

CITY OF AUBURN HILLS

ORDINANCE NO. 18-901

AN ORDINANCE TO AMEND CHAPTER 18, BUILDINGS AND BUILDING REGULATIONS, OF THE AUBURN HILLS CITY CODE, AS AMENDED, TO ADD ARTICLE VII, REGISTRATION OF RENTAL OR LEASED DETACHED ONE-FAMILY HOMES

THE CITY OF AUBURN HILLS ORDAINS:

Section 1.

Chapter 18, Buildings and Building Regulations, of the Auburn Hills City Code, as amended, is hereby amended to add a new Article VII, Registration of Rental or Leased Detached One-Family Homes, which shall read as follows:

Sec. 18-215. - Purpose, intent and findings.

The purpose and intent of this article is to help protect the health, safety and welfare of city residents and citizens, to prevent blight and property deterioration in neighborhoods, and to promote and maintain healthy, sanitary conditions of all homes located throughout the city, recognizing the importance of such to the persons who do or may reside therein or in the vicinity.

In particular, the city recognizes a compelling interest in establishing standards for the maintenance of detached one-family homes that are utilized as rental homes within the city which will provide for the maintenance of property values of nearby properties; and the reduction and elimination of blight and other damaging factors affecting one-family neighborhoods and the quality of life within the city.

Further, the city recognizes the unique nature of detached one-family homes that are utilized as rental homes versus apartment complexes and non-residential rental buildings because, in the city's experience:

- (1) The maintenance of detached one-family homes that are utilized as rental homes is typically the obligation of a non-owning tenant or a non-occupying, off-site owner rather than an on-site manager or management company;
- (2) Unlike non-residential rental buildings and apartment units, detached one-family homes that are utilized as rental homes are typically located in or near neighborhoods consisting of owner-occupied detached one-family homes where the deterioration and non-maintenance of structures and property has a much more significant and direct negative impact on the quality of life, character, vitality, appearance and value of property in the surrounding neighborhood affecting residents on a broad and large scale basis in the city;

Therefore, the city finds that regulating detached one-family homes that are utilized as rental homes is an effective way to reduce neighborhood and city blight with the resources available to the city. So in order to address this unique situation and help to protect residents of neighborhoods surrounding said rental homes, the city finds that this rental home registration and inspection program is warranted and necessary.

Sec.18-216. - Scope.

The provisions of this article shall apply to all detached one-family homes and the properties on which they are located within the city.

Sec. 18-217. - Definitions.

For purpose of this article, the following words and phrases have the meanings indicated:

Board of appeals means the city's Building Code Construction Board of Appeals.

Building means a structure with a roof supported by columns or walls to serve as a shelter or enclosure.

Code official means a city building official, building inspector, code enforcement officer, the director of the department and other city employees designated and legally authorized by that director or the city manager to administer and enforce this article.

Department means the city's community development department.

Family shall have the meaning ascribed to it per the city's zoning ordinance.

Fee schedule means the schedule of fees established by resolution of the city council from time to time

Inspection checklist means the guidelines to be used by the owner and/or code official in conducting inspections under this article, setting forth the minimum requirements for rental homes in a manner consistent with the criteria set forth in the International Property Maintenance Code, as may be amended from time to time.

Lease means a lease agreement, rental agreement or other written or oral agreement or arrangement for the use and occupancy of a rental home by one (1) or more persons that are not an owner.

Occupants means tenants, lessees, renters, and/or persons residing in or occupying a rental home, who are not owners.

Owner means any person, agent or entity having a legal or equitable ownership interest in a rental home, which ownership interest is established by a written document that has been recorded at the Oakland County register of deeds office or is reflected on a property transfer affidavit filed with the city. Owner does not include a person with a possessory interest pursuant to a lease with option to purchase, lease to purchase, or any similar possessory interest.

Rent or rented means a lease whereby a person is to pay or provide monetary or other consideration to another person for the right or privilege to use and occupy a rental home for any period of time.

Rental home, for the purposes of this article, means a detached one-family home that is not occupied by an owner and that is rented or available to be rented; provided, however, rental home shall exclude any structure or building the principal use of which is licensed and inspected by the State of Michigan and is preempted from regulation by the city pursuant to state or federal law. Except as otherwise expressly provided in this article, occupancy of any home by any person other than the owner of record (with his or her family, as defined in the Zoning Ordinance) shall be considered renting and shall require registration and self-inspection of the home pursuant to this article. A homestead declaration filed on the property reflecting less than one hundred (100) percent shall be prima facie evidence (i.e., evidence adequate to establish a fact or raise a presumption of fact unless refuted) that the owner does not occupy the home.

One-family home means a building or structure designed exclusively for occupancy by one (1) family for residential purposes.

Permit to occupy means a permit issued by the department which accepts self-certification of compliance with this article.

Structure means anything constructed or erected the use of which requires location on or attachment to the ground and includes buildings.

Tenant means a person who rents or has a lease for a rental home.

Sec. 18-218. - Registry of rental homes.

Owners of rental homes shall register such homes with the department as provided in this section before they are rented or offered for rent. An owner shall register the rental home with the city to be entitled to collect rent from tenants and occupants residing or located in the rental home and shall comply with all other provisions of this article.

- (1) Registration shall be on a form provided by the department. Required information shall include the name, address (PO Box not accepted), e-mail, and telephone number of the owner and any managing agent. For each individual owner and agent, a driver's license number or State of Michigan identification number must be provided. The department may require any additional information as may be relevant and necessary to the proper implementation and enforcement of this article. The form must be signed by all owners and agents.
- (2) The registration fee and permit to occupy fee shall be paid at the time of application for registration. In the event a rental home is not registered within the timeframes set forth in this section, a late fee shall be assessed an additional amount in accordance with the fee schedule, until the rental home is registered and all fees paid. All property taxes, water and sewer bills, and any other city assessments or charges associated with the rental home are required to be current.

- (3) Any changes, at any time, in the information provided by an owner on a registration form must be provided to the department in writing within thirty (30) days of the change.
- (4) If an owner is a business entity, other than an individual, the names, addresses, e-mails, and telephone numbers of corporate officers, partners, members and managers as applicable to the form of the organization shall be listed. If such business entity has no substantial assets other than the rental home to be registered and is controlled in whole or in part by one (1) or more other business entities, then the name, address, e-mail, and telephone numbers of those entities and their officers, partners, members and/or managers shall be listed.
- (5) All rental homes existing at the effective date of this article shall be registered and obtain a permit to occupy by December 31, 2018.
- (6) All existing, non-rental homes that are converted to a rental home after the effective date of this article shall be registered and obtain a permit to occupy prior to the date on which the property is first occupied for rental purposes.
- (7) All other rental homes shall be registered and obtain a permit to occupy prior to any use or occupancy as a rental home.
- (8) A new owner of an existing rental home, which is sold, transferred, or conveyed to the new owner, shall obtain a new registration and new permit to occupy for the rental home within thirty (30) days after the date of the sale.
- (9) The registration of a rental home and the associated permit to occupy shall be renewed by the owner with the department annually by December 31. Failure to renew the registration and permit to occupy annually by December 31, as described in this article, may cause the revocation of said registration and suspension of the permit to occupy.

Sec 18-219. – Permit to occupy.

Persons shall not occupy, and owners shall not rent or allow occupancy, of a rental home unless a permit to occupy has been applied for by the owner and issued by the department, except rental homes existing on the effective date of the ordinance establishing this article may continue to be rented and occupied after such effective date without a permit to occupy, provided the owner timely complies with the registration requirements under section 18-218, pays all applicable fees under section 18-223, complies with the requirements of section 18-220, and diligently and timely undertakes all actions necessary to meet the requirements for and obtain a permit under this article.

Sec. 18-220. Self-certification inspection procedures.

- (1) Initial inspection and follow-up inspections. The owner of a rental home, or owner's management person, shall conduct an initial self-certification inspection of the existing rental home by December 31, 2018. For any property that becomes a rental home after the adoption of this article, the initial self-certification inspection shall be completed and submitted with the registration, and a permit to occupy obtained, before such property is rented or occupied for such purposes. In the event that the owner of a rental home, or owner's management person, does not believe they are capable of performing

the self-certification inspection, said person can request the code official to perform the inspection provided that the owner, or owner's management person, pays the department the required inspection fee as established by the city council in the city's fee schedule. The owner of a rental home, or owner's management person, shall conduct a follow-up self-certification inspection of the rental home upon each tenant change over prior to occupation of the rental home by a new tenant. It is noted that a new permit to occupy and self-certification inspection is required when an existing rental home is sold, transferred, or conveyed to a new owner.

- (2) Self-certification inspection checklist. The code official shall prepare the self-certification inspection checklist form to be used by the owner or owner's management person or company. The self-certification inspection checklist will certify that health and safety, building code, fire code, and zoning ordinance violations do not exist on the rental home. The self-certification inspection checklist form shall be attached to the registration form and shall be signed and submitted by the owner at the time the registration is submitted. The city shall not issue a permit to occupy if a completed self-certification checklist form is not included with the registration. As part of the self-inspection, the owner shall sign the self-certification inspection checklist form certifying that owner or owner's management person or company has inspected the items on the form, has truthfully reported the condition or status of each item and has brought each deficiency or code violation up to proper codes and standards. Follow-up self-certification inspections shall occur per Section 18-220(1).
- (3) Audit by code official. The code official shall conduct an exterior audit of all the registered rental homes within the city annually. The code official shall inspect the registered rental home from the road right-of-way to determine compliance with applicable city and state codes relating to zoning, building, health, safety and property maintenance.
 - a. If upon inspection of the rental home violations of one or more provisions of applicable city codes and ordinances and/or state law are noted, the code official shall provide a written notice to abate such violations to the owner of the affected rental home within 14 days or within a reasonable time thereafter agreed upon and approved by the code official. The notice to abate the violation shall include a re-inspection date before which such violations shall be corrected.
 - b. If the violations have not been corrected by the date of the re-inspection, the code official may issue a municipal civil infraction citation in the manner described in section 18-221, take action to abate the violation in the manner described in section 18-222, and/or take action to suspend the permit to occupy in the manner described in section 18-223. If such uncorrected violations do not pose an immediate threat to the health, safety and welfare of the occupants, the code official may, in his or her discretion, authorize the occupancy of the rental home unit for a period not to exceed 90 days. If the rental home cited is vacant at the time the violations are cited, it may not be occupied until such time as the violations have been corrected.

Sec. 18-221. - Penalty for violation.

A person who violates the provisions of this article, as amended, may be fined for a municipal civil infraction, subject to the following penalties:

- (1) Civil fines shall apply in the event of a determination of responsibility for a municipal civil infraction. Fines shall be in an amount set forth for the offense in the schedule of fines adopted by the 52-3 District Court, plus costs and other sanctions, for each offense.
- (2) In addition to ordering the defendant determined to be responsible for a municipal civil infraction to pay a civil fine, costs, damages and expenses, the judge or magistrate may issue any judgment, writ or order necessary to enforce, or enjoin said violation.
- (3) Each act of violation, and on each day upon which any such violation shall occur, shall constitute a separate offense.
- (4) In addition to any remedies provided for by this article, any equitable or other remedies available and/or permitted by law may be sought.
- (5) The judge or magistrate may impose costs, damages, and expenses as provided by law.
- (6) A municipal civil infraction shall not be a lesser included offense of a criminal offense or of an Auburn Hills City Code or other city ordinance violation which is not a civil infraction.

Sec. 18-222. - Abatement by city; lien.

If the notice to abate is not complied with in the allotted time period, then an agent authorized by the city manager or by an order of the 52-3 District Court may enter the property as many times as necessary to remove or eliminate the violation.

- (1) The property owner shall be liable for all costs incurred by the city to remove or eliminate the violation. In addition, an administrative fee in the amount of 25 percent of the cost of the removal or elimination may be included in total costs.
- (2) Billing of costs will be mailed to the owner by regular mail to the owner's address on file with the city and/or last known address. If the charges involved are not paid by the owner within 30 days from the date of billing, the payment shall be delinquent. In the event of delinquent charges, the city shall have a lien upon such property for the charges, and the lien is enforceable as a tax lien in the manner prescribed by the general laws of the state against the property and collected as in the case of general property tax.
- (3) An action for abatement by the city does not preclude the right of the city to initiate a municipal civil infraction citation and request for formal hearing at 52-3 District Court.

Sec. 18-223. - Suspension of permit to occupy.

The permit to occupy may be suspended by the code official if a rental home is not maintained in compliance with all applicable codes and the owner is in violation of this article. Prior to suspending the permit to occupy, the department shall serve upon the owner a notice of imminent permit suspension which will inform the owner of the item(s) that must be corrected

to avoid permit suspension. The owner will have 14 days after the notice is sent to comply. At the end of the compliance period, should the items not be completed, or an extension granted by the code official based on a mutually agreed action plan, a notice of permit suspension may be issued. Both the notice of imminent permit suspension and the notice of permit suspension shall be served on the rental home owner of record by personal service or certified mail to the owner's address on file with the city. A copy of both notices shall also be sent to the occupant(s) of the rental home by regular U.S. mail. Life safety violations affecting the health, safety and welfare of the public, including tenants, are not subject to the notification requirements and compliance shall be immediate.

Sec. 18-224. - Process for appeal of city suspension of permit to occupy.

Any owner aggrieved by the code official's final determination to deny the issuance of a permit to occupy and/or suspend the permit to occupy shall have the right to appeal the decision to the board of appeals. Said appeal must be in writing and must be filed not more than 10 days following the determination of the code official. The appeal shall be submitted to the department on the appropriate forms with the appropriate fee established by resolution of the city council, and shall specify the basis for the appeal. The owner shall be provided with an opportunity to testify before the board of appeals. The appeal shall be set for hearing before the board of appeals within 60 days of receipt of a completed appeal application by the department. The decision of the board of appeals on the matter shall be final. Life safety violations affecting the health, safety and welfare of the public, including renters, must be resolved immediately and are not subject to appeal.

Sec. 18-225. - Fees.

The owner of the rental home shall be responsible for payment of the registration fee, permit to occupy fee, and other fees involved in the administration and enforcement of this article, which fees shall be set forth in the city's fee schedule established by the city council.

Section 2. Repealer.

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 3. Severability.

If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any Court of competent jurisdiction, such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

Section 4. Savings.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law when they were commenced.

Section 5. Effective Date.

The provisions of this Ordinance are hereby ordered to take effect upon publication in the manner prescribed by the Charter of the City of Auburn Hills.

Section 6. Adoption.

This Ordinance is hereby declared to have been adopted by the City Council of the City of Auburn Hills at a meeting thereof duly called and held on the 11th day of June, 2018, and ordered to be given publication in the manner prescribed by the Charter of the City of Auburn Hills.

AYES: 6
NAYES: None
ABSENT: 1 (Verbeke)
ABSTENTIONS: None

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

I, the undersigned, the duly qualified Clerk of the City of Auburn Hills, Oakland County, Michigan, do hereby certify that the foregoing is a true and complete copy of Ordinance No. 18-901 adopted by the Auburn Hills City Council on the 11th day of June, 2018.

Kevin R. McDaniel, Mayor

Laura M. Pierce, City Clerk