

OCCUPYING NON-HABITABLE SPACE IN EAST LANSING IS ILLEGAL

What is occupiable space?

Occupiable space is defined as “Hallways, corridors, laundry areas, bathrooms, toilet rooms, and finished basement rooms.” EL Ord. No. 945 §202. This assumes that the occupiable space meets minimum habitability standards under the Property Maintenance Code (e.g., if the basement room does not have proper-sized windows allowing for egress, it cannot be occupied for sleeping purposes).

What is non-habitable space?

Non-habitable space includes “[b]athrooms, toilet rooms, closets, halls, storage or utility spaces, and any other space which does not meet the minimum requirements for habitable space as set forth in th[e] Code.” EL Ord. NO. 945 §202.

Can a person occupy non-habitable space?

Absolutely not—it’s not safe and it’s illegal. “No person shall occupy a for sleeping purposes, and no owner or owner’s agent shall allow a person to occupy for sleeping purposes, the non-habitable spaces of a rental unit. Each day that a violation exists shall constitute a separate offense. EL Ord. No. 955 §ES-1010.3.

What is the penalty for occupying non-habitable space?

A person who occupies a non-habitable space will be ticketed and fined. A person who does so, violating ES-1010.3, shall be responsible for a civil infraction as defined by MCL 600.113 and governed by MCR 4.100. “Upon a finding of responsibility by the court, the violator shall be punished by:

- **A fine of not less than \$250 or more than \$1,000 for each offense** (Each day that a violation exists shall constitute a separate offense.); plus
- **Costs of the action**, including all expenses to the City, direct and indirect, in connection with the action.” EL Ord. No. 955 §ES-1010.3 [Emphasis added.]

How does the East Lansing Code Enforcement office find out about the occupying a non-habitable space violation in the first place?

In most cases, the landlord—after notifying the tenants about the violation—will contact the East Lansing Code Enforcement office and make a complaint; this protects the landlord from getting ticketed. In other cases, the enforcement officers—with information about the non-habitable spaces in each East Lansing licensed rental property—may discover the violation while on routine inspections or observation.

Who will be ticketed for occupying a non-habitable space?

The person occupying a non-habitable space for sleeping purposes will be ticketed and fined. Most often, this is a tenant wanting his or her own sleeping room—in the attic or in the basement. Additionally, the landlord will be ticketed if the landlord knew, or should have known, that a non-habitable space in the rental unit was being occupied, and the landlord continued to allow it.

Many tickets are issued for living in a non-habitable space—especially attics and basements. What happens depends on the investigation that occurs. Many times if a person vacates the non-habitable space immediately no person will be ticketed.

If the landlord suspects that the tenant is occupying a non-habitable space for sleeping purposes, the landlord should immediately:

1. Contact the tenant and demand immediate correction; and
2. Notify the East Lansing Code Enforcement office about efforts to notify and correct; they will undergo an investigation.

If evidence of a violation of occupying a non-habitable space for sleeping purposes is established, each and every person who occupies the space will be ticketed—this may mean all occupants. Correction will have to be made immediately. Those persons ticketed will be warned that an enforcement officer may stop by again to check up on the non-habitable space; and if the enforcement officer does stop by again and finds a violation, each and every occupant will be ticketed again.

Will the rental license indicate the non-habitable space?

Yes—the non-habitable space is described as *space restrictions*. A standard Rental Unit License issued by East Lansing contains the *space restrictions* on the face of the license. Remember, the license must be displayed inside the rental unit, “in an 8½ X 11 frame securely affixed to the interior wall adjacent to the primary entrance door to the rental unit.” EL Ord. No. 915 §ES-1005.11.

How else will the tenant be notified of the non-habitable space in the rental unit?

The East Lansing Lease Addendum, paragraph 3. states:

SLEEPING ROOMS. Basements, attics, and other rooms cannot be used as sleeping rooms if they do not comply with requirements for windows, square footage, exits, and ventilation. These requirements are in place for the health and safety of the tenants. Violators may be fined a maximum fine of up to \$1,000 per day. Under these requirements, using the following areas as a sleeping room is illegal:

√ *Describe here the non-habitable space*

“No owner of a rental unit shall execute a lease unless each lessee is provided and signs an East Lansing Lease Addendum . . .” EL Ord. No. 915 §ES-1006.3.



MICHIGAN STATE
UNIVERSITY
COLLEGE OF LAW

RENTAL HOUSING CLINIC

541 E. Grand River Ave., East Lansing, MI 48823
(517) 336-8088—phone; (517) 336-8089—fax

Working in partnership with the City of East Lansing.

Legal Notice and Disclaimer: *The information contained in this brochure is specific only as to East Lansing City Ordinance. Providing this information is not intended to create any legal relationship. Determining whether you need legal services and deciding on your choice of lawyer are important matters. Do not use the information we provide to disregard any legal advice, or to delay seeking legal advice or representation.*