

ORDINANCE 2018-____

AN ORDINANCE ADOPTING A DWELLING INSPECTION PROGRAM
FOR THE CITY OF STREATOR, LASALLE AND LIVINGSTON COUNTIES, ILLINOIS

WHEREAS, Section 11-30-4 of the Illinois Municipal Code, 65 ILCS 5/11-30-4, authorizes municipalities like the City of Streator (the “City”) to prescribe the strength and manner of constructing all buildings, structures and their accessories.

WHEREAS, Article 11, Division 31 of the Illinois Municipal Code, 65 ILCS 5/11-31-1 *et seq.*, authorizes municipalities like the City to cause the demolition, repair, or enclosure of dangerous and unsafe buildings or uncompleted and abandoned buildings within the territory of the municipality and to remove or cause the removal of garbage, debris, and other hazardous, noxious, or unhealthy substances or materials from those buildings.

WHEREAS, Section 11-60-1 of the Illinois Municipal Code, 65 ILCS 5/11-60-1, authorizes municipalities like the City to fix the amount, terms, and manner of issuing and revoking licenses.

WHEREAS, Section 11-60-2 of the Illinois Municipal Code, 65 ILCS 5/11-60-2, authorizes municipalities like the City to define, prevent and abate nuisances.

WHEREAS, the City has the authority to adopt ordinances and to promulgate rules and regulations for the safety and well-being of the public and such authority derives from the municipality’s police powers.

WHEREAS, consistent with the authority granted to it (and as expressed above), the City has previously adopted the various provisions of Title 15 of the City Code governing Buildings and Construction within the City.

WHEREAS, the Mayor and City Council have determined, after due consideration and investigation, that for the convenience and safety of the residents of the City of Streator, it is desirable and necessary to adopt a dwelling inspection program for the City of Streator, Illinois.

THEREFORE BE IT ORDAINED by the Mayor and City Council of the City of Streator, LaSalle and Livingston Counties, Illinois as follows herein.

Section 1: RECITALS. The City Council hereby finds the recitals contained in the preambles are true and correct and incorporate them into this Ordinance by this reference.

Section 2: ADOPTION OF REGULATIONS ESTABLISHING A DWELLING INSPECTION PROGRAM. Title 15 of the City of Streator Municipal Code is hereby amended by adding a new Section 15.24.050 as follows herein.

Section 15.24.050

DWELLING INSPECTION PROGRAM

Subsections:

- 15.24.050A Declaration of Policy.**
- 15.24.050B Definitions.**
- 15.24.050C Registration Required.**
- 15.24.050D Fees.**
- 15.24.050E Inspections.**
- 15.24.050F Administrative Warrants for Inspections.**
- 15.24.050G Enforcement.**
- 15.24.050H Revocations.**
- 15.24.050I Appeals.**
- 15.24.050J Violations.**
- 15.24.050K Responsibility for Accumulation of Junk and/or Debris.**
- 15.24.050L Penalties.**
- 15.24.050M Fee Schedule.**

15-24-50 Dwelling Inspection Program

- A. Declaration of Policy. The purpose of this Section is to protect the public health, safety and welfare by establishing a program for identification, registration and regulation of rental units. This Section shall be construed liberally to affect its purposes.
- B. Definitions. Unless otherwise expressly stated or clearly indicated by the context, the following terms shall, for the purpose of this section, have the meanings indicated in this section. Whenever the words “dwelling,” “dwelling unit,” “housekeeping unit,” “rooming house,” “rooming unit,” or “premises” are used in this Section, they shall be construed as the context may require as though they were followed by the words “or any part thereof.”

BASEMENT: That portion of a structure which is partly or completely below grade.

DWELLING: A building or portion thereof designed or used as a residence, including model homes but excluding boarding or lodging houses, nursing homes, motels, hotels, tourist homes, tents and recreational vehicles.

DWELLING, MULTI-FAMILY: A building consisting of two (2) or more dwelling units.

DWELLING, SINGLE-FAMILY: A single dwelling unit and accessory uses thereto.

DWELLING, SINGLE-FAMILY ATTACHED: A single-family dwelling attached to one or more single-family dwellings by one or more party walls with each dwelling located on a separate subdivided lot.

DWELLING, SINGLE-FAMILY DETACHED: A single-family dwelling separated from other dwelling units by open space.

DWELLING, TOWNHOUSE: A dwelling unit that is attached to one or more other dwelling units on the same lot and has an individual private ground level entrance to the outside, and no portion of which is located above or below any other premises or portion thereof.

DWELLING, TWO-FAMILY: A building consisting of only two (2) dwelling units.

DWELLING UNIT: A single unit providing complete, independent living facilities for one or more person, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EXTERMINATION: The control and elimination of insects, rodents or other pests by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the health department.

FLOOR AREA, DWELLING UNIT: The area inside the exterior or fire walls of a building, exclusive of vent shafts, courts and public places.

FLOOR AREA, ROOM: The next area within the finished walls of a room.

HABITABLE ROOM: A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyer or communicating corridors, closets, storage spaces or bomb shelters.

HOUSEKEEPING UNIT: A room or group of rooms forming a single habitable unit equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such unit, a toilet, lavatory and bathtub or shower.

LANDLORD: An owner, agent of an owner or other person who rents or leases a dwelling, dwelling unit, housekeeping unit or rooming unit to a tenant under a rental agreement.

OCCUPANT: Any person living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit, housekeeping unit or rooming unit.

OPERATOR: Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

OWNER: Any person who alone or jointly or severally with others:

1. Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
2. Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, prime tenant, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this code, to the same extent as if such person were the owner.

PERSON: Any individual, firm, corporation, association or partnership.

RENTAL AGREEMENT: An oral or written agreement covering a definite or indefinite period of time of one week or more between a landlord and a tenant for the renting or leasing of a dwelling, dwelling unit, housekeeping unit or rooming unit.

RENTAL UNIT: Any dwelling unit or housekeeping unit that is rented or leased or offered for rent or lease under a rental agreement.

ROOMING HOUSE: A building or part thereof that is not a hotel, motel or tourist home and that provides lodging rooms to three (3) or more paying guests who are not members of the keeper's family and mainly to non-transients.

TENANT: An occupant who occupies a dwelling, dwelling unit, housekeeping unit or rooming unit pursuant to a written or oral agreement with a landlord covering a definite or indefinite period of one week or more.

C. Registration Required.

1. No person, whether an owner, manager, agent or sublessor shall operate, and no owner shall permit the operating of a dwelling unit or rooming house for rent or lease or offer to rent or lease any rental unit or allow occupation of rental unit pursuant to a rental agreement unless such establishment or rental unit has been granted a rental registration certificate from the City as provided in this Section.
2. Except as otherwise provided herein, registration certificates issued by the City generally will be valid for a period of three years unless the City finds Code violations warranting additional inspections to verify compliance with the City Code or City ordinances, in which case the City may issue certificates that are valid only for 6, 12, 18 or 24 months depending upon the severity of the Code violations and the habitability of the unit. Persons granted a registration certificate shall re-register thirty (30) days prior to the expiration of a registration certificate.

3. Any person desiring a registration certificate authorized by this Section shall submit a written application in the form furnished by the City. The registration application will include, at a minimum,
 - (a) the full legal name, address, and home, work and mobile telephone numbers of each and every person with an ownership interest in the property which is the subject to the application (for a corporation, the applicant shall also provide the name and address of the corporation's registered agent in Illinois);
 - (b) the address of the property;
 - (c) the number of rental units within the property;
 - (d) the legal name of the adult tenants of each rental unit occupying the premises at the time of the application;
 - (e) the name of one or more contact persons who can act on behalf of the owner in emergency situations and a 24-hour telephone number for each such person; and
 - (f) an application fee of twenty-five dollars (\$25.00) per rental unit. If the application is for a multiple unit building and the inspections of the rental units can be completed at the same time, then the application fee shall be twenty dollars (\$20.00) per rental unit. Application fees are non-refundable (if the application is approved, the application fee shall be applied to registration certificate fee).
4. The City shall take action on a registration application within fifteen (15) business days.
5. While a registration application is pending and throughout a registration period, any amendments to information contained in a registration application (including but not limited to changes in property ownership) shall be submitted by the applicant or the person granted a registration certificate in writing to the City Clerk within five (5) business days after the change necessitating the amendment. The City will charge a ten dollar (\$10.00) fee per structure or Property Index Number (PIN), not per Rental Unit, to update the City's registration records.
6. A registration certificate shall be issued following an inspection of the premises. The City may authorize the issuance of a temporary certificate without inspection for those premises in which there are no violations of record as of the effective date of this Section, and shall issue a temporary certificate upon applications in cases where inspections are not made within the time period required for action on a certificate application. A temporary certificate may also be issued for premises with minor violations and the required repairs or corrections can be made within a short, specified period.
7. Persons subject to the provisions of this Section shall apply for registration certificates within ninety (90) days after being notified by the City of the need to comply with this Section. Within one year of the initial adoption of this Section, the City will give Persons offering Rental Units which are subject to regulation by this Section notice of their schedule for inspection and completion of the certification process.
8. A certificate shall be issued on condition that the premises remain in a safe, healthful and fit condition for occupancy. If upon re-inspection the City determines that conditions exist which constitute a hazard to health or safety, the certificate may be immediately revoked and a notice shall be served upon the owner to correct noted violations.
9. It shall be required, and the responsibility of the owner to maintain the registration certificate, either temporary or permanent, as they are issued, at the premises for which they are issued. The registration certificate shall be displayed on request of the Code Official. Failure to have the registration certificate, or display the registration certificate on request, shall constitute a violation of this Section. Buildings having more than two (2) rental units shall post the registration certificate which shall list all rental units in the building in addition to their permitted occupancy loads so that the certificate is visible at all times.
10. The City shall notify the applicant in writing if an application is denied and the reasons therefor. Among other reasons, a registration application may be denied if:

- (a) the application is incomplete;
- (b) there is any material misrepresentation made or false information included on the application;
- (c) the inspection reveals the condition of the building does not comply with the City Code or City ordinances such that the it presents a hazard to health and safety; or
- (d) the applicant has outstanding fines, fees, or money due the City and has failed to pay the fine, fee or money due.

11. If an owner fails to obtain a registration certificate as required by this Section, the Code Official shall notify all tenants and occupants by causing to be posted a notice on all entrances to the premises advising:

- (a) a registration certificate for the premises has not been issued by the City as required by this Section;
- (b) all tenants and occupants must vacate the premises within sixty (60) days of the date of posted notice and
- (c) the failure to vacate the premises is a violation of this Section and may subject the violator to fines with a minimum of \$50.00 and a maximum of \$750.00 for each day a violation exists.

D. Fees.

1. Fees for registrations and related inspections shall be established by the City Council, using the fee schedule set forth in subsection M.
2. Fees are payable at the time of registration and are not refundable.
3. The registration fee shall be twenty-five dollars (\$25.00) per unit. If the registration is for a multiple unit building and inspections of all units in the building were completed at the same time, the registration fee is twenty dollars (\$20.00) per unit. All fees and other costs must be paid in full before a registration certificate will be issued.
4. The initial registration fee will cover one inspection. The City will charge for additional inspections in accordance with the fee schedule set forth in subsection M. Additional fees and penalties will be assessed if the rental unit(s) or structure are not brought into compliance with the City Code or other applicable City ordinances within thirty (30) days' notice of violation(s) by the City.

E. Inspections.

1. Except as may otherwise be specifically provided in this Section, inspections are required for each rental unit subject to this Section. In the event an inspection conducted under this Section does not reveal a major life safety condition or such major life safety condition is corrected within thirty (30) days of notice, the Code Official may determine a building to be subject to biennial inspection or triennial inspection. No registration certificate will be issue for a period greater than three (3) years.
2. When conducting inspections, the Code Official will consider compliance with permitted occupancy limitations; compliance with heat, light and ventilation requirements; compliance with structural, electrical, mechanical and sanitary requirements; avoidance of the cross connection of stormwater sump pump and sanitary sewer systems; avoidance of the accumulation of trash, rubbish and debris and violations of City ordinances. A building shall not receive a registration certificate until all rental units are in compliance with the City Code and ordinances.
3. The Code Official may request permission to enter all units regulated by this Section at reasonable hours to undertake an inspection for compliance. It is the Owner's responsibility to help arrange for required inspections.
4. When an inspection reveals violation of an applicable ordinance, a compliance time frame will be set by the Code Official. In establishing a compliance time frame, the Code Official shall determine the reasonable

minimal time necessary to correct the violations based upon the number and severity of the violations. In appropriate circumstances, the Code Official may determine the violations constitute an immediate threat to health or safety and may order the immediate revocation of a registration certificate. In the event that the property is unoccupied at the time an inspection reveals any violations of applicable ordinances, the Code Official shall have the discretion to require, depending upon a circumstance as deemed appropriate by the Code Official, that corrections in regard to the full remediation and compliance be made prior to the unit being allowed to be reoccupied. The Code Official shall send notice to the owner by personal service or by first class U.S. mail, proper postage prepaid, at the last address provided on the most recent registry application. The notice shall include the following:

- (a) a description of the property sufficient for identification;
- (b) a statement listing the violations of applicable ordinances;
- (c) a statement of the date upon which the registry re-inspection will occur; and
- (d) an explanation that if upon completion of the re-inspection that the requirements of applicable City ordinances have not been met, a written denial of the registry application will be issued.

Notices shall be deemed delivered five (5) business days after being placed in the United States mail for delivery.

5. Regardless of the age of a structure, life safety issues must be corrected. If a deficiency is not a life safety matter and is a legal, non-conforming violation, the deficiency will not be cited as a violation or used by the City to deny or revoke a permit or certificate.

F. Administrative Warrants for Inspections. Where admission to premises to be inspected under the provisions of this Section is refused by the occupant or person in charge thereof, the City may apply to a court of competent jurisdiction for an administrative search warrant to inspect the premises. The attorneys' fees and court costs incurred by the City will be added to the registration fees the Owner must pay before a registration certificate is issued by the City. Cause for issuance of a warrant shall be deemed to exist in light of reasonable legislative and administrative standards which show there is a reason to believe that a condition of nonconformity exists in violation of any provisions of the City Code or City ordinance and the court may consider any of the following factors (along with such other matters as the court deems pertinent) in its decision as to whether a warrant shall issue:

1. eyewitness account of violations;
2. citizen complaints;
3. tenant complaints;
4. plain view violations;
5. violations apparent from City records;
6. property deterioration;
7. age of property;
8. nature of alleged violations;
9. similar properties in the area;
10. documented violations on similar properties in the area;
11. passage of time since last inspection; and
12. previous violations on the property.

G. Enforcement. It shall be the duty of the Community Development Department to enforce the provisions of this Section. The Code Official referred to in this Section shall be the City's Building Inspector and/or any other City representative that may be specifically designated by the City Council to be the Code Official for purposes of this Section. Unless and until such time as the City Council appoints a different representative, the City's Building Inspector shall be the Code Official.

H. Revocations. A registration certificate may be revoked if:

1. violations of applicable provisions of the City Code or City ordinances, state statutes and/or state regulations have been identified by the Code Official and the owner has been properly notified of the violations and given a reasonable period of time in which to correct violations, but has failed to do so;
2. there is any material misrepresentation made or false information provided to the City;
3. there is an immediate threat to health or safety warranting immediate revocation of a registration certificate;
or
4. the owner is not otherwise in compliance with this Section.

The Code Official shall cause to be issued a written notice of revocation which shall be hand delivered to the owner or sent by certified mail, return receipt requested, to the owner at the address on the registration application. Revocation of the registration certificate shall be effective immediately after personal service or on the third day after the post mark of the certified mail receipt.

The Code Official shall also notify all tenants and occupants by causing to be posted a notice on all entrances to the premises advising:

- (a) the registration certificate for premises has been revoked by the City;
- (b) all tenants and occupants must vacate the premises within sixty (60) days of the date of posted notice and
- (c) the failure to vacate the premises is a violation of this Section and may subject the violator to fines with a minimum of \$50.00 and a maximum of \$750.00 for each day a violation exists.

- I. Appeals. The denial of an application or revocation of a registration certificate may be appealed in writing to the City's Building Board of Appeals within ten (10) business days from the notice of denial or revocation. The Building Board of Appeals shall hold a public hearing at which the affected applicant or registration holder may appear, present witnesses and evidence and be represented by an attorney. The Building Board of Appeals shall uphold the denial or revocation if it determines by a preponderance of the evidence that the insufficiency or violation which was the basis for the denial or revocation occurred. During the appeal process, a revocation shall remain in full force and effect.

In the event a registration certificate is revoked due to a failure to comply with a provision of the City Code or City ordinance, the Code Official, in his discretion, may reinstate the registration certificate, upon proof the action needed to bring a unit into compliance has been made.

- J. Violations. The following shall constitute violations of this Section:

1. failure of the owner of properties subject to this Section to obtain a registration certificate from the City;
2. failure of the tenants to vacate a unit within sixty (60) days after receiving notice from the Code Official that the unit is not registered as required by this Section or that the registration certificate has been revoked;
3. failure of the owner to remove tenants from a unit within sixty (60) days after receiving notice from the Code Official that the unit is not registered as required by this Section or that the registration certificate has been revoked;
4. failure of the owner to maintain the unit in compliance with applicable building, property maintenance and zoning ordinances;
5. the removal or defacing of any notices which may be posted at the direction of the Code Official; and
6. failure of any person subject to the provisions of this Section to comply with any other applicable provisions;

- K. Responsibility for Accumulation of Junk and/or Debris. In cases where accumulations of junk and/or debris in or

around a Rental Unit is proven to be the result of a tenant’s conduct, the Code Official may issue appropriate ordinance violation citations to the tenant; however, the Owner is ultimately responsible for the condition of the Owner’s property.

L. Penalties. Any person violating the terms and conditions of this Section shall be subject to a penalty not exceeding seven hundred fifty dollars (\$750.00) with each and every day that the violation of this Section is allowed to remain in effect being deemed a complete and separate offense. In addition, the City may take such other action as deemed proper to enforce the terms and conditions of this Section including, without limitation, an action in equity to compel compliance with its terms. Any person violating the terms of this Section shall be subject, in addition to the foregoing penalties, to the payment of court costs and reasonable attorney fees.

M. Fee Schedule. TO BE COMPLETED

Section 3: SEVERABILITY. Each section, paragraph, sentence, clause and provision of this ordinance is separable and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this ordinance nor any part thereof, other than that part affected by such decision.

Section 4: PROVISIONS IN EFFECT. Except as to the amendments heretofore mentioned, all articles, chapters and sections of the Municipal Code of Ordinances of the City of Streator, Counties of LaSalle and Livingston, Illinois, shall remain in full force and effect.

Section 5: EFFECTIVE DATE AND PUBLICATION. This Ordinance shall in full force and effect from and after is passage and approval and publication as required by law.

Passed by the Mayor and City Council of the City of Streator, LaSalle and Livingston Counties, Illinois at a regular meeting thereof held on the ___ day of _____ 2018 and approved by me as Mayor on the same day.

APPROVED:

Jimmie D. Lansford, Mayor

ATTEST:

Patricia L. Henderson, City Clerk

RECORD OF THE VOTE	Yes	No	Abstain	Absent
Mayor Jimmie D. Lansford				
Councilwoman Tara Bedei				
Councilman Ed Brozak				
Councilman Brian Crouch				
Councilman Joseph Scarbeary				