

Submitted by Councilor Bunder

ORDINANCE NO. 03-09 (amended/final)

AN ORDINANCE AMENDING THE ORDINANCES OF THE CITY OF WEST LAFAYETTE REGULATING RENTAL HOUSING WITHIN THE CITY

WHEREAS, the West Lafayette Municipal Code regulates rental housing within the City by means of a comprehensive inspection and certification program;

WHEREAS, the Indiana Court of Appeals has indicated that the current language of the relevant sections of the West Lafayette Municipal Code is "ambiguous";

WHEREAS, the sections of the West Lafayette Municipal Code setting forth the obligations of tenants residing in the City and landlords doing business within the City should be amended to clarify the obligations of both tenants and landlords; and

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE that the West Lafayette Municipal Code be Amended to read as follows:

Sec. 117.07. Rental certificate fees and terms.

Rental Certificates shall have the following fees and terms:

(a) For Category 1, the fee shall be \$250 and the rental certificate shall be valid for a term of one year. Provided that if the property meets the following conditions, the rental certificate shall be valid for a term of two years:

(1) The application for certification of rental property is filed in a timely manner and in response to the first notice;

(2) All applicable certification fees are paid on time and in response to the first notice;

(3) The property owner for all existing (or established) rental property must have history of compliance with all aspects of the inspection program in the two previous certification rounds;

(4) The program administrator does not find the rental property to be in violation of the Housing -- Property Maintenance Code or any other applicable codes, standards or regulations of the City of West Lafayette or the State of Indiana.

Provided, however, that the property owner may be entitled to a conditional rental certificate under Section 117.09 if inspection, if any, finds only minor violations, as set forth in that section.

(5) The rental certificate is not suspended under Section 117.10(b) or subject to being revoked under Section 117.10(c) as a result of violations occurring at the property.

(b) For Category 2, the fee shall be \$150 and the rental certificate shall be valid for a term of one year.

(c) For Category 3, the fee shall be \$150 per structure and \$2 per unit and the rental certificate shall be valid for a term of two years. Provided that if the property meets the following conditions, the rental certificate shall be valid for a term of four years:

(1) The application for certification of rental property is filed in a timely manner and in response to the first notice;

(2) All applicable certification fees are paid on time and in response to the first notice;

(3) The property owner for all existing (or established) rental property must have history of compliance with all aspects of the inspection program in the two previous certification rounds;

(4) The program administrator does not find the rental property to be in violation of the Housing--Property Maintenance Code or any other applicable codes, standards or regulations of the City of West Lafayette or the State of Indiana. Provided, however, that the property owner may be entitled to a conditional rental certificate under Section 117.09 if inspection, if any, finds only minor violations, as set forth in that section.

(5) The property has maintenance personnel readily available and an established maintenance and renovation program that provides for the routine inspection and maintenance and the long-term upgrades of the building and property; and

(6) The rental certificate is not suspended under Section 117.10(b) or subject to being revoked under Section 117.10(c) as a result of violations occurring at the property.

(7) The property is located within a multi-family district.

(d) For Category 4, the fee shall be \$250 per property tract and \$2 per unit and the rental certificate shall be valid for a term of two years.

(e) For Category 5, the fee shall be \$250 and the rental certificate shall be valid for a term of one year. Provided that if the property meets the following conditions, the rental certificate shall be valid for a term of two years:

(1) The application for certification of rental property is filed in a timely manner and in response to the first notice;

(2) All applicable certification fees are paid on time and in response to the first notice;

(3) The property owner for all existing (or established) rental property must have history of compliance with all aspects of the inspection program in the two previous certification rounds;

(4) The program administrator does not find the rental property to be in violation of the Housing -- Property Maintenance Code or any other applicable codes, standards or regulations of the City of West Lafayette or the State of Indiana. Provided, however, that the property owner may be entitled to a conditional rental certificate under Section 117.09 if inspection, if any, finds only minor violations, as set forth in that section.

(5) The rental certificate is not suspended under Section 117.10(b) or subject to being revoked under Section 117.10(c) as a result of violations occurring at the property.

(f) For Category 6, the fee shall be \$150 per structure plus \$2 per unit and the rental certificate shall be valid for a term of two year.

(g) For Category 7, the fee shall be \$100 plus \$20 for each additional unit in the same development and the rental certificate shall be valid for a term of two years.

(h) Initial rental conversion fee is ~~\$500~~ \$1000. This fee may be reduced to \$200 \$500 if:

(1) The owner has had an independent home inspection done within the past 6 months and has corrected all deficiencies identified in the report and supplied the report to the City.

(2) The home inspection was conducted by a person certified or accredited by a professional home inspection agency and acceptable to the City.

(3) The City has conducted an inspection to verify that all deficiencies have been corrected and that the unit is in compliance with the Unified Zoning Ordinance of Tippecanoe County. and has one paved off street parking space for each occupant.

(i) All such fees shall be tripled for any property that is rented before a rental certificate is issued. All such fees shall be tripled for the issuance of a rental certificate during the period of probation pursuant to Section 117.10(a).

(j) For any reinspection after the first reinspection, there shall be an additional fee of \$150. If the owner or agent fails to attend any scheduled inspection, there shall be an additional fee of \$100 for each such failure to appear.

(k) It is the goal of the common council that the rental certificate and housing inspection program be self-supporting. Each two years after adoption of this chapter, the program administrator shall review the income from fees and fines and the expenses of administering the rental certificate and housing inspection program. The program administrator shall recommend to the common council any revisions to the schedule of fees (such as reduction in fees or extension of term for those owners with good records) and fines to maintain the goal of a self-supporting program and to minimize the fees on owners who have a history of full compliance with the rental certificate and housing inspection program.

(l) The fees for any rental category shall be reduced by \$50 if no violations are found on the property, no reinspection is required, and if the property owner is a participant in the landlord certification program.

Sec. 117.08. Rental certificate.

(a) The rental certificate shall be for the stated term of the rental certificate or until the general expiration date of the then current round for such dwelling unit, whichever is sooner, but in no event shall the rental certificate expire before 30 days after the inspection of the rental property.

(b) For all units located in any single family district or R-2 district, the city shall issue a sticker stating the unit's certification, date of expiration and allowable occupancy. The property owner and/or manager agent must prominently and continuously display the sticker on the inside of the door to the main entrance of the dwelling unit.

(c) It shall be a violation of this chapter to remove the sticker or for the owner and/or manager agent to fail to continuously display the sticker as provided in subsection (b) in each dwelling unit located in any single-family district or R-2 district.

(d) It shall be the continuing duty of the owner and/or agent-manager to personally monitor the occupancy of each dwelling unit and to ensure that it is not occupied by more persons than the maximum allowable occupancy. It shall be a violation of this chapter by the occupants to exceed the maximum allowable occupancy. It shall be a violation of this chapter by the owner or agent to:

(1) exceed the allowable occupancy;

(2) or to hold the dwelling unit out for occupancy by more than the maximum allowable occupancy;

(3) to permit or allow the dwelling unit to be occupied by more persons than the maximum allowable occupancy; or

(4) fail to personally monitor the occupancy of each dwelling unit, which monitoring shall include the following measures, as well as other that are reasonable and prudent under the particular circumstances:

(A) filing an occupancy affidavit not less than annually and updating the occupancy affidavit upon any change in occupants;

(B) posting the occupancy sticker as set forth in Section 117.08(b);

(C) not advertising a rental price per bedroom for more bedrooms than the legally permitted number of unrelated occupants;

(D) monitoring the cars regularly parked at the property for possible additional occupants;

(E) not receiving payments of deposit or rent from persons other than the occupants listed in the occupancy affidavit or from other person who are known to be non-occupants who paid on behalf of a known occupant;

(F) monitoring the names posted at the entry or on any mailbox or mail slot, and

(G) monitoring the number of occupants observable by an employee or agent of the owner/agent in the event of entry for repairs, showing the property to prospective tenants/buyers or other entry for any purpose,

~~or to permit or allow the dwelling unit to be occupied by more persons than the maximum allowable occupancy.~~

Sec. 117.20. Violation—Penalty.

Violation of this chapter shall subject the violator to a civil penalty as follows:

(a) For submitting an incorrect affidavit under Section 117.05, a fine of \$1,000, unless the violator has been convicted of a previous violation of submitting an incorrect affidavit, in which case the fine shall be \$2,500;

(b) For submitting any other false or materially incomplete information on an application or any other information submitted under this chapter, a fine of \$500,

unless the violator has been convicted of a previous violation of submitting an incorrect affidavit, in which case the fine shall be \$2,500;

(c) For failure to post an occupancy sticker pursuant to Section 117.08(c), a fine of \$200, unless the violator was an owner or part owner, directly or indirectly, which has been convicted of a previous violation of failing to post an occupancy sticker, in which case the fine shall be ~~\$1,000~~ \$1000;

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(d) For failure to timely sign or submit a complete occupancy affidavit when required under Section 117.05, a fine of \$100, each day a violation of this provision occurs or continues is a separate and distinct violation of the chapter;

(e) For any violation as set forth in Section 117.08(d), a fine of \$200, unless the violator was an owner, ~~or~~ part owner, or agent directly or indirectly, which has been convicted of a previous violation involving over occupancy, in which case the fine shall be ~~\$1,000~~ \$2,500 with each day a violation of this provision occurs or continues being a separate and distinct violation of the chapter (however, it is a defense to a violation under this subsection if the owner or agent was diligent in monitoring the occupancy, as set forth in Section 117.08(d) and the over occupancy occurred without the owner or agent's knowledge and the rent was reasonable for the permitted legal occupancy and the burden of proof of such defense shall be on the owner and/or agent);

(f) For rental of any dwelling unit without first obtaining or continuing to have a valid rental certificate, a fine of ~~\$100~~ \$250, unless the violator was an owner or part owner, directly or indirectly, which has been convicted of a previous violation involving renting without a rental certificate, in which case the fine shall be \$500 ~~\$1,000~~, with each day a violation of this provision occurs or continues being a separate and distinct violation of the chapter;

(g) For violation of any other provision of this chapter, a fine of \$100, with each day a violation of this provision occurs or continues being a separate and distinct violation of the chapter.

INTRODUCED ON FIRST READING ON THE _____ DAY OF _____, 2009.

A MOTION TO CONSIDER ON FIRST READING WAS SUSTAINED BY A VOTE OF ___ IN FAVOR AND ___ OPPOSED, PURSUANT TO IC-36-4-6-13.

DULY ORDAINED, PASSED, AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE, INDIANA, ON THE _____ DAY OF _____, 2009, HAVING BEEN PASSED BY A VOTE OF _____ IN FAVOR AND _____ OPPOSED, THE ROLL CALL VOTE BEING: