

ORDINANCE #704
AN ORDINANCE TO AMEND MARQUETTE CITY CODE
CHAPTER 26 – FIRE PREVENTION AND PROTECTION, IN
ORDER TO CLARIFY THE RENTAL FIRE SAFETY CODE
APPEALS PROCESS

INTENT

The purpose of this ordinance is to clarify the local appeals process laid out in Chapter 26, Article III, and to make minor grammatical and formatting adjustments.

The City of Marquette Ordains:

SECTION 1. Repeal.

Chapter 26 – Fire Prevention and Protection, Article III. – Rental Fire Safety Code is hereby repealed.

SECTION 2. Adoption.

New Chapter 26 – Fire Prevention and Protection, Article III. – Rental Fire Safety Code is hereby adopted as follows:

Sec. 26-44. - Purpose.

The city recognizes a compelling interest in establishing standards for the maintenance of sanitary and safe residential rental structures, and for improving rental arrangements within the city. Such standards are an important factor supportive of the general health, safety, and welfare of all its citizens and visitors. This article is designed to promote the continuing maintenance of quality and safe rental properties, and to enhance and maintain property values.

Sec. 26-45. - Scope.

- (a) This article shall apply to any structure or part thereof, which is let for occupancy by persons pursuant to any oral or written rental or lease agreement or other valuable compensation, or to any occupant therein. Such structures shall include, but not be limited to, single-family dwellings, multiple-family dwellings, single housekeeping units, or bedrooms as defined in the International Property Maintenance Code (IPMC) in its most recent version adopted by the city.
- (b) This article does not apply to jails, nursing homes, school dormitories, hospitals or other health care facilities provided by legal not-for-profit agencies that are inspected, certified and/or licensed by the state, nor federally licensed and inspected properties.

Sec. 26-46. - Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adopted Code means any of the codes adopted under Marquette City Code Secs. 10-40 and 26-19.

Bedroom means any room or space used or intended to be used for sleeping purposes.

Board of Appeals means the city board of zoning appeals, with the addition of the Fire Chief as an ex officio member, acting as the city rental code appeals board.

Certificate of compliance means a certificate issued by a city fire inspector denoting that the structure has undergone a fire/life safety inspection performed by a city fire inspector and the structure is in compliance with applicable codes.

Certificate of compliance stipulation means a condition or requirement that is specified or required by any city department that must be adhered to by the property owner to maintain the certificate of compliance.

Certificate of registration means a certificate issued by city fire inspectors, which denotes that the holder has registered the structure as a rental property within the city.

Dwelling unit means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Family means a) any group of individuals living together as a single housekeeping unit or the functional equivalent of a family, where the residents are a close group with social, economic, and psychological commitments to each other; b) not more than four unrelated persons living together as a single housekeeping unit; c) the tenants of a short-term rental property for which a valid permit has been issued by the fire department; d) the "functional equivalent of a family" shall not include any organization such as a club, fraternity, lodge, monastery, or intentional community, nor any individuals whose association is seasonal or for limited durations defined by their occupation/jobs or educational pursuits, nor shall it include a group who share a dwelling unit explicitly for financial or philosophical reasons, or include any state-licensed facility except to the extent permitted by law.

Fire inspector means the fire department personnel appointed by the fire chief, who are charged with the administration and enforcement of this article, authorized by the fire chief under section 26-82.

Habitable space means space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

Homestay means an owner occupied single-family home, dwelling unit in a duplex or multifamily dwelling structure, or any other dwelling unit, in which as many as three single bedrooms [with] bathroom access for overnight accommodations may be rented for periods as short as one overnight stay. Meals are not provided with rental, but kitchen and/or dining facilities may be available for guests to prepare their own meals. Only properties that have received approval of a rental registration application are recognized as a homestay for purposes of complying with City of Marquette ordinances.

Let for occupancy or *let* means to permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premises or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or

unwritten lease, agreement, or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

Long-term rental means a residential rental structure which may be rented for periods of 30 days or more.

Occupancy means the purpose for which a building or portion thereof is utilized or occupied.

Occupant means any individual living or sleeping in a building or having possession of a space within a building.

Operator means any duly authorized person who has charge, care or control of a structure or premises which is let or offered for occupancy. Owners must officially notify the city of any operator authorized to act on his behalf; as required in section 26-47(6), some owners are required to use an operator. In some situations, the owner could also be the operator.

Owner means any person having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Posting. Certificates of registration and compliance shall be permanently affixed to an interior wall, in a conspicuous and readable place; completely protected from the elements; and with a transparent protective cover. Certificates must be posted in a street side (address side) common entryway, except if there is no street side common entryway, then in the main common entryway, or in the case of separate private entrances, then in each private entrance to meet this requirement.

Rental structure means an existing or new occupancy let to permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premises or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

Revocation. A certificate of compliance, revoked for cause, will render the structure unfit for human habitation, upon the exhaustion of due process remedies. Certificates of compliance will be reinstated when a structure's condition is brought back into compliance with this article.

Right of entry. A fire inspector is authorized to enter the structure or premises at reasonable times to inspect, subject to constitutional restrictions on unreasonable searches and seizures. If entry is not obtained, the fire inspector is authorized to pursue administrative warrants, or any other recourse as provided by law.

Short-term rental means a residential rental property for which a dwelling unit or rooms may be rented for overnight accommodations, for periods as short as one overnight stay. Meals are not provided with rental, but kitchen and/or dining facilities customarily are available for guests to prepare their own meals. Homestays and vacation home rentals, as defined in this chapter, are the two types of short-term rentals permitted in the City of Marquette.

Single housekeeping unit means one person or two or more individuals living together sharing household responsibilities and activities, which may include sharing

expenses, chores, eating meals together and participating in recreational activities and having close social, economic and psychological commitments to each other.

Structure means that which is built or constructed, or a portion thereof.

Vacation home rental means a single-family home, or a dwelling unit in a duplex or multi-family dwelling structure, or any other dwelling unit, in which up to four bedrooms are rented by a single lessee or renter for overnight accommodations, for periods as short as one overnight stay. Meals are not provided with rental, but kitchen and/or dining facilities are available for guests to prepare their own meals. The property owner may or may not live in the dwelling unit for part of the year, but the property owner may not live in the unit concurrently with any lessee. Only properties that have received approval of a rental registration application are recognized as a vacation home rental for purposes of complying with City of Marquette ordinances.

Sec. 26-47. - Registration.

- (a) All dwelling units in rental structures are required to be registered pursuant to this article and shall comply with the following:
- (1) All newly constructed rental structures and their dwelling units shall be registered prior to any use or occupancy as a rental structure.
 - (2) All existing non-rental structures which are legally converted to rental structures shall be registered, along with their dwelling units, prior to the date on which the property is first occupied for rental purposes.
 - (3) All existing rental structures, occupied by tenants, which are sold, transferred, or conveyed from the previous owner must be registered by the new owner within 30 days of the date of the sale/closing.
 - (4) The city treasurer or designee shall determine if the applicant owes to the city any taxes or other indebtedness, and if no such indebtedness exists, shall so indicate their findings in writing. A certificate of compliance shall not be issued for dwelling units in rental structures with outstanding indebtedness to the city.
 - (5) The city zoning official or designee shall determine if the application for the proposed rental use is in compliance with the zoning ordinance and shall indicate their findings in writing. A certificate of registration shall not be issued for rental structures and dwelling units if the application for the proposed rental use is not in compliance with the zoning ordinance.
 - (6) A local operator for every rental unit is required if the owner(s) (at least one of multiple individuals) does not reside in the county. A local operator is also required when the owner is a corporation or other legal entity. The owner is required to notify the city of the identity of the person they have designated to be their operator (and alternate operators where that is so desired).
 - (7) No owner or operator shall lease or rent a rental dwelling unit unless there is a valid certificate of registration in the name of the owner. If tenants are utilizing the dwelling unit, the fire chief is authorized to require vacation of the dwelling unit.

Sec. 26-48. - Registration forms.

- (a) An application for a certificate of registration shall be made in such form and in accordance with such instructions as may be provided by the fire inspectors designated by the city and shall include, but not be limited to, the following information:
- (1) Rental property information containing the following:
 - a. Rental property address.
 - b. Tax parcel ID number.
 - c. Actual or estimated year the property became a rental.
 - d. Number of dwelling units contained within.

 - (2) Owner information containing the following for each owner:
 - a. Owner name (if the owner is a corporation, the name of an authorized representative).
 - b. Owner address.
 - c. Home or cell phone.
 - d. Work/business phone.
 - e. Signature of the owner or authorized representative.
 - f. Date.
 - g. Email address.

 - (3) Local operator information (when utilized by owners) containing the following:
 - a. Local operator's name.
 - b. Address.
 - c. Home or cell phone.
 - d. Work/business phone.
 - e. Signature of the operator.
 - f. Date.
 - g. Email address.

 - (4) Required attachments, including the following:
 - a. A photocopy of the owner's current government issued identification, with a legible birth date, or, in the case of corporate ownership, a photocopy of the current government issued identification of the authorizing officer, with a legible birth date.
 - b. A photocopy of the local operator's current government issued identification with a legible birth date.
- (b) The application shall not be considered complete and shall not be processed until all required information is received.
- (c) It shall be the responsibility of the owner to advise the fire department in writing of any changes to their address, phone number, email address, or similar changes concerning their local operator. Notification of changes must be made within 30 days.
- (d) After registration, the fire department shall schedule a compliance inspection within three years of the registration. Compliance inspection shall be scheduled in a

reasonable manner with respect to the fire inspector and the owner's or operator's schedule.

Sec. 26-49. - Compliance inspection.

- (a) The fire inspector shall inspect rental structures on a periodic basis of once every three years; upon completion of the registration and receipt of the fee, the fire inspector shall schedule a compliance inspection within three years of the registration. Efforts shall be made to schedule each compliance inspection at a reasonable time with respect to the fire inspector and the owner and/or operator.
- (b) Non-periodic inspections, specified in subsections (b)(1) through (4) of this section, will be scheduled as soon as practicable by the fire department:
 - (1) Upon receipt of a complaint from an owner, operator, occupant, or citizen who would have occasion to be aware that the premises are in violation of this article. If a fire inspector determines that a complaint was filed without a factual basis and such inspection is made on a complaint basis, a municipal civil infraction shall be charged to the complainant.
 - (2) Upon receipt of a report or a referral from the police department, fire department, community development department, public or private school or another public agency.
 - (3) Upon receipt of knowledge that a rental unit is not registered with the city as required by this article.
 - (4) Upon evidence of an existing property maintenance code violation observed by or brought to the attention of the fire inspector.
- (c) The fire inspector is empowered to enter at any/all reasonable times upon and into any premises, building or structure for, examining and inspecting the same (see section 26-82).
- (d) Upon satisfactory completion of the compliance inspection, and upon receipt of the fee, the fire inspector will issue a certificate of compliance.
- (e) If a dwelling unit should fail the regular inspection, a subsequent re-inspection will be required.
 - (1) With a failure of the regular inspection, the fire inspector will establish clear requirements of what steps must be undertaken by the owner or operator, and in what timeframe to (first) schedule the reinspection, and (second) permit issuing a certificate of compliance when those requirements have been met.
 - (2) The fire inspector must indicate whether the conditions are such that the rental dwelling unit must be vacated, or whether steps to bring the unit up to code may continue while the unit continues to be rented by tenants.
- (f) If a dwelling unit is required to undergo a non-regular inspection pursuant to any of the items under subsection (b) of this section, the inspection will be based on the same criteria as the regular inspections, and failure to pass will lead to a fire inspector nullifying the previous certificate of compliance. The fire inspector will also establish clear requirements of what must be undertaken by the owner or operator, and in what timeframe, to schedule a re-inspection, and where warranted to re-issue the certificate of compliance. Further, the fire inspector must indicate whether the conditions are such that the rental unit must be vacated, or whether steps to

bring the unit up to code may continue while the unit continues to be rented by tenants.

- (1) If the rental unit that undergoes a non-regular inspection passes the inspection, there will be no fee for this inspection.
 - (2) If the rental unit that undergoes a non-regular inspection fails to pass the inspection, there will be a fee for the non-regular inspection, as well as a fee for the reinspection required to establish compliance with this article.
 - (3) If alterations are made to a rental structure after certification, a new inspection and subsequent certification will be required. There will be a fee for this new inspection.
- (g) Violations of this article, the remedies, and stated deadlines shall be mailed by first class mail to the owner or the operator within seven business days after the inspection. The notice of violation shall state the right of appeal and the instructions for making such an appeal.
- (h) Rental registration fees are required to be paid at the time of application. Registration fee payment shall be paid at or mailed to: The Marquette Fire Department, 418 S. Third St. Marquette, MI 49855. Attention Rental Program. Checks shall be made payable to the City of Marquette. Cash will be accepted but must be the exact amount and is discouraged.
- (i) The City of Marquette Fire Department will mail out all compliance inspection related billing and the City of Marquette Finance Department will receive the payment of inspection related fees. The invoice for the compliance inspection shall be mailed to the property owner or the designated property management company after the completion of the inspection.

Sec. 26-50. - Certificate of compliance required.

- (a) The fire inspector must inspect rental premises before the certificate of compliance is initially issued. Upon failure of the fire inspector to conduct an inspection, after registration and prior to occupancy, the owner or operator may rent a long-term rental property until a fire inspector has conducted an inspection, and the owner or operator will not be deemed in violation during that time. If, however, the fire inspector's inability to inspect the premises is due to the owner's or operator's action, failure to act, or inability to arrange an inspection after reasonable notice of the intent to inspect, the owner or operator shall not rent the property without a current certificate of compliance as required. If tenants are utilizing the dwelling unit, the fire chief is authorized to require vacation of the dwelling unit.
- (b) Before the expiration date of the certificate of compliance, the city will arrange with the owner or operator for an inspection date and time and said notice shall be by either email or first-class mail to the address as provided by the owner and/or operator.
- (c) The fire inspector shall attempt to inspect the premises before the certificate of compliance expires. Upon failure of the fire inspector to conduct an inspection prior to expiration of the certificate of compliance, the owner or operator may rent the property until the fire inspector has conducted an inspection, and the owner or operator will not be deemed in violation during that time. If, however, the fire inspector's inability to inspect is due to the owner's or operator's action, failure to

act, or refusal to permit an inspection after reasonable notice of the intent to inspect, the owner or operator shall not rent the property without a current certificate of compliance as required. If tenants are utilizing the dwelling unit, the fire chief is authorized to require vacation of the dwelling unit. A certificate of compliance shall expire three years from the date of issuance.

Sec. 26-51. - Additional—Short-term rental specifics.

- (a) No more than 250 approved short-term rental registrations will be issued at one time in the City of Marquette. Properties may not advertise for or be used as short-term rentals without first receiving a registration certificate and receiving a certificate of compliance from the City of Marquette.
- (b) No owner or operator shall advertise, lease, or rent a short-term rental dwelling unit, unless there is a valid certificate of compliance issued by a fire inspector in the name of the owner. If tenants are utilizing the dwelling unit, the fire chief is authorized to require vacation of the dwelling unit. The certificate shall be issued after registration and inspection by a fire inspector to determine that each rental dwelling unit complies with the provisions of the codes of the city.
- (c) Advertising a property as a residential short-term rental shall constitute prima facie evidence of the operation of a residential rental and, if in violation of city code, may be grounds for citation, and/or denial, suspension, or revocation of a certificate of compliance. Advertised occupant capacity shall constitute prima facie evidence of the operation of a residential rental at that capacity and, if in violation of city code, may be grounds for citation for an overcapacity violation, and/or denial, suspension, or revocation of a certificate of compliance. The burden of proof shall be on the owner, operator, or lessee of record to establish that the subject property is being used as a legal residential rental or is not in operation.
- (d) Escape plan.
 - (1) It shall be the responsibility of the property owner to create a legible escape plan showing primary and secondary exits. All escape plans shall be approved by the fire inspector at the time of the compliance inspection.
 - (2) The plan shall be posted in each bedroom of the short-term rental unit, where it is easily visible.
- (e) A maximum occupant capacity for the property shall be calculated at the time of the compliance inspection, using the method detailed in the IPMC and shall be listed on the certificate of compliance.

Sec. 26-52. - Penalty.

- (a) In the event the owner or operator does not correct a violation of any provision of this article, or fails to comply with certificate of compliance stipulations, a fire inspector may revoke any existing certificate of compliance and may bring an action to seek the enforcement of this article by an appropriate legal remedy. Any structure not in compliance with this article is deemed a nuisance per se. Fees and fines will be set forth in the city fee schedule as established by resolution of the city commission.

- (b) Any owner of a rental dwelling unit who fails to register or who fails to obtain a certificate of compliance for each rental dwelling unit shall be responsible for a municipal civil infraction.
- (c) An owner or operator may be charged with more than one violation of the provisions of this article in a single complaint or municipal civil infraction provided each violation so charged, relates to the same property.
- (d) A violation of any provision of this article shall be a municipal civil infraction, assessed against the owner or operator of the rental structure. Each day that a violation exists shall be considered a separate punishable offense.

Sec. 26-53. - Appeal.

- (a) Procedure. Any person with standing shall be permitted to appeal a notice of violation from the City of Marquette Fire Department to the Board of Appeals, when it is claimed that any one or more of the following conditions exist:
 - (1) The true intent of the Adopted Code has been incorrectly interpreted.
 - (2) The provisions of the Adopted Code do not fully apply.
 - (3) A decision is unreasonable or arbitrary as it applies to new alternatives or materials.
- (b) An appeal shall be submitted to the City of Marquette Fire Department in writing within 21 calendar days of the day the notice of violation is served. Failure to file the written notice of appeal within the 21-day period shall be deemed a waiver of the person's right to a hearing or to otherwise contest the notice of violation. An application for appeal shall be accompanied by a fee as set forth in the city fee schedule to cover the city's cost of handling said appeal. The appeal shall outline all of the following:
 - (1) The name, address, and phone number of the appellant.
 - (2) The Adopted Code provision(s) from which relief is sought.
 - (3) A statement indicating which conditions of Sec. 26-53(a) apply.
 - (4) The requested remedy.
 - (5) Justification for the requested remedy stating specifically how the Adopted Code is complied with, public safety is secured, and fire fighter safety is secured.
- (c) Upon timely receipt of an appeal, the City of Marquette Fire Department shall set a time for a hearing before the Board of Appeals and shall give the appellant written notice of the date, time, and location for the hearing. Documentation supporting an appeal shall be submitted to the City of Marquette Fire Department and the Board of Appeals at least 7 calendar days before the appeals board meeting. No information shall be submitted to review by the Board of Appeals without the information being submitted to the City of Marquette Fire Department for their review prior to the hearing date.
- (d) Hearings. Hearings shall be commenced within a reasonable time after an appeal has been filed. At such hearings, the appellant shall be given an opportunity to be heard and to show cause why the notice of violation should be modified or withdrawn. The fire inspector shall be given opportunity to provide information relative to and supportive of charging the violation.

- (e) Decisions and powers of city board of zoning appeals acting as rental code appeal board.
 - (1) The Board of Appeals shall provide for the reasonable interpretation of the provision of the Adopted Code and issue rulings on appeals of the decisions of the City of Marquette Fire Department.
 - (2) The ruling of the Board of Appeals shall be consistent with the Adopted Code or when involving issues of clarity, ensuring that the intent of the Adopted Code is met with due consideration for public safety and fire fighter safety.
 - (3) The Board of Appeals shall have the authority to grant alternatives of modifications through procedures outlined in the NFPA-1 Fire Code.
 - (4) The Board of Appeals shall not have the authority to waive the requirements of the Adopted Code, except as specified by the Stille-Derossett-Hale Single State Construction Code Act 230 of 1972.
 - (5) The Board of Appeals decisions shall not be precedent setting.
 - (6) Any Board of Appeal decision will be for this article only and shall not and cannot waive the requirements and provisions of any other ordinance, code, or law.
 - (7) A decision of the Board of Appeals to modify an order of the City of Marquette Fire Department shall be in writing and shall specify the manner in which such modification is made, the conditions upon which it is made, the reasons therefore, and justification linked to specific code sections.
 - (8) A copy of the decision will be sent by mail or delivered in person to the appellant and a copy shall be publicly posted in the office of the City of Marquette Fire Department for 2 weeks after filing.
 - (9) If a decision of the Board of Appeals reverses or modifies a refusal, order, or disallowance of the City of Marquette Fire Department , or varies the application of any provision of the Adopted Code, the City of Marquette Fire Department shall take action immediately in accordance with such decision.
 - (10) The failure of the appellant or his representative to appear and state his case at the hearing shall have the same effect as if no appeal was filed and the board shall proceed to deny the appeal and affirm the notice of violation.
- (f) Meetings. The Board of Appeals shall meet in a fixed place and all meetings shall be open to the public. The board shall keep a record of its proceedings, showing the actions of the board and the vote of each member upon each question considered. These records shall be considered public records.
- (g) Appeal of board decision. The decision of the Board of Appeals shall be final. However, a party aggrieved by the order or decision may appeal the decision to a court of competent jurisdiction as provided by state statutes and court rule.

Secs. 26-54—26-77. - Reserved.

SECTION 3. Effective Date.

This ordinance shall take effect ten days after adoption but not before publication.

Jennifer A. Smith, Mayor

Kyle Whitney, City Clerk

Date Adopted: _____

Date Published: _____