of time within the city unless the rental property is registered with the ~~city-manager~~ building official or their designee and unless the city has issued a certificate of compliance pursuant to this article. This article does not apply to single-room rentals in single or multiple family units or to single family dwellings and commercial buildings that are

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occupied exclusively by the owner thereof, nor does it apply to agreements allowing a seller of premises to temporarily continue to occupy or possess the premises post-closing.

Sec. 30-188. – Registration of rental properties.

The owner of any premises or structure ~~shall~~ must register with the city their name, place of residence or usual place of business, and the location of each premises regulated by this article. At the time of registration, the owner ~~shall~~ must pay a biennial registration fee and inspection fee which ~~shall~~ has been ~~be~~-established by resolution of the city council. If the premises are managed or operated by an agent of the owner, then the owner ~~shall~~ must furnish the agent's name and address at the time of each ~~annual~~ biennial registration. The owner ~~shall~~ must also furnish any other information required by the city. Failure of any owner to comply with the provisions of this section deprives the owner of the right to receive a certificate of compliance for each premises or structure which is not registered.

Sec. 30-189. – Inspection of rental properties.

- a) The ~~city manager or his~~ building official or their designee ~~shall~~ will inspect all buildings, structures, dwellings and units required to be registered under this article ~~within 60 days of their registration~~, pursuant to section 30-188. Thereafter, the ~~city manager or his~~ building official or their designee ~~shall~~ will inspect every such building, structure, dwelling or unit at two-year intervals. These inspections ~~shall be~~ are for the purposes of determining whether the building, structure, dwelling or unit complies with chapters 26, 50 and 138. The ~~city manager or his~~ building official or their designee may request permission to enter any premises regulated by this article at reasonable hours to undertake an inspection. Upon an emergency, the ~~city manager or his~~ building official or their designee may obtain a court order for the purpose of inspecting any premises regulated by this article. All inspections conducted pursuant to this section ~~shall~~ will be conducted in such a manner as to secure compliance with this article.
- b) For renewal of rental licenses, the owner must schedule the required inspection no later than 30 days before the expiration of their rental registration. Failure to schedule the inspection within the 30 day period will result in the immediate suspension of the existing rental registration and additional fees per Section 30-194. The City will provide advance notice to property owners a minimum of 30 days prior to expiration.

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- c) For new rental licenses, the owner must schedule the required inspection no later than 30 days after application for a rental license. Except in the case of active building permits, failure to schedule the inspection within the 30 day period will result in the cancellation of the rental application and forfeiture of the application and inspection fees.
- d) In addition to periodic inspections, the following may occur:
- 1) A complaint basis such that a regulated premises ~~shall~~ will be inspected within a reasonable time by the ~~city manager or his~~ building official or their designee upon receipt of a complaint, verbal or written, by a citizen or tenant that the regulated premises may be in violation of this Code.
 - 2) An area basis, such that all regulated premises in a predetermined geographical area will be inspected simultaneously or within a short period of time.
 - 3) A recurrent violation basis, such that those premises which are found to have a high incidence of recurrent or uncorrected violations will be inspected more frequently. The owner or agent ~~shall~~ must ensure that the premises regulated by this section are accessible for inspection during normal working hours of the city, except that an occupant of the premises may allow inspection at any time.

State Law reference – Biennial inspection of rooming houses and multiple dwellings, MCL 125.526.

Sec. 30-190. – Right of entry.

- a) If any owner, occupant or other person in charge of a structure subject to the provisions of this Code refuses, impedes, inhibits, interferes with, restricts or obstructs entry and free access to any part of the structure or premises where inspection authorized by this Code is sought, the ~~administrative authority shall be~~ building official or their designee is permitted to seek, in a court of competent jurisdiction, an order that such owner, occupant or other person in charge cease and desist with such interference.
- b) In nonemergency situations, if the owner or occupant demands a warrant for inspection of the premises, the ~~city manager or his~~ building official or their designee shall obtain a warrant from a court of competent jurisdiction. The ~~city manager shall~~ building official or their designee will prepare the warrant, stating the address of the building to be inspected, the nature of the inspection, as defined in this section or other applicable codes or statutes, and the reasons for the inspection. It ~~shall be~~ is appropriate and sufficient to set forth the basis for inspection (e.g., area,

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complaint, recurrent violation or periodic basis) established in this section. ~~If the court finds that the warrant is in proper form and in accordance with this section, it shall be issued forthwith.~~

Sec. 30-191. – Procedures, inspection records and checklists.

- a) The inspection procedures set forth in this article are established in the public interest to secure the health and safety of the occupants of dwellings and of the general public.
- b) The ~~city manager or his~~ building official or their designee ~~shall~~ will keep a record of all inspections.
- c) The ~~city manager or his~~ building official or their designee ~~shall~~ will make available to the general public a checklist of commonly recurring violations for use in examining premises offered for occupancy.

Sec. 30-192. – Violation correction and inspection.

- a) If, upon inspection, the premises or any part of the premises are found to be in violation of any of the provisions of this article, the violation ~~shall~~ will be recorded by the ~~city manager or his~~ building official or their designee.
- b) The owner and the occupants ~~shall~~ will be notified, in writing, of the existence of the violation and ~~shall~~ will be ordered to correct the violation as provided in the Code.
- c) The ~~city manager or his~~ building official or their designee ~~shall~~ will reinspect after a reasonable time for the purpose of ascertaining whether or not the violation has been corrected.
- d) If any certificate of compliance or temporary certificate for compliance is revoked because of the condition of any dwelling unit, the registered owner or agent may appeal such revocation to the extent allowed by law.

Sec. 30-193. – Enforcement of article.

This article ~~shall~~ does not limit or eliminate any rights of action at common law or any enforcement of statutes regulating the subject matter of this article.

Sec. 30-194. – Fees.

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The city ~~shall~~ will charge a nonrefundable fee for the registration of each regulated premises and/or for each inspection made pursuant to this article. Failure to schedule the required inspection within the 30 day period may result in the imposition of additional fees as identified in the City's fee schedule. These fees shall be set from time to time by resolution of council and ~~shall~~ must be paid by the applicant at the time of registration and in advance of each inspection or reinspection.

~~Sec. 30-195. — Site maintenance agreements.~~

~~No certificate of compliance shall be issued pursuant to this article unless and until the owner of each rental property required to be registered shall sign a site maintenance agreement in a form which shall be approved by city council.~~

Sec. 30-196.5. – Violations

Violations of this Article V Rental Property, ~~shall be~~ are a civil infraction and will be prosecuted consistent with the provisions of Chapter 82, Article IX, pertaining to municipal civil infractions.

Sec. 30-196. Transfers

Upon the sale of a rental unit, the new owner must apply for an updated certificate of compliance pursuant to Section 30-187. Inspections may be transferred provided they comply with the time limits noted in Section 30-189.

Secs. 30-197 – 30-215. – Reserved.

DIVISION 2. – CERTIFICATE OF COMPLIANCE

Sec. 30-216. – Application

- a) When a certificate is withheld pending compliance, premises which have not been occupied or are not occupied for dwelling purposes ~~shall~~ can not be occupied, and those premises which are occupied for dwelling purposes may be ordered vacated until reinspection and proof of compliance, at the discretion of the ~~city manager or his~~ building official or their designee.

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- b) A certificate of compliance ~~shall~~ will be issued on the condition that the premises remain in a safe, healthful and fit condition for occupancy. If upon reinspection, the ~~city manager~~ building official or their designee determines that conditions exist which constitute a hazard to health or safety, the certificate ~~shall~~ will be immediately revoked as to the affected premises and the premises may be vacated as provided in subsection (a) of this section.

Sec. 30-217. – Issuance; inspections; reinspections.

- a) Rental dwellings or commercial units required by this article to be registered ~~shall~~ cannot be occupied unless a certificate of compliance or conditional certificate for compliance has been issued by the building official or their designee ~~city manager~~. The certificate ~~shall~~ will be issued only upon an inspection of premises by the building official or their designee ~~city manager~~, except as provided in section 30-218. The certificate shall be issued within 15 days after written application therefor if the dwelling, at the time of application, meets the requirements of this Code.
- b) A violation of the Code ~~shall~~ does not prevent the issuance of a certificate, but the ~~city manager~~ or his building official or their designee ~~shall~~ may not issue a certificate when the existing conditions constitute a hazard to the health or safety of those who may occupy the premises.
- c) In the case of new construction, inspections shall be made prior to first occupancy. Such structures ~~shall be~~ will first be reinspected within three years and thereafter at two-year intervals. Upon a finding that there is no condition that would constitute a hazard to the health and safety of the occupants and that the premises are otherwise fit for occupancy, the certificate ~~shall~~ will be issued. If the finding is of a condition that would constitute a hazard to the health or safety, no certificate ~~shall~~ will be issued, and an order to comply with the Code ~~shall~~ will be issued immediately and served upon the owner in accordance with section 30-192. On reinspection and proof of compliance, the order ~~shall~~ will be rescinded and a certificate issued.
- d) Upon a finding that there is a violation of the Code, but that the violation does not constitute a hazard to the health and safety of the occupants, a conditional certificate ~~shall~~ will be issued, but such certificate ~~shall~~ will not affect enforcement of the violation under this article.

Sec. 30-218. – Conditional

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- a) An owner ~~shall~~ must apply for a certificate of compliance before any regulated premises may be occupied by any person other than the owner. Inspection and issuance of a certificate ~~shall~~ must be in accordance with the requirements of this article and with procedures established by the ~~city manager or his~~ building official or their designee. The ~~city manager or his~~ building official or their designee may authorize the issuance of conditional certificates for compliance without inspection for those premises in which there are no violations of record ~~as of Ord. No. 19-91~~ and issue such conditional certificates for compliance upon application in cases where inspections are not conducted within a reasonable time. Temporary certificates for compliance ~~shall be also~~ may also be issued for premises with violations of record, whether existing before or after such effective date, when the owner can show proof of having undertaken measures to correct such conditions, or when an owner rehabilitation plan has been accepted by the court.
- b) An application for certificate ~~shall~~ can be made:
- 1) When the owner or his agent registers the property with the city; or
 - 2) When 60 days prior to the automatic expiration of a certificate of compliance, but no less than 30 days prior to such certificate expiration.

SECTION 2: Severability Clause

Should any word, phrase, sentence, paragraph, or section of this Ordinance be held invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 3: Penalty

All violations of this ordinance shall be municipal civil infractions and upon determination of responsibility therefore shall be punishable by a civil fine of not more than \$500, and/or such other sanctions and remedies as prescribed in Article IX of Chapter 82 of the Code of Ordinances.

SECTION 4: Effective Date

This Ordinance shall become effective 30 days following the date of adoption.

SECTION 5: Publication

The City Council directs the City Clerk to publish a summary of this ordinance in compliance with Public Act 182 of 1991, as amended, and Section 6.5 of the Berkley City Charter.

Introduced on the First Reading at the Regular City Council Meeting on Monday, April 3, 2023 .

Adopted on the Second Reading at the Regular City Council Meeting on _____ .

Bridget Dean, Mayor

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Attest:

Victoria Mitchell, City Clerk

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