Prepared by the City Attorney

# ORDINANCE NO. 1-05

## AN ORDINANCE TO AMEND THE PROVISIONS OF WEST LAFAYETTE CITY CODE CONCERNING RENTAL CERTIFICATES AND THEIR REGULATION

WHEREAS, West Lafayette has been inspecting and regulating rental housing since 1976 in order to provide for the health and safety of tenants and to protect the peace and harmony and preserve neighborhoods; and

WHEREAS, in 2001 the Common Council adopted Ordinance #17-01 providing major changes to the rental and certification regulations in the City of West Lafayette;

WHEREAS, Ordinance #17-01 provided that the regulations be reviewed and evaluated in two years to determine the effect of the regulations in improving the enforcement of rental certification and the enforcement of overoccupancy in West Lafayette's housing;

WHEREAS, in 2004 the Common Council adopted Ordinance #7-04 making various changes to the rental certificate procedure;

WHEREAS, there have arisen certain questions as to whether certain procedures comply with the requirements of due process, as interpreted by certain Indiana courts; and

WHEREAS, the City Attorney has recommended certain changes to avoid any question as to whether the rental certificate process complies with all requirements of due process;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE that:

Chapter 117 of the West Lafayette City Code be amended to read as follows:

**Section 117.01. Legislative finding and purpose.**

**(a) It is hereby declared that the purpose of the ordinance codified in this article is to protect the health and safety of the people and to promote the public welfare by requiring periodic systematic inspection and certification of all rental housing now in existence or hereafter created or constructed in the City of West Lafayette.**

(b) The common council did, under Resolution No. 19-76, mandate a systematic inspection program of Housing-Property Maintenance Code enforcement and that program began in August of 1976 and has been in continuing operation from that time, affording now a performance record by which to assess its applicability to the need of this community.

(c) It is hereby found that there exist and may in the future exist within the City of West Lafayette units of rental housing which by reason of their operation, 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.

(d) The program of inspection and certification of rental housing established by Ordinance No. 14-78 has improved the maintenance and appearance of rental housing property in

the city and the level of compliance with the city's Housing Code, thereby promoting the health and safety of the residents of rental housing, the appearance of the city's residential neighborhood, and the preservation of residential property values throughout the city to the benefit of all its citizens.

(e) It appears that there continue to be widespread problems with the overoccupancy of rental housing, especially that rental housing consisting of single-family houses converted to rental housing and that this overoccupancy adversely impacts the city's residential neighborhoods through overcrowding, excessive traffic, demand for too much parking, noise, various nuisances and the diminution of the public welfare of the city's existing residential neighborhoods.

(f) The council desires to update the requirements of the program of inspection and certification of rental housing to continue the existing inspection and rental certificate program and to strengthen the regulation and enforcement to prevent overoccupancy of rental housing.

(g) The council desires to provide a new fee structure that more equitably apportions the cost of the rental inspection and rental certificate program. In particular, (1) the owners of such property who derive income from such rental operations should bear a larger proportion of the cost of the rental inspection and rental certificate program, and (2) converted rental units, particularly those in single-family zoned neighborhoods, should bear a higher proportion of the cost as such properties are responsible for a higher proportion of all inspection and enforcement activity.

**Section 117.02. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this article:

(a) Condominium rental means any condominium that is rental housing.

(b) Converted housing means any single family dwelling physically changed to use as two or more units or a duplex physically changed to use as three or more units.

(c) Duplex means a structure purpose built as two dwelling units.

(d) Dwelling unit means the abode of a family; a single unit providing complete, independent facilities for the exclusive use of the household, including permanent provisions for living. sleeping, eating, cooking and sanitation.

(e) Family means one or more persons all related by blood, marriage or adoption.

(f) Guest shall mean a person who is a temporary resident (less than 25% of the time) of a dwelling unit and does not utilize the unit as an address for any purpose.

(g) Initial inspection means a periodic systematic inspection of a rental property, according to the district and schedule, for the purpose of determining compliance with the Housing-Property Maintenance Code.

(h) Initial rental conversion means the change of use of a single family dwelling from owner occupied to use as a Category 1 rental unit.

(i) Maximum allowable occupancy shall be the maximum number of unrelated persons permitted to occupy a dwelling unit, determined under the Housing-Property Maintenance Code PM-404 or the Tippecanoe County Unified Zoning Ordinance (West Lafayette Ordinance No. 32-97), whichever is less.

(j) Multi-unit district means any of the following zoning districts: R-3, R-3W, R-3U, CB or any PD-R permitting multi-unit housing.

(k) Occupant means any individual living or sleeping in a dwelling unit, other than a guest, having possession of a space within a dwelling unit or using the property as a legal address for any purpose.

(l) Person includes a corporation, firm, partnership, association, organization or any group acting as a unit, as well as a natural person. References in the masculine gender include the feminine and the neuter, in the present tense include the future, and the singular includes the plural.

(m) Purpose-built multi-unit housing means any building that was originally built for the purpose of multi-unit (three or more units) housing.

(n) Rental housing is a term denoting any room, dwelling unit, rooming unit or portion thereof let or intended to be let to a family or person for compensation (which may include money or services and includes the sharing of expenses).

(o) Rooming unit is a room or suite of rooms forming a single, separate, habitable unit to be used for living, or for living and sleeping, but not for cooking and eating purposes.

(p) Reinspection means an inspection of rental property to determine the landlord's correction of code deficiencies cited during the initial inspection. Provisions for the notification of code deficiencies and time period for code compliance is made under § 112.29.

(q) Program administrator means the person designated by the Mayor to perform the duties as such under this chapter.

(r) R-2 district means a R-2, R-2U or PD-R zoning district allowing single family or two family residences.

(t) Shared housing shall have the meaning set forth in the Unified Zoning Ordinance.

(u) Single-family district means any of the following zoning districts: R-1, R-1B, R-1U, or any PD-R permitting single-family dwelling units.

(v) Structure shall mean that which is built or constructed and shall have a common roof.

(w) All other terms that are not defined in this chapter shall have the meanings assigned to them, in the following order, by the West Lafayette housing and property maintenance code, the Unified Zoning Ordinance or common usage.

**Section 117.03. Rental Certificate Required.**

It shall be unlawful for any person to allow another person to occupy rental housing without a current, unrevoked city rental certificate for such rental housing at the specific location set forth thereon, except in the following circumstances:

(a) One (1) and Two (2) Family Dwelling Sales: The sale of any one (1) or two (2) family dwelling intended for occupancy by the owner or owners of record which are to be occupied by the seller under a rental agreement for a period of less than ninety (90) days following closing. The sale of any one (1) or two (2) family dwelling intended for occupancy under a lease with Option to Purchase Agreement, Life Estate Agreement or any other form of conditional sale agreement, shall require a Rental Unit License if legal or equitable ownership is not transferred in its entirety within ninety (90) days of execution of the conditional sales agreement.

(b) Exchange Student, Visiting Clergy, Medical Caregiver, Child Care: For an owner occupied dwelling, additional occupancy by exchange students placed through a recognized education exchange student program, one visiting clergy or clerical aide to a local church or congregation, or one person to provide child care or medically prescribed care.

(c) Estate Representative: Occupancy by a personal representative, trustee, or guardian of the estate and their family where the dwelling was owner-occupied for the last year prior to the owner's death, and the occupancy does not exceed two (2) years from the date of death of the owner by notifying the Code Enforcement Department on a form provided by the Department of the owner's name, date of death, and name of the person occupying the premises.

**Section 117.04. Requirements for Rental Certificate.**

A rental certificate shall be issued after:

(a) The applicant has made a complete and accurate application upon forms prescribed by the program administrator, including the occupancy affidavit as set forth in section 117.05, including the following information:

(1) The name, (or in the case of a corporation, the corporate ID number), permanent home address, and business and home telephone number of:

(A) The owner, including the names and addresses of any owners or beneficial owners of any interest in any corporation, partnership, limited liability company, trust beneficiaries, or other entity owning the property;

(B) The agent designated by the owner, if any;

(C) The resident agent, individual partner, or managing member of any business entity.

(2) The number of rental units and the number and size of habitable sleeping rooms contained within each rental unit.

(3) A declaration of whether subletting by any tenant(s) is permitted.

(4) The street address(es) of the rental unit. - Complete all addresses of all buildings.

(5) The occupancy sought.

(6) The category of license sought.

(7) Any other information required by administrative rule approved by the City Council.

(8) A Floor Plan and Site Plan drawn to scale showing the location, size and use of all rooms and the location of all improvements on the site, including sidewalks, drives and parking. Provided that this floor plan and site plan are not required for purpose-built multi-unit housing or single-family housing used for family occupancy, unless the same contains a basement.

An application for the renewal of a rental certificate shall contain the same information as an initial application except that if there have been no changes from the previous application, it may incorporate by reference the information previously submitted.

(b) The ~~applicant has authorized the~~ program administrator ~~to~~ has conducted any inspections ~~under the West Lafayette City Code~~the program administrator determines necessary;

(c) The program administrator has determined that the property ~~has been inspected and~~ fully complies with all requirements of the West Lafayette City Code and the Unified Zoning Ordinance;

(d) The rental certificate is not subject to being revoked under section 117.10(c) as a result of violations occurring at the property; and

(e) The applicant has paid the fees as set forth in this chapter and payment of any assessed and unpaid fines assessed against the applicant.

**Section 117.05. Occupancy Affidavit.**

(a) The owner or manager of each property shall make a signed application upon the forms provided by the program administrator. Such application shall include a statement reading as follows for each dwelling unit covered by the application, signed by the owner and/or manager and signed by each occupant:

Dwelling: _____ (street and apt. no).

I have made personal and diligent inquiry and make this affidavit based upon personal knowledge. The names of all the occupants who reside in this dwelling and those persons and their relationship to any other persons residing in the dwelling (if no relationship, state none) are as follows:

| Name | Relationship |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

If any relationship is claimed between occupants, the names of the tenants who claim to be related shall be identified below, together with the names, addresses, telephone numbers and relationship of the persons through whom they claim to be related and who can verify the information:

_____

_____

_____

_____

_____

Initial one of the following:

____ I am the owner of the property.

____ I am the manager of the property.

I understand that I may be requested to furnish the updated information on this form to the City of West Lafayette.

**I affirm under the penalties for perjury that the foregoing representations are true. Under Indiana law, perjury is a Class D Felony punishable by incarceration for one year. Submission of an incorrect affidavit is a violation of West Lafayette City Code section 117.20, punishable by a fine of $1,000 to $2,500, and may result in the suspension of the rental certificate.**

Date: _____ Signature: _____ Printed: _____

**Occupant Confirmation: I affirm under the penalties for perjury that the foregoing representations are true. Under Indiana law, perjury is a Class D Felony punishable by incarceration for one year. Submission of an incorrect affidavit is a violation of West Lafayette City Code section 117.20, punishable by a fine of $1,000 to $2,500.**

Date: _____ Signature: _____ Printed: _____

Date: _____ Signature: _____ Printed: _____

Date: _____ Signature: _____ Printed: _____

Date: _____ Signature: _____ Printed: _____

If the occupants refuse to sign the occupant confirmation in a timely manner, the owner or manager shall sign below certifying that the occupants have refused. The occupants may then be prosecuted for violation of § 117.20(d). I certify under penalties of perjury that I have demanded that the occupants sign this occupancy affidavit and one or more occupants have refused to do so.

Date: _____ Signature: _____ Printed: _____

(b) For any building located in an R-3W or R-4W zone or in a PD-R permitting only multi-unit residential structures, the requirement of such statement is waived unless there has been a complaint about occupancy concerning the building. For any owner or manager of more than six units in one building, the program administrator may waive the requirement of such a statement for all units and may require such statement only for certain units, being not less than two units, selected by the program administrator.

(c) Each applicant shall submit an updated occupancy affidavit and each occupant shall sign the same, as set forth above, for each unit located in a single-family district and R-2 district upon request of the Program Administrator. If there is no change since the previously filed occupancy affidavit, the owner may indicate "no change" in place of the names and need not include occupant signatures. The updated occupancy affidavit shall be delivered to the program administrator's office within 15 calendar days.

**Section 117.06. Categories of Rental Units.**

All rental units shall be divided into the following categories for the purposes of determining the term of the rental certificate and the certification fees to be charged:

(a) Category 1 is any occupancy other than by the owner of a single-family dwelling unit, or under section 117.06(b), below .

(b) Category 2 is "house sitting", that being the temporary occupancy of a dwelling unit during the absence of the owner, or pending the sale by the owner not to exceed one year out of five.

(c) Category 3 is purpose-built multi-unit housing or purpose built duplex.

(d) Category 4 is converted housing.

(e) Category 5 is any occupancy of a condominium unit in a multi-family PDR district with a density less than 11 units per acre.

(f) Category 6 is any occupancy of a condominium where the condominium unit is under the same management and has the same agent as the entire condominium development and is in a multi-family PDR district.

(g) Category 7 is any occupancy of a condominium where the condominium unit is not under the same management or does not have the same agent as the entire condominium development and is in a multi-family PDR district.

**Section 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 ~~and inspection scheduled~~ 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.~~The inspection of a property finds it to be in substantial compliance with the Housing – Property Maintenance Code and all other applicable codes, standards and regulations of the City of West Lafayette and the State of Indiana. Substantial compliance means an inspection of the property finds that there are (A) no observations made of conditions that endanger the life, health and safety of the building occupants or the public; and (B) all structural, plumbing, mechanical, electrical and fire safety systems are operational and properly maintained with no defects in the building's exterior envelope that would allow the elements, insects or rodents to enter into the interior of the structure; and (C) in compliance with all applicable occupancy limitations as set forth in the Unified Zoning Ordinance of Tippecanoe County~~.

(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 ~~and inspection scheduled~~ 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.~~The inspection of a property finds it to be in substantial compliance with the Housing – Property Maintenance Code and all other applicable codes, standards and regulations of the City of West Lafayette and the State of Indiana. Substantial compliance means an inspection of the property finds that there are (A) no observations made of conditions that endanger the life, health and safety of the building occupants or the public; and (B) all structural, plumbing, mechanical, electrical and fire safety systems are operational and properly maintained with no defects in the building's exterior envelope that would allow the elements, insects or rodents to enter into the interior of the structure;~~

~~and (C) in compliance with all applicable occupancy limitations as set forth in the Unified Zoning Ordinance of Tippecanoe County.~~

(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 ~~and inspection scheduled~~ 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.~~The inspection of a property finds it to be in substantial compliance with the Housing – Property Maintenance Code and all other applicable codes, standards and regulations of the City of West Lafayette and the State of Indiana. Substantial compliance means an inspection of the property finds that there are (A) no observations made of conditions that endanger the life, health and safety of the building occupants or the public; and (B) all structural, plumbing, mechanical, electrical and fire safety systems are operational and properly maintained with no defects in the building's exterior envelope that would allow the elements, insects or rodents to enter into the interior of the structure; and (C) in compliance with all applicable occupancy limitations as set forth in the Unified Zoning Ordinance of Tippecanoe County.~~

(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. This fee may be reduced to $200 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.

(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 and no reinspection is required.

**Section 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 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 or manager 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 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 owner and/or occupants to exceed the maximum allowable occupancy or to hold the dwelling unit out for occupancy by more than the maximum allowable occupancy or to permit or allow the dwelling unit to be occupied by more persons than the maximum allowable occupancy.

**Section 117.09. Conditional Rental Certificate.**

If the program administrator determines that all of the requirements of section 117.04 have been met except for minor violations of the housing and property maintenance code and that such violations do not pose a threat to health or safety, the program administrator may issue a conditional rental certificate that shall be valid only until the deadline set by the program administrator for correction of all remaining housing and property maintenance code violations.

**Section 117.10. Probation, Suspension or Revocation of Rental Certificate.**

(a) Probation. Based upon charges filed by the program administrator, the Housing Appeals Board shall, if it finds the charges to be true, impose a three-year probation for the rental certificate for any property under the following circumstances:

(1) If there is an adjudication of three or more violations of the West Lafayette City Code or Indiana criminal code on the property within one year, unless the owner or person acting on behalf of the owner was the party reporting the violation or, unless the owner or owner's agent has evicted the tenants;

(2) Refusal by an owner to attend a mediation noticed by the program administrator to resolve repeated conflicts involving neighbors and public nuisance allegations through voluntary cooperative agreements facilitated by the program administrator between any complainant, property owner, or group of tenants; or

(3) An adjudication that the owner, owner's agent, or person acting on behalf of the owner has violated section 117.05(c) or (d), 117.18 or 117.19.

(b) Suspension. Based upon charges filed by the program administrator, the Housing Appeals Board shall, if it finds the charges to be true, impose a 120-day suspension of the rental certificate for any property under the following circumstances:

(1) One or more additional bases exist that would support the imposition of probation within one year of any other sanctions being imposed under this section and the owner has not taken appropriate corrective action.

(2) An adjudication that the owner, owner's agent, or person acting on behalf of the owner has:

(A) Violated the maximum occupancy provisions of section 117.02(g);

(B) Illegally used or allowed the illegal use of non-habitable or non-occupiable space;

(C) Illegally converted space to occupiable or habitable use or illegally added an additional dwelling unit to the property;

(D) Violated the provisions of section 117.03 (Rental Certificate Required);

(E) Failed to correct any code violation at the property affecting health and safety within the time allowed;

(F) Provided the program administrator with any false or materially incomplete information in connection with the property or the rental certificate;

The suspension shall begin upon the vacation of the property. The owner shall take any legal steps necessary to vacate the property as soon as possible.

(c) Revocation. Based upon charges filed by the program administrator, the Housing Appeals Board shall, if it finds the charges to be true, permanently revoke the rental certificate for any property under the following circumstances:

(1) Any occupancy during or payment of rent for the period of any suspension under section 117.10(b); or

(2) Within three years after any suspension, any further occurrence or violation that would be grounds for a suspension of the rental certificate.

(d) The program administrator shall prepare and file charges with the Housing and Property Maintenance Appeals Board specifying the specific violation and relief requested. Such charges and notice of a hearing shall be served upon the owner and/or manager by certified return receipt U.S. mail to the address of record for the rental certificate.

(e) The Housing and Property Maintenance Appeals Board shall set a date for hearing of the charges, not less than 10 days after mailing of the notice. The Housing and Property Maintenance Appeals Board shall hear the evidence and argument of the program administrator and the owner and/or manager. After the hearing, the Housing and Property Maintenance Appeals Board shall make a written decision supported by findings. The decision of the Housing and Property Maintenance Appeals Board may be appealed to a court of general jurisdiction in Tippecanoe County within 30 days of the decision.

**Sec. 117.11. Established district schedule of systematic inspections.**

For the purposes of this article, the program administrator shall divide the city into inspection districts and shall prepare a schedule of the order in which such districts shall be taken for systematic inspection coverage. The established district schedule of systematic inspections shall be available for public inspection during office hours at the office of the program administrator.

**Sec. 117.12. ~~Notice of i~~Inspections.**

Not less than thirty days prior to the date on which systematic inspection of rental housing within a district is scheduled to begin, the program administrator shall cause a written notice to be mailed to the owner of each rental property for certification or recertification of rental housing within that district, setting forth in such notice the date of beginning of inspections in the district, the time period allotted to the district, and include with each notice the appropriate application. The applicant shall have a period of thirty days from the notice issuance date in which to complete and submit an application to the Department of Development. In the application, the

owner shall indicate whether the owner does or does not consent to inspection of the rental property.

(a) If the applicant consents, ~~U~~upon approval of the application by the ~~Program~~ program ~~Administrator~~administrator, the applicant shall arrange for the inspection of the units on days and times consistent with the inspection schedule period. The applicant shall notify all tenants of the pending certification inspection by the city. In the event the owner and/or tenant refuses entry to any given unit for inspection pursuant to this article, the appropriate court of Tippecanoe County shall be utilized by the city to obtain a warrant for entry and inspection as provided in this chapter.

(b) If the applicant does not consent, the program administrator shall request a search warrant from a court of appropriate jurisdiction to conduct an inspection of the rental property to determine whether the rental property complies with the Housing – Property Maintenance Code or any other applicable codes, standards or regulations of the City of West Lafayette or the State of Indiana. The program administrator shall then conduct an inspection, as authorized by such search warrant. Based upon the information and experience of the program administrator, the common council finds that there is a significant likelihood of noncompliance of rental housing with the various city and state codes in the following circumstances: (1) initial conversion to rental housing; (2) previous inspection finding any violation that has not been reinspected; or (3) after the a period of one year from the previous inspection and that there is reasonable cause for a warrant to conduct an inspection under any of these circumstances.

**Sec. 117.13. Notification of deficiencies to landlord.**

In the event any inspection reveals a deficiency with the application of the codes referenced herein, the program administrator shall within the ten days from the date of the ~~set~~ inspection notify the landlord of the subject property of the deficiencies and shall apprise and fix a time period within which all code compliance and repairs shall be made. Any person so notified shall have the right of appeal to the board of Housing/Property Maintenance Code appeals as provided in the ordinances adopted and amended by the City of West Lafayette, Indiana.

**Sec. 117.14. Remedy of violations prior to renting or leasing.**

Except as provided in section 117.09, if any residence unit within a building is found to be deficient with respect to the codes cited herein, the subject unit shall not be rented by the owner or manager until the code violations are remedied in total and a certification or recertification has been issued by the program administrator.

**Sec. 117.15. Owner's Agent.**

If no owner of the property resides in Tippecanoe County or an adjoining county, the owner must retain and keep at all times an agent responsible for management of the property and authorized to receive notices from and deal with the program administrator for purposes of this chapter, who resides or maintains a permanent office within Tippecanoe County.

**Sec. 117.16. Change of Address.**

Within 10 days of any change of address of the owner or any agent, such owner or agent shall notify the program administrator in writing.

**Sec. 117.17. Transfer of Rental Certificate.**

A rental certificate is issued to an owner of a rental unit and only permits the owner to lease the rental unit in conformance with the rental certificate. A rental certificate may be transferred to a new owner, except as prohibited in this section, by the owner filing the required owner information and agent information, if applicable, and payment of a fee of $50. This includes transfers of ownership between corporations or other legal entities even where there is identical ownership interest in the acquiring legal entity as in the previous legal entity. A rental certificate may not be transferred or a new rental certificate issued to any owner, owned in whole or in part by an owner, that currently has any rental certificate on probation, under suspension or that has been revoked. A rental certificate may not be transferred nor any new rental certificate issued for a property during any period of suspension of a rental certificate under this chapter.

**Sec. 117.18. Exterior Maintenance Responsibility.**

The owner is responsible for snow removal on the public sidewalk, if any, for keeping the exterior clean and free from trash and all yard maintenance on all rentals unless the owner and occupant have made any other agreement in regard to such maintenance and the owner has filed a maintenance responsibility certificate signed by the owner and occupants with the Program Administrator. The Program Administrator will provide the maintenance responsibility certificate forms as part of the rental application. The owner must file an updated maintenance responsibility certificate upon request by the Program Administrator during the second year of the certificate term. The owner is responsible for providing proper trash receptacles as required by West Lafayette City Code and the occupants are responsible for proper use of the trash receptacles.

**Sec. 117.19. Truth in Advertising.**

(a) No owner or owner's agent of a specific rental unit shall fail to clearly state in any advertisement, sign, other form of written representation, and in any oral statement, the licensed occupancy limits of the rental unit.

(b) No lessee of a rental unit advertising for sublease shall fail to clearly state in an advertisement or other form of written representation, and in any oral statement, the licensed occupancy of the rental unit.

**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 $500, 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;

(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 committing, permitting or allowing any overoccupancy as set forth in section 117.08(d), a fine of $200, unless the violator was an owner or part owner, directly or indirectly, which has been convicted of a previous violation involving overoccupancy, in which case the fine shall be $1,000, 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 and the overoccupancy 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, 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, 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.

Section 2. All rental certificates previously issued under Chapter 117 of the West Lafayette City Code that are valid and in full force and effect on the effective date of this ordinance shall continue in effect until their expiration under the terms of this ordinance.

Section 3. This ordinance shall be in full force and effect on and after March 1, 2005.

INTRODUCED AND FILED ON _____, 2005.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE, INDIANA ON _____, 2005, HAVING BEEN PASSED BY A VOTE OF ____ IN FAVOR AND ____ OPPOSED.

_____
Presiding Officer

Attested:

_____
Clerk-Treasurer

PRESENTED BY ME TO THE MAYOR OF THE CITY OF WEST LAFAYETTE, INDIANA _____, 2005, AT THE HOUR OF _____ ___.M.

_____
Clerk-Treasurer

THIS ORDINANCE APPROVED AND SIGNED BY ME ON _____, 2005, AT THE HOUR OF _____ ___.M.

_____
Jan H. Mills, Mayor

Attested:

_____
Clerk-Treasurer