

**ORDINANCE NO. 16-18**

**AN ORDINANCE AMENDING CITY CODE CHAPTER 117 – INSPECTION AND  
CERTIFICATION OF RENTAL HOUSING**

WHEREAS, it is in the interest of the City of West Lafayette to protect the health and safety of its citizens 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; and

WHEREAS, 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, 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; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, the Common 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; and

WHEREAS, the Common Council desires to provide a new fee system that more equitably apportions the cost of the rental inspection and rental certificate program.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE, TIPPECANOE COUNTY, INDIANA** that the amendments to Chapter 117 of the City Code of West Lafayette – Inspection and Certification of Rental Housing, as attached hereto, is hereby adopted.

The jurat for this document was not printed on discussion copies, in order to save paper and copying resources.  
If you have questions about this, please contact the Office of the Clerk at [clerk@westlafayette.in.gov](mailto:clerk@westlafayette.in.gov).

Thank you.

## ORDINANCE NO. 16-18 ATTACHMENT

~~Strikethrough~~ indicates deletion

**Bold** indicates an addition

### **Chapter 117 – Inspection and Certification of Rental Housing**

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

- (a) It is hereby declared that the purpose of the ordinance codified in this ~~article~~ **chapter** 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~~ **chapter**:

- ~~(a) — Condominium rental means any condominium that is rental housing.~~
- ~~(b)~~ **(a)** 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)~~ **(b)** Duplex means a structure purpose built as two dwelling units.
- ~~(d)~~ **(c)** 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)~~ **(d)** Family means one or more persons all related by blood, marriage or adoption.
- ~~(f)~~ **(e)** Guest shall mean a person **or persons** who ~~is a temporary resident~~ **temporarily reside (less than 25% of the time) (cumulatively no more than four 24-hour days per calendar month) in** a dwelling unit and does not utilize the unit as an address for any purpose.
- ~~(g)~~ **(f)** 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)~~ **(g)** 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)~~ **(h)** 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)~~ **(i)** 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.
- (j)** **Owner's Agent is a person or entity that acts as property manager for the owner, and can work with the program administrator to achieve full compliance of this chapter.**
- ~~(l)~~ **(k)** 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)~~ **(l)** Purpose-built multi-unit housing means any building that was originally built for the purpose of multi-unit (three or more units) housing.
- ~~(n)~~ **(m)** 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)~~ **(n)** 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)~~ **(o)** Reinspection means an inspection of rental property to determine the ~~landlord's~~ **owner'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~~ **117.13**.
- ~~(q)~~ **(p)** Program administrator means the person designated by the Mayor to perform the duties as such under this chapter.
- ~~(r)~~ **(q)** R-2 district means a R-2, R-2U or PD-R zoning district allowing single family or two family residences.
- ~~(s)~~ ~~Shared housing shall have the meaning set forth in the Unified Zoning Ordinance.~~
- ~~(t)~~ ~~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)~~ **(r)** 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~~ **rental certificate** 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~~ **in writing, which notice includes** 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) (1)~~ (1) 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) (2) ~~The program administrator has conducted any inspections the program administrator determines necessary;~~ **All inspections of the property have been conducted that the**

**program administrator deems necessary and any noted violations have been corrected and approved.**

- (e) (3) The program administrator has determined that the property fully complies with all requirements of the West Lafayette City Code and the Unified Zoning Ordinance.
- (d) (4) 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) (5) The applicant has paid the fees as set forth in this chapter and ~~payment of any assessed and unpaid fines assessed against the applicant~~ **any assessed fines.**
- (6) **Any other action required by administrative rule approved by the city council has been satisfied.**

**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:~~

<del>Name _____</del>	<del>Relationship _____</del>
_____	_____
_____	_____
_____	_____
_____	_____

~~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: \_\_\_\_\_

~~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: \_\_\_\_\_

**Any occupancy affidavit required under this chapter shall be executed by the owner or agent in a form provided by the program administrator. The occupancy affidavit must include the names of each occupant and identify the familial relationships, if any, among the occupants. The owner or agent shall execute the occupancy affidavit based upon personal knowledge and after diligent inquiry with respect to the information contained therein. Each occupant shall also sign the occupancy affidavit and affirm that information contained therein is true.**

- (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~~ **to execute an occupancy affidavit** is waived, unless there has been a complaint about occupancy concerning the building. For any owner or ~~manager~~ **agent** of more than six **(6)** units in one **(1)** 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 **(2)** 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~~ **not less than annually and upon any change in occupants**. If there is no change since the previously filed occupancy affidavit, the owner may indicate “no change” in place of the **occupants’** names and need

not include occupant signatures. The updated occupancy affidavit shall be delivered to the program administrator's office within **fifteen (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.~~ **[This code chapter no longer recognizes a Category 2 designation.]**
- (c) Category 3 is purpose-built multi-unit housing or a 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.~~ **[This code chapter no longer recognizes a Category 6 designation.]**
- (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.~~ **[This code chapter no longer recognizes a Category 7 designation.]**

### **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~~ **\$225** and the rental certificate shall be valid for a term of one year, Provided that if the property meets the following conditions, the rental certificate shall be valid for a term of two years:
  - (1) The application for certification of rental property is filed in a timely manner and in response to the first notice;
  - (2) All applicable certification fees are paid on time and in response to the first notice;
  - (3) The property owner **or agent** for all existing (or established) rental property must have a history of compliance with all aspects of the inspection program **and this chapter** in the two previous certification rounds; **and**
  - (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, **Tippecanoe County**, or the State of Indiana.

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

- (5) ~~The rental certificate is not suspended under section 117.10(b) or subject to being revoked under section 117.10(c) as a result of violations occurring at the property.~~
- (b) ~~For Category 2, the fee shall be \$150 and the rental certificate shall be valid for a term of one year. [Repealed.]~~
- (c) For Category 3, the fee shall be ~~\$150 per structure and \$2 per unit~~ **\$48 per bedroom** and the rental certificate shall be valid for a term of two years, **Provided that if the property meets the following conditions, the rental certificate shall be valid for a term of four years:**
- (1) The application for certification of rental property is filed in a timely manner and in response to the first notice;
  - (2) All applicable certification fees are paid on time and in response to the first notice;
  - (3) The property owner **or agent** for all existing (or established) rental property must have **a** history of compliance with all aspects of the inspection program **and this chapter** 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, **Tippecanoe County**, or the State of Indiana.; ~~and Provided, however, that the property owner may be entitled to a conditional rental certificate under section 117.09 if inspection, if any, finds only minor violations, as set forth in that section.~~
  - (5) The property has maintenance personnel readily available and an established maintenance and renovation program that provides for the routine inspection and maintenance and the long-term upgrades of the **units**, building(s) 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~~ **\$225** and the rental certificate shall be valid for a term of ~~two~~ **one** years, **Provided that if the property meets the following conditions, the rental certificate shall be valid for a term of two years:**
- (1) **The application for certification of rental property is filed in a timely manner and in response to the first notice;**

- (2) **All applicable certification fees are paid on time and in response to the first notice; and**
  - (3) **The property owner or agent for all existing (or established) rental property must have a history of compliance with all aspects of this chapter; and**
  - (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, Tippecanoe County, or the State of Indiana.**
- (e) For Category 5, the fee shall be ~~\$250~~ **\$48 per bedroom** and the rental certificate shall be valid for a term of ~~one two~~ **two** years, Provided that if the property meets the following conditions, the rental certificate shall be valid for a term of ~~two~~ **four** years:
- (1) The application for certification of rental property is filed in a timely manner and in response to the first notice;
  - (2) All applicable certification fees are paid on time and in response to the first notice;
  - (3) The property owner **or agent** for all existing (or established) rental property must have **a history of compliance with all aspects of the inspection program in the two previous certification rounds and this chapter;**
  - (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, **Tippecanoe County**, or the State of Indiana.; ~~and Provided, however, that the property owner may be entitled to a conditional rental certificate under section 117.09 if inspection, if any, finds only minor violations, as set forth in that section.~~
  - (5) ~~The rental certificate is not suspended under section 117.10(b) or subject to being revoked under section 117.10(e) as a result of violations occurring at the property.~~ **The property has maintenance personnel readily available and an established maintenance and renovation program that provides for the routine inspection, maintenance, and long-term upgrades of the unit(s), building(s), and 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. [Repealed.]~~
- (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. [Repealed.]~~
- (h) Initial rental conversion fee is \$1,000. This fee may be reduced to \$500 if:
- (1) The owner has had an independent home inspection done within the past 6 months and has corrected all deficiencies identified in the report and supplied the report to the City.
  - (2) The home inspection was conducted by a person certified or accredited by a professional home inspection agency and acceptable to the City.

- (3) The City has conducted an inspection to verify that all deficiencies have been corrected and that the unit is in compliance with the **Housing – Property Maintenance Code**, Unified Zoning Ordinance of Tippecanoe County, **and any other cods, standards, or regulations of the City of West Lafayette, Tippecanoe County or the State of Indiana.**
- (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).~~ **[Repealed.]**
- (j) For any reinspection after the first reinspection, there shall be an additional fee of ~~\$150~~ **\$100**. 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~~**certification** and housing inspection program be self-supporting. Each two years after adoption of this chapter, the program administrator shall review the ~~income~~ **revenue** from fees and fines, and **evaluate** the expenses of administering the rental ~~certificate~~**certification** 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 **in order** 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.~~ **The program administrator shall also recommend to the common council any other revisions of this chapter.**
- (l) ~~The fees for any rental category shall be reduced by \$50 if no violations are found on the property no reinspection is required, and if the property owner is a participant in the landlord certification program.~~

#### **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 **thirty (30)** days after the inspection of the rental property.
- (b) For all units the City shall issue a ~~sticker~~ **rental certificate** stating the unit's certification, date of expiration, and allowable occupancy. The property owner and/or agent must prominently and continuously display the ~~sticker on the inside of the door to the main entrance of the dwelling unit~~ **rental certificate, or legible copy thereof at the certified property, for the benefit of the occupant(s).**
- (c) It shall be a violation of this chapter to remove the ~~sticker~~ **rental certificate** or for the owner and/or agent to fail to continuously display the ~~sticker~~ **rental certificate** as provided in subsection (b) ~~in each dwelling unit~~ **at the certified property.**
- (d) It shall be the continuing duty of the owner and/or ~~manager~~ **agent** 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~~ **allowed**. It shall be a violation of this chapter by

**the occupants to exceed the maximum allowable occupancy. It shall be a violation of this chapter by the owner or agent to:**

- (1) exceed the allowable occupancy;
- (2) or to hold the dwelling unit out for occupancy by more than the maximum allowable occupancy;
- (3) to permit or allow the dwelling unit to be occupied by more persons than the maximum allowable occupancy; or
- (4) fail to personally monitor the occupancy of each dwelling unit, which monitoring shall include the following measures, as well as other that are reasonable and prudent under the particular circumstances:
  - (A) filing an occupancy affidavit not less than annually and updating the occupancy affidavit upon any change in occupants;
  - (B) ~~posting the occupancy sticker as set forth in Section 117.08(b)~~ **displaying the rental certificate as required under this chapter;**
  - (C) not advertising a rental price per bedroom for more bedrooms than the legally permitted number of occupants;
  - (D) monitoring the cars regularly parked at the property for possible additional occupants;
  - (E) not receiving payments of deposit or rent from persons other than the occupants listed in the occupancy affidavit or from other persons who are known to be non-occupants who paid on behalf of a known occupant;
  - (F) monitoring the names posted at the entry or on any mailbox or mail slot; and
  - (G) monitoring the number of occupants observable by an employee or agent of the owner/agent in the event of entry for repairs, showing the property to prospective tenants/buyers or other entry for any purpose.

#### **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~~(e)~~ ~~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, **commencing upon the vacation of the current tenant(s) of the respective 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 current tenant(s) of the respective 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 agent~~ 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 **ten** (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 agent~~. 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 **thirty** (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. **properties with expiring or expired rental certificates will be inspected and recertified, according to the provisions of this chapter. Additionally, the program administrator shall work with other governmental departments, agencies, business entities, organizations, individuals, and others to determine if any property is possibly being used as residential rental property within the City of West Lafayette.**

#### **Sec. 117.12. Inspections.**

Not ~~less~~ **more** than ~~thirty~~ **sixty (60)** days prior to the ~~date on which systematic inspection of rental housing within a district is scheduled to begin~~ **expiration of rental certificate**, the program administrator shall ~~cause~~ **execute** a written notice ~~to be mailed~~ to the owner **or agent** 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.~~ **Each notice will and include with each notice the appropriate application(s), occupancy affidavit(s), and any other forms prescribed by the program administrator.** The applicant shall have a period of **thirty (30)** days from the notice issuance date in which to complete and submit ~~an application to the Department of Development~~ **all forms**. In the application(s), the owner **or agent** shall indicate whether ~~the owner does or does not consent~~ **is granted** to ~~inspection of~~ **inspect** the rental property.

- (a) If the applicant consents, upon approval of the application by the program administrator, the applicant shall arrange for the inspection of the units on days and times consistent with the inspection schedule period **contained in the initial notice**. 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~~ **and** any other applicable codes, standards or regulations of the City of West Lafayette, **Tippecanoe County**, 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, **county**, 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 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~~ owner.**

In the event any inspection reveals a ~~deficiency with the application of the codes referenced herein~~ **violation of this chapter**, the program administrator shall within ~~the ten~~ **fourteen (14)** days from the date of the inspection, notify the ~~landlord~~ **owner or agent** of the subject property of ~~the deficiencies~~ **any deficiency** and shall apprise and fix a time ~~period~~ within which all code compliance and ~~repairs~~ **corrections** shall be made. Any person so notified shall have the right of appeal to the ~~board of Housing/Property Maintenance Code appeals~~ **Housing Appeals Board**, 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~~ **dwelling** 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~~ **agent** 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 **the** management of the property, **and who is also** and authorized to receive notices from and ~~deal~~ **work** with the program administrator for purposes of this chapter. ~~who resides or maintains~~ **The agent shall** reside or maintain a permanent office within Tippecanoe County, **or an adjoining county**.

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

Within **ten (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~~ **transfer fee**. 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 of their rental properties.~~ 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, **or** other form of written **or verbal** representation, ~~and in any oral statement,~~ the ~~licensed~~ occupancy limits of the rental unit.
- (b) No lessee of a **specific** rental unit advertising for sublease shall fail to clearly state in ~~an~~ **any** advertisement, **sign**, or other form of written **or verbal** representation, ~~and in any oral statement,~~ the ~~licensed~~ occupancy **limits** 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~~ **false or materially incomplete information**, in which case the fine shall be \$2,500;
- (c) For failure to post ~~an occupancy sticker~~ **a current rental certificate or legible copy thereof** pursuant to section 117.08(c), a fine of \$200, unless the violator was an owner, ~~or~~ part owner, **or agent**, directly or indirectly, which has been convicted of a previous

violation of failing to post ~~an occupancy sticker~~ a **current rental certificate**, 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~~ **this** chapter;
- (e) For any violation as set forth in Section 117.08(d), a fine of \$200, unless the violator was an owner, part owner, or agent directly or indirectly, which has been convicted of a previous violation involving overoccupancy, in which case the fine shall be \$2,500 with each day a violation of this provision occurs or continues ~~being~~ **is** a separate and distinct violation of ~~the~~ **this** chapter, However it is a defense to a violation under this subsection if the owner or agent was diligent in monitoring the occupancy, as set forth in Section 117.08(d) and the 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 \$250, unless the violator was an owner, ~~or~~ part owner, **or agent** directly or indirectly, which has been convicted of a previous violation involving renting without a rental certificate, in which case the fine shall be \$1,000, with each day a violation of this provision occurs or continues ~~being~~ **is** a separate and distinct violation of ~~the~~ **this** chapter; **and**
- (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~~ **is** a separate and distinct violation of ~~the~~ **this** chapter.