



Legislation Details (With Text)

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Effective date:

Title: A substitute ordinance relating to certificate of habitability for rental dwellings.

Sponsors: James N. Witkowiak, ALD. D'AMATO, ALD. HENNINGSEN, ALD. JOHNSON-ODOM, ALD. RICHARDS

Indexes: BUILDING CODE, HOUSING, PERMITS, RENTAL HOUSING

Attachments:

Date	Ver.	Action By	Action	Result	Tally
6/24/1997	0	COMMON COUNCIL	REFERRED TO		
6/30/1997	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
7/8/1997	1	CITY CLERK	DRAFT SUBMITTED		
7/8/1997	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	5:0
7/11/1997	1	CITY ATTORNEY	DISAPPROVED		
7/24/1997	2	CITY CLERK	DRAFT SUBMITTED		
9/16/1997	3	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	5:0
9/18/1997	3	CITY CLERK	DRAFT SUBMITTED		
9/23/1997	3	COMMON COUNCIL	PASSED	Pass	17:0
10/2/1997	3	MAYOR	SIGNED		
10/9/1997	3	CITY CLERK	PUBLISHED		

970429
SUBSTITUTE 1

ALD. WITKOWIAK, D'AMATO, HENNINGSEN, JOHNSON-ODOM AND RICHARDS

A substitute ordinance relating to certificate of habitability for rental dwellings.

200-17-3-h cr
200-33-7.8 cr
200-33-49.3 cr
200-51.7 cr
- Analysis -

This ordinance establishes a certificate of habitability for rental dwellings within certain census tracts of the city (rental dwelling habitability target area) and applies to all rental dwellings, including rented dwelling units in owner-occupied dwellings, containing one to 8 rental units located within the rental dwelling habitability target area.

Upon complaint of the legal occupant of a rental dwelling unit, the commissioner of building inspection may attempt to contact the owner by phone to inform the owner of the alleged violation. Attempted phone contact is not required if the property is not recorded with the property recording program or the complaint is received during an exterior inspection. If the commissioner finds substantial health or safety violations, he or she shall issue an order to the owner of the dwelling to correct such violations within 30 days or less of the order. If the owner does not comply within the specified time, unless otherwise extended by the department, the commissioner shall issue an order to the owner of the

dwelling to obtain a certificate of habitability from the commissioner no sooner than 365 days and no later than 395 days of the date of the order. However, the commissioner shall not issue an order to obtain a certificate in cases when the owner can produce a check-in sheet signed and dated by the owner and tenant which indicates that the condition cited as a substantial health or safety violation was not in existence at the time the check-in sheet was signed.

Moreover, upon complaint of any third party, the commissioner may conduct an exterior inspection of a building containing rental dwelling units.

The commissioner shall issue a certificate of habitability for a rental dwelling unit where he or she finds that the violations cited as a result of the inspection performed by the commissioner have been corrected and that the rental dwelling unit is found to be in substantial compliance with the standards set forth in the building code.

The fee for a certificate of habitability for rental dwelling shall be \$175.

The certification program provided for in this ordinance shall be of a duration of 3 years from the effective date of this ordinance.
The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 200-17-3-h of the code is created to read:

200-17. Standards and Appeals Commission.

3. POWERS AND DUTIES.

h. The commission may reverse, modify in whole or in part, the commissioner's order to an owner of a dwelling to obtain a certificate of habitability pursuant to s. 200-51.7 upon showing by the owner that his or her failure to obtain such certificate was due to damage to the premises caused by the tenant or legal occupant.

Part 2. Section 200-33-7.8 of the code is created to read:

200-33. Fees.

8.2. CERTIFICATE OF HABITABILITY FOR RENTAL DWELLING BUILDINGS. a. The fee for every certificate of habitability for a rental dwelling shall be \$175.

b. There shall be no charge for the first reinspection, but a fee of \$50 may be charged to whomever is the owner of the property for any additional reinspection. Reinspection fees shall be charged against the real estate upon which the reinspections were made, and shall be a lien upon the real estate and shall be assessed and collected as a special tax.

Part 3. Section 200-33-49.3 of the code is created to read:

49.3. RENTAL DWELLING HABITABILITY ENFORCEMENT FEE. A monthly fee of \$50 may be charged as provided in s. 200-51.7-10 and 11.

Part 4. Section 200-51.7 of the code is created to read:

200-51.7. Certification of Habitability for Rental Dwellings.

1. POLICY. The common council declares its purposes in adopting these provisions are to:

- a. Protect the public health, safety and welfare of the people of the city.
- b. Protect the character and stability of residential areas.
- c. Correct and prevent housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health of persons occupying dwellings.
- d. Facilitate the enforcement of minimum standards for the maintenance of existing residential buildings and thus prevent blight.

2. DURATION. The certification program provided for in this section shall be of a duration of 3 years from the effective date of this section.

3. DEFINITIONS. In this section:

- a. "Certificate of habitability for rental dwellings" means a written and signed evaluation prepared by the commissioner after an inspection of the dwelling has been made, informing the owner that the commissioner has found that dwelling has no substantial health or safety violations.
- b. "Legal occupant" means a person holding possession or control of a dwelling unit under a lease.

4. RENTAL DWELLING HABITABILITY TARGET AREA. In this section, "rental dwelling habitability target area" means the area comprised of the following 1990 census tracts: 44, 45, 46, 66, 67, 68, 69, 70, 81, 82, 83, 84, 85, 86, 154, 155, 156, 157, 158, 159, 162, 163, 164, 165, 168, 169 and 170.

5. APPLICABILITY. This section applies to all rental dwellings, including rented dwelling units in owner-occupied dwellings, containing one to 8

rental units located within the rental dwelling habitability target area specified in sub. 4.

6. **INSPECTION.** a. Upon complaint of the legal occupant of a rental dwelling unit, the commissioner may attempt to contact the owner by phone to inform the owner of the alleged violation. Attempted phone contact is not required if the property is not recorded with the property recording program or the complaint is received during an exterior inspection.

b. Upon failure of the owner to correct conditions identified in par. a within the time allowed, the commissioner may inspect a rental dwelling unit. If the commissioner finds code violations included in the commissioner's list of violations which may constitute substantial health or safety violations, the commissioner shall issue an order to the owner of the dwelling to correct such violations within 30 days or less of the order.

c. If the building owner fails or neglects to comply with an order to correct a substantial health or safety violation issued pursuant to par. b within the specified time, unless otherwise extended by the department, the commissioner shall issue an order to the owner of the dwelling to obtain a certificate of habitability from the commissioner no sooner than 365 days and no later than 395 days of the date of the order. However, the commissioner shall not issue an order under this section in cases where the owner can produce a check-in sheet signed and dated by the owner and tenant which indicates that the condition cited as a substantial health or safety violation was not in existence at the time the check-in sheet was signed.

d. If, upon reinspection of the dwelling unit after a year of the date of the initial order issued under this section, the commissioner finds no substantial health or safety violations and if there exists no pending building code violation, the owner need not apply for a second certificate of habitability.

e. In addition, upon complaint of any third party, the commissioner may conduct an exterior inspection of a building containing rental dwelling units. When the inspection is made, the commissioner may attempt to make contact with the occupant of the unit to request permission to inspect the interior. The commissioner may also place a written notice on the building containing instructions on how to contact the department of building inspection.

7. **APPLICATION FOR CERTIFICATE OF HABITABILITY COMPLIANCE.** Application for a certificate of habitability shall be made on forms provided by the commissioner. The application shall be signed by the owner and shall state the tax key number and street address of the dwelling. The application shall be accompanied by the payment in full of the fee required in s. 200-33-7.8.

8. **ISSUANCE.** The commissioner shall issue a certificate of habitability for a rental dwelling unit where it finds that the violations cited as a result of the inspection performed by the commissioner have been corrected and that the rental dwelling unit is found to be in substantial compliance with the standards set forth in the building code.

9. **VALIDITY OF CERTIFICATE.** A certificate of habitability for a rental dwelling unit shall be valid for one year from the date of issuance. The certificate shall be issued for the entire building regardless of the number of units.

10. **NOTICE OF NONCOMPLIANCE.** a. When an owner has failed to correct the substantial code violations specified in the commissioner's order within 30 days or less as required by sub. 6-a, the commissioner may issue a notice of noncompliance to be served in accordance with sub. 11, and the commissioner may assess a monthly rental dwelling habitability enforcement fee as set forth in s. 200-33-49.3 until the violations are corrected. The fee may be assessed and collected as a special tax on the property.

b. The notice issued by the commissioner under this section shall state:

b-1. That the dwelling unit contains substantial building code violations or does not have a certificate of building code compliance or both.

b-2. That it is unlawful for any vacant unit to be reoccupied or rented.

b-3. That a placard containing this information shall be posted on the dwelling and may not be removed without the permission of the commissioner.

11. **SERVICE OF ORDER.** Any order issued to apply for a certificate of habitability under this section shall be served upon the owner of record pursuant to s. 200-12-2-b. If the owner has not corrected the violation under this section within the time set within the order, the commissioner may assess a monthly habitability enforcement fee as set forth in s. 200-33-49.3 until the violation is corrected. The fee may be assessed and collected as a special tax on the property.

12. **SUSPENSION OF RENTAL DWELLING HABITABILITY ENFORCEMENT FEE.** The charging of a rental dwelling habitability enforcement fee shall be suspended during the pendency of any appeal of a notice issued under this section.

13. **SANCTION.** a. Any owner, former owner or operator failing to comply with this section or providing false, misleading or fraudulent information in violation of this section shall be subject to the penalties provided in s. 200-19.

b. Any person violating any of the provisions of this section shall upon conviction thereof be subject to penalties as provided in s. 200-19.

Part 5. This ordinance shall take effect 90 days from the date of passage and publication.

APPROVED AS TO FORM

Date: _____
IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney
Date: _____

LRB97386.2
TWM:ave
7/2/97Legislative Reference Bureau
Date: _____
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7/2/97