

**CITY OF NEW BUFFALO
BERRIEN COUNTY, MICHIGAN**

ORDINANCE NO. 252

**ORDINANCE TO ADD CHAPTER 23 TO THE NEW BUFFALO CITY CODE OF ORDINANCES FOR
RENTAL HOUSING ORDINANCE**

WHEREAS, it is hereby found that there exist and may in the future exist, within the City of New Buffalo premises, dwellings, dwelling units, rooming units, or parts thereof, which by reason of their structure, equipment, sanitation, maintenance, use, or occupancy affect or are likely to affect adversely the public health (including the physical, mental and social well-being of persons and families), safety, and general welfare; and

WHEREAS, to correct and prevent the existence of such adverse conditions, and to achieve and maintain such levels of residential environmental quality as will protect and promote public health, safety, and general welfare, it is further found that the establishment and enforcement of minimum housing standards are required.

THE CITY OF NEW BUFFALO ORDAINS:

Section 1. Addition. Chapter 23 of the New Buffalo City Code is added to read in its entirety as follows:

Chapter 23 RENTAL HOUSING

ARTICLE I. IN GENERAL

Section 23-1 Definitions.

All words and phrases used in this Chapter shall be given their common and normal meaning unless defined in this Chapter. The words and phrases defined hereinafter shall be given the meaning indicated in the interpretation and enforcement of this Chapter. Unless the context clearly indicates otherwise, when words are used in this Chapter, the following shall apply:

1. The singular includes and shall apply to the plural, and the plural applies to and includes the singular.
2. The masculine gender shall include the feminine and neuter, and the feminine and neuter shall include the masculine.
3. Where the text uses the negative of a defined word, the negative of the definition shall be applied.
4. The definition of a verb or a noun shall be used in an appropriate fashion where the adverbial or adjectival form of the word is used.

The following words and phrases, when used in this article, shall have the meanings ascribed to them in this section:

ACTION

Recoupment, counterclaim, setoff, suit in equity, and any other proceeding in which rights are determined, including an action for possession.

APARTMENT BUILDING

Any structure containing one or more dwelling units except:

- A. A single-family residence;
- B. A structure in which all tenants are roomers or boarders.

APPROPRIATE AUTHORITY

That person with the governmental structure of the corporate unit who is charged with the administration of the appropriate code.

APPROVED

Actions approved by the local or state authority having such administrative authority.

BED AND BREAKFAST

A use which is subordinate to the principal use of a dwelling unit as a single- family dwelling unit and a use in which transient guests are provided a sleeping room. In addition, in return for payment, a continental breakfast, limited to only coffee, juice, tea, milk and commercially prepared sweet rolls, may be provided.

CITY

The City of New Buffalo and includes all authorized agents of the City of New Buffalo, when acting within the scope of their authority.

CODE ENFORCEMENT OFFICER

Any employee of the city whose responsibilities include enforcement of the provisions of this Chapter.

COMMON AREA

A part or area of the premises not within any dwelling unit.

DWELLING OR DWELLING UNIT

Any house, building, structure, tent, shelter, trailer, or vehicle, or portion thereof, or a combination of related structures and permanent fixtures, operated as a single entity, which is occupied in whole or part as the home, residence, living or sleeping place of one or more human beings, either permanently or transiently.

GUEST

An individual who shares a dwelling unit in a nonpermanent status for not more than thirty (30) days.

HOUSING AND PROPERTY MAINTENANCE CODE

The International Property Maintenance Code, as adopted by the City Council.

IMMEDIATE FAMILY

Spouses, children, stepchildren, brothers and sisters, half-brothers and half-sisters, parents and stepparents.

LANDLORD

The owner, the owner's agent lessor or sub lessor of the dwelling unit or the property of which it is a part and, in addition, means any person authorized to exercise any aspect of the management of the premises except those persons engaged solely in custodial and maintenance functions.

LEASE OR RENTAL AGREEMENT

Any and all agreements, written or oral, which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.

MULTIPLE DWELLING

Any dwelling containing more than two (2) dwelling units.

OCCUPANT

An individual who is living in, sleeping in, or otherwise having possession of a space. An individual present in a rental unit during the term of a lease agreement shall be presumed to be an occupant

unless circumstances clearly indicate that the individual is visiting between the hours of 8:00 a.m. and 10:00 p.m. and will not stay overnight. Any person, other than a legal or equitable title holder, occupying or possessing all or part of a rental unit.

OWNER

Any person who, along or jointly or severally with others:

- A. Shall have legal title to any premises, dwelling or dwelling unit, without accompanying actual possession thereof; or
- B. Shall have charge, care, or control of any premises, dwelling or dwelling unit, as owner or agent of the owner, or an executor, administrator, trustee, or guardian of the estate of the owner. Any such person representing the actual owner shall be bound to comply with the provisions of this article and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owners.

PERMISSIBLE OCCUPANCY

The maximum number of individuals permitted to reside in a dwelling unit or rooming unit.

PERSON

Any individual, corporation, government, or government agency, business trust, estate, trust, partnership or association, two or more persons having a joint account interest, or any other legal or commercial undertaking

RENTAL PROPERTY OR RENTAL UNIT

Any residential rental which is in whole or in part occupied by one or more persons pursuant to an oral or written agreement for monetary or any other consideration, but which persons are not acquiring an ownership interest in the dwelling. The term "rental unit" includes single-family, two-family and multiple-family dwellings, and rooming houses or boarding houses. The term "rental unit" shall not include transient rental structures such as hotels, motels, short-term rentals or bed-and-breakfasts, and shall not include dwellings that are occupied only by members of the owner's immediate family.

ROOMER/BOARDER

Tenant occupying a dwelling unit:

- A. Which lacks at least one major bathroom or kitchen facility, such as a toilet, refrigerator, or stove;
- B. In a building:
 1. Where one or more such major facilities are supplied to be used in common by the occupants of the roomer's or boarder's dwelling unit and one or more other dwelling units; and
 2. In which the landlord resides.

SINGLE FAMILY RESIDENCE

A structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it shall be deemed a single-family residence if it has direct access to a street or thoroughfare and shares neither heating facilities nor hot water equipment, nor any other essential facility of service, with any other dwelling unit.

STRUCTURE

Any single or multiple dwelling unit which is rented, leased, or used or offered for use as a place for people to reside.

TENANT

Any person who occupies a dwelling unit for living or dwelling purposes with the landlord's consent.

Section 23-2 Service of notice and order; method.

Service of notice and order shall be made upon all persons entitled thereto either personally, by mailing a copy of such notice and order either by regular mail or by certified mail, postage prepaid, return receipt requested, to each person at this address as it appears on the last equalized assessment roll of the county or as known to the city, or by posting of a notice in a conspicuous location on the premises. If no address of any such person so appears or is known to the city, then a copy of notice and order shall be so mailed, addressed to such person at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this chapter.

Service by posting in a conspicuous location on the premises, regular mail, certified mail or hand-delivered document in the manner herein provided shall be effective on the date of mailing, posting, or delivery.

Sections 23-3 – 23-15. Reserved.

Section 23-16 Certificate of occupancy for rental properties, inspection requirement

No owner, agent or person in charge of a dwelling or dwelling unit shall allow any person to occupy the same as a tenant or lessee or for consideration unless the dwelling or dwelling unit shall have been inspected subsequent to its most recent occupancy and determined to follow the provisions of this article as evidenced by a certificate of occupancy issued by the city as provided by this article.

Section 23-17 Certificate of occupancy and reinspection.

- A. Upon request of the owner, agent or other person authorized to rent a dwelling or dwelling unit, herein after referred to as applicant, the city will schedule an inspection at the earliest possible date. A current tenant may also request an inspection which will be scheduled upon completion of a Rental Housing Complaint Form. If such inspection establishes that the dwelling or dwelling unit complies with the requirements of this article, so that the dwelling or dwelling unit is fit for occupancy without endangering human life, safety or welfare, the department shall issue a Rental Certificate of Compliance for the dwelling or dwelling unit, indicating the date of such inspection, and that such dwelling or dwelling unit complies with the requirements of this article. A temporary Rental Certificate of Compliance may be issued if required repairs are of such a nature that they do not impose immediate danger to the occupants of the premises or the general public. All smoke detector violations shall be corrected within twenty-four (24) hours of the inspection. If more than fifty (50%) of the required smoke detectors are missing or inoperable, the inspector shall immediately identify the premises as unsafe and unfit for human occupancy and shall post the structure as condemned in compliance with the International Property Maintenance Code.
- B. If the dwelling or dwelling unit does not comply with the requirements of this article, the city shall furnish the applicant with a written list of the specific violations which would have to be corrected before a certificate of occupancy could be issued for the dwelling or dwelling unit. Upon the representation of the applicant that the listed violations have been corrected the city shall reinspect the dwelling or dwelling unit and issue a certificate of occupancy or a list of violations as provided.

Section 23-18 Certificate of compliance.

Upon inspection the city shall furnish the applicant with a written list of specific violations which although not rendering the dwelling or dwelling unit unfit for occupancy by reason of danger to human life, safety or welfare, are of the nature which if not corrected could result in further deterioration and subsequent danger to human life, safety or welfare. Upon the representation that the listed violations have been corrected the city shall reinspect the dwelling or dwelling unit and if the same complies with all provisions of this article the city shall

issue a Rental Certificate of Compliance for the dwelling or dwelling unit. Upon receipt of a certificate of compliance for a dwelling or dwelling unit, the owner, agent or person in charge of the dwelling or dwelling unit shall not be subject to the provisions of section 23-16 hereof as to the dwelling or dwelling unit for the following fiscal year provided, however, that this provision shall not prohibit inspection by the city upon receipt of a complaint, request for inspection, or any other reason and if upon such inspection any violations of this article are found to exist all provisions of this article shall immediately become applicable to the dwelling or dwelling unit. Upon request the department will provide to the tenant one (1) copy of the inspection report. Any additional copies will be provided at a fee of \$10.00 each.

Section 23-19 Limitation on number of occupants.

No applicant, tenant or occupant shall permit the occupancy of any dwelling or dwelling unit by a greater number of persons than that specified in the Certificate of Occupancy.

Section 23-20 Waivers.

Any applicant who is delayed in correcting violations necessary to entitle him to a certificate of occupancy and who has a valid contract with a qualified person for the performance of work and the furnishing of the materials to correct such violation may petition the city in writing for a temporary waiver of compliance. No fee shall be required. The petition shall state the reasons for the delay in correcting violations and the date on which the applicant anticipates that the violations will be corrected. If the city shall determine that (1) the delay in the correction of the violation is reasonable, taking into consideration the availability of qualified persons to do the work and the current work load; and (2) the work can reasonably be undertaken and completed while the premises are occupied or that appropriate provision has been made for housing the tenant elsewhere during the necessary period when the dwelling or dwelling unit will not be habitable because of the work correcting the violation; the city shall issue a temporary waiver of compliance expiring on the date when the corrective work should be completed. Applicant shall, on or before the date, request a reinspection and pay the reinspection fee. The city shall reinspect the dwelling or dwelling unit and issue the certificate of occupancy, or list any remaining violations, as provided above.

Section 23-21 Requirement to leave vacated premises in sanitary condition.

Each person vacating or removing from any dwelling, apartment house or other building within forty-eight (48) hours after vacating or removing from the same, shall remove or cause to be removed from the dwelling, apartment house or other building, including the grounds and appurtenances thereto, all ashes, garbage, rubbish, dirt, bottles, glass, paper and refuse of every kind and nature.

Sections 23-22 – 23-31. Reserved.

Sec. 23-32. Legislative finding.

It is hereby found that there exist and may in the future exist, within the city premises, dwellings, dwelling units, rooming units, or parts thereof, which by reason of their structure, equipment, sanitation, maintenance, use, or occupancy affect or are likely to affect adversely the public health (including the physical, mental and social well-being of persons and families), safety, and general welfare. To correct and prevent the existence of such adverse conditions, and to achieve and maintain such levels of residential environmental quality as will protect and promote public health, safety, and general welfare, it is further found that the establishment and enforcement of minimum housing standards are required.

Sec. 23-33. Purposes.

- A. This article shall be liberally construed and applied to promote its underlying purposes and policies as set forth in section 23-32.
- B. The underlying purposes and policies of this article are:
 - 1. To simplify and clarify the law governing the rental of dwelling units;

2. To encourage landlords and tenants to maintain and improve the quality of housing in the city; and
3. To revise and modernize the law of landlord and tenant to serve more realistically the needs of the city.

Section 23-34 Scope.

The provisions of this article shall apply uniformly to the construction, maintenance, use and occupancy of all residential buildings and structures, where applicable, and shall apply uniformly to the alteration, repair, equipment, use, occupancy and maintenance of all existing residential buildings and structures, within the jurisdiction of the city irrespective of when or under what code or codes such buildings or structures were originally constructed or rehabilitated. It shall regulate and determine all legal rights, remedies, and obligations of the parties and beneficiaries of any rental agreement of a dwelling unit within this city wherever executed.

Any agreement, whether written or oral, shall be unenforceable insofar as the agreement or any provision thereof conflicts with any provision of this article and is not expressly authorized herein. Such unenforceability shall not affect other provisions of the agreement which can be given effect without such void provision.

Section 23-35 Independent obligations.

Except as specifically provided in this article all obligations of landlords and tenants under this article shall be interpreted as independent obligations and the duty of a tenant or landlord to meet his obligations under this article shall not be conditioned upon the performance by the other party in the rental agreement of his obligations.

Sections 23-36 – 23-43. Reserved.

ARTICLE II. ANNUAL REGISTRATION OF RENTAL PROPERTIES

Section 23-44 Purpose and intent.

The purpose of this article is to protect the public health, safety, and welfare of people in residential buildings, to be occupied under rent or lease agreements, by the inspection and certification of rental properties as set forth below.

Section 23-45 Registration required.

- A. Every single unit dwelling, multiple unit dwelling, boarding house, and lodging house offered for let or hire shall be registered annually, on or before July 1 of each year, including full payment of all fees and penalties due, with the city. The annual registration shall be in the name of the owner or his designated responsible party. The registration shall contain the name and address of the registrant, the address of the unit(s) being registered, and the number of units to be offered for let or hire. It is a civil violation for any property owner to rent, let or lease any residential property or premises if the annual rental registration fee is not paid. Said property or premises shall be posted as unfit for occupancy until all registration fees and penalties are paid. A penalty of two hundred fifty (\$250.00) dollars shall be applied for any violation of this section.
- B. Any individual who acquires partial or complete ownership of a unit(s) subject to this Article shall give written notice of the type of ownership and address(es) within thirty (30) days of acquisition to the city. Failure to provide such ownership information shall subject the party to the penalty provisions of Section 23-54.
- C. Close family members limited to father, mother, sister, brother, son, or daughter may occupy a dwelling unit without payment of registration fee by the owner. Such occupancy shall be certified in writing by the owner and the close family member, and the family member shall not compensate the owner in any manner. Such dwelling unit shall still be registered and is subject to the inspection requirements of the city.

Section 23-46 Annual certificate of occupancy required.

- A. No single dwelling, multiple unit dwelling, boarding house or lodging house offered to let or hire shall be occupied unless the city has issued a Certificate of Occupancy for the single unit dwelling, multiple unit dwelling, boarding house or lodging house in the name of the owner or his designated responsible party.
- B. Each Certificate of Occupancy shall be a certification that the rental unit is registered from July 1st of the year of issuance and expires June 30th of the following year.

Section 20-47 Application for rental certification of occupancy; inspection; fees.

- A. The application shall be made on a structure-by-structure basis. All units in the same structure must be registered at the same time. Upon written certification from the owner, delivered to the city a minimum of fifteen (15) days prior to due date of registration fees, dwelling or dwelling units that are vacant and not available for rent shall not have registration fees due until the unit is available for rent, upon which time the owner shall obtain an inspection and Certificate of Rental Compliance prior to occupancy of the structure, dwelling unit, or premises. The owner of any unit that is represented as not available for rent that is subsequently found to be rented without payment of all registration and late fees shall be assessed a minimum fine of two hundred fifty (\$250.00) dollars for each occurrence.
- B. The applicant/owner or his designated responsible party by filing an application, shall be deemed to have given consent to the city to enter each rental unit as well as any other portion of the structure at reasonable times and upon a reasonable notice, to inspect the premises at any time after the application is made or a Certificate of Occupancy is issued.
- C. No Certificate of Rental Compliance shall be issued unless the fully completed application form is accompanied by payment of an annual registration fee as determined by resolution.
- D. No certificate of occupancy shall be issued to a non-resident applicant unless such applicant designates in writing the name, address, and telephone number of his agent within the State of Michigan for the receipt of service of notice of violation under the provisions of this article. Non-residents shall be interpreted as any owner of rental property residing outside the State of Michigan.
- E. Any fee, fine, or penalty unpaid as of October 15 of any year shall be levied against the property and shall be added to the property taxes of said property.

Section 23-48 Initial inspection; orders; power to vacate.

- A. Before issuing a Temporary Certificate of Occupancy, Provisional Certificate of Occupancy or Certificate of Occupancy, personnel of the city shall inspect the rental unit.
- B. There will be an administrative fee charged for the initial inspection. Such initial inspection fee shall be in an amount as established by City Council resolution and subject to change. If it is determined by the city that an inspection by the electrical, mechanical, and/or plumbing inspector is required, the resultant electrical, mechanical and/or plumbing inspection fee shall be charged in an amount as established by City Council Resolution and subject to change.
- C. No Temporary Certificate of Occupancy, Provisional Certificate of Occupancy or Certificate of Occupancy shall be valid until all administrative fees are paid.
- D. After completion of the initial inspection of the rental unit(s), if the single unit dwelling, multiple unit dwelling, boarding or lodging house is not in compliance with the rules, regulations, laws, or technical housing codes of the city and/or State of Michigan, the code enforcement official shall furnish the applicant with a written list of specific violations which shall be corrected within 30 days before the annual rental Certificate of Occupancy is issued, provided further that the violation does not render the unit(s) unfit for occupancy or is of a nature which if not corrected would result in further deterioration and subsequent danger to human life, safety or welfare. However, if occupancy can continue safely, the city shall issue a temporary Certificate of Occupancy allowing occupancy to continue while the violations are corrected. No Certificate of Occupancy shall be granted if occupancy will endanger the health, safety, or welfare of the public. In such cases, an order to vacate shall be issued.

Section 23-49 Issuance of certificate of Rental Compliance.

If after the initial inspection conducted pursuant to this ordinance, the single unit dwelling, multiple unit dwelling, boarding or lodging house is found to be following the rules, regulations, laws and technical housing codes of the city and the State of Michigan, the city shall issue an electronic Certificate of Rental Compliance for the unit(s) in the name of the owner or designated responsible party. One paper copy shall be provided to the owner or designated representative upon request.

Section 23-50 Reinspection; revocation.

- A. No later than sixty (60) days after the initial inspection, a re-inspection may be conducted, to verify that all the violations listed pursuant to Section 23-48 of this article have been corrected. If corrected, a Certificate of Rental Compliance shall be issued pursuant to Section 23-49 of this article. If not corrected, the Temporary Certificate of Rental Compliance shall be revoked, and the unit(s) must be vacated.
- B. There will be an administrative fee charged for the re-inspection in an amount as established by City Council Resolution and subject to change.
- C. The city will respond to citizen complaints of deficient structures by authorizing complaint-based inspections. Legitimate complaints shall result in an inspection fee in an amount as established by City Council Resolution and subject to change.

Section 23-51 Right of appeal.

Any person who is grieved by a decision of the city or whose Certificate of Occupancy has been revoked or if the unit(s) are found to be unfit for occupancy, shall be entitled to reconsideration by appealing the decision as provided in Section 11-13 of this Code.

Section 23-52 Transferability.

A Certificate of Compliance shall not be transferred to any other dwelling or unit.

Section 23-53. Tenant responsibility.

In the event a violation exists which prevents the issuance of a Certificate of Compliance due to the actions or failure to act by the tenant, then the tenant may also be cited for the violation and subject to punishment under section 23-54 of this Article for the violation.

Section 23-54. Penalties; separate offense.

Unless stated otherwise in this ordinance, any person, owner or designated responsible party convicted of violating any provision of this article shall be punished by a fine having a maximum of \$500 (five hundred dollars) and having a minimum fine of \$100 (one hundred dollars) for the first conviction and a minimum fine of \$200 (two hundred dollars) for the second conviction and a minimum fine of \$300 (three hundred dollars) for the third and each additional conviction and/or imprisonment for a term of up to ninety (90) days in jail or both. Additionally, it shall be asked of the court to order the immediate correction of all violations of the provisions of this article, which were the basis for the citation and issuance of a ticket and/or warrant. Each violation of the provisions of this article shall be deemed a separate offense.

Section 23-55. Severability.

The sections and portions of this Article are declared to be severable and if any section or party is declared to be illegal, unenforceable, or void for any reason, such illegality or un-enforceability shall not affect the remaining sections or parts of this article.

Section 23-56. Unpaid fees

Any unpaid fees, as required by this article, which remain unpaid and delinquent for thirty (30) days or more, shall become a debt to the city from the owner or person otherwise to be assessed on tax day as provided by law. Such unpaid fees shall become a lien on the respective real property, and the lien, interest and penalties shall continue until paid. All such amounts shall be collected in the same manner as real property taxes.

Section 2. Publication and Effective Date. The City Clerk shall cause this ordinance or a summary thereof to be published in a newspaper of general circulation in the City, and the ordinance shall be effective 20 days after enactment or upon publication, whichever is later.

YEAS: O'Donnell, Robertson, Lijewski, Flanagan, Mayor Humphrey

NAYS:

ABSTAIN:

ABSENT:

CERTIFICATION

This is a true and complete copy of Ordinance No. 252 adopted at a regular meeting of the New Buffalo City Council held on October 18, 2021.

John Humphrey, Mayor

Ann M. Fidler, City Clerk