

## OVER-OCCUPANCY IN EAST LANSING RENTAL PROPERTY IS ILLEGAL

### What is over-occupancy?

In a nutshell, it's too many occupants as determined by the city of East Lansing's zoning code for rental licensing purposes.

### What is a rental unit?

A *rental unit* is defined as, "Any dwelling occupied or offered for occupancy by any person other than the owner, owner's family, or guest . . ." EL Ord. No. 945 §202.

### What is the difference between a tenant, an occupant, and a guest?

Each term is defined by city ordinance:

1. A **tenant** is defined as, "[A] person who is not the owner who occupies a dwelling unit. EL Ord. No. 945 §202.
2. An **occupant** is defined as, "Any individual living or sleeping in a building, or having possession of a space with a building. EL Ord. No. 920 §202.
3. A **guest** is defined as, "Any person who occupies a room for living or sleeping purposes without consideration and for no longer than 30 consecutive days, no more than 60 days a year; except that for dwellings not required to be licensed . . . , "guest" means a person who occupies a room for living or sleeping purposes in a dwelling unit with the owner's family residing therein without consideration. EL Ord. No. 945 §202.

### What does it mean to occupy?

*Occupy* is defined as, "live, sleep, or have possession of a space in a building other than a guest." EL Ord. No. 945 §202.

### Why is over-occupancy even an issue to discuss?

Over-occupancy in East Lansing mostly occurs in single family houses. In many cases, unsafe, non-habitable areas—such as attics or basements without safe exits—are used as bedrooms. The city of East Lansing has limited the number of occupants to reduce chances of unhealthy living in unsafe areas or unfortunate death in house fires, and to preserve the characteristics of family neighborhoods. Thus, assuring adequate safe space for living for each tenant—and not overburdening family neighborhoods.

### Does over-occupancy continue to be a problem in East Lansing?

Yes. East Lansing rental housing that is most often over-occupied was originally built for use by two adults with children. When, instead, several adults occupy these homes, it dramatically increases the neighborhood traffic, the number of vehicles parked on the premises, and the noise level—all situations that negatively impact families in the neighborhoods.

- Over the last year, approximately three properties were ticketed each week for over-occupancy—that's 156 tickets!
- In most cases, East Lansing landlords were not aware that their rental property was over-occupied.

### Will the posted rental license indicate the maximum licensed occupancy limit?

Yes. A standard Rental Unit License issued by East Lansing contains the maximum number of persons who may occupy the rental unit on the face of the license. Remember that 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 is the tenant notified of the maximum licensed occupancy limit?

The East Lansing Lease Addendum, paragraph 2., indicates the occupancy limits. It says,

OCCUPANCY LIMITS. This unit is licensed for a maximum of \_\_\_\_ unrelated individuals, family or a domestic unit. This occupancy limit must be displayed **on the license and in the lease**. Owners and all tenants may EACH be fined a maximum fine of up to \$1,000 a day for over-occupancy.

"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.

Additionally—in advertising or marketing of a rental unit for lease, no landlord/owner or owner's agent shall fail to clearly state, in any advertisement, sign, lease agreement, other form of written representation, and in any oral statement, the licensed occupancy limits of the rental unit." EL Ord. No. 915 §ES-1010.8(1).

Also, in advertising or marketing of a rental unit for sublease, no tenant shall fail to clearly state, in any advertisement, sign, sublease agreement, other form of written representation, and in any oral statement, the licensed occupancy limits of the rental unit." EL Ord. No. 915 §ES-1010.8(2).

### What happens if the maximum licensed occupancy limit is exceeded?

No owner, owner's legal agent, or person occupying any rental unit licensed under this Code shall knowingly or under circumstances where the owner or owner's legal agent should have known allow the rental unit to be occupied by more than the number of persons permitted by the Rental Unit License. **Each day that a violation exists shall constitute a separate offense.** EL Ord. No. 915 §ES-1010.1.

### Is there a penalty for exceeding the maximum licensed occupancy limit?

Yes. A person who knowingly, or who should have known, exceeds the maximum licensed occupancy limit will be ticketed and fined. A person who violates ES-1010.1 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. 915 §ES-1010.1.

### Who will be ticketed for exceeding the maximum licensed occupancy limit?

A person who knowingly, or who should have known, exceeds the maximum licensed occupancy limit will be ticketed and fined—this includes both the landlord and the tenant. Ignorance of the East Lansing City Ordinance is no excuse—ignorance falls under “should have known.”

### What happens if the person ticketed fails to answer the citation or fails to appear in court?

A defendant (the person named on the ticket) who fails to answer a citation or notice to appear in court for a municipal civil infraction is guilty of a misdemeanor and shall be punished by a fine of not more than \$500 and costs of prosecution or by imprisonment for not more than 90 days, or both. EL Ord. Nos. 884 and 938 §1.11a referencing §1.11.

### How does the East Lansing Code Enforcement office find out about the over-occupancy 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 some cases, a neighbor who has had problems with the tenants may file a complaint. In other cases, the enforcement officers—with information about the maximum occupancy limit on each East Lansing licensed rental property—may discover the over-occupancy while on routine inspections or observation.

### What should a landlord do if he or she suspects there might be an over-occupancy violation on the rental property?

If the landlord suspects that the number of occupants exceeds the maximum licensed occupancy limit, the landlord should:

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 an over-occupancy violation is established, each and every person who occupies the rental property will be ticketed. Some will have to vacate immediately, reducing the number of occupants to comply with the Rental License issued. Those persons ticketed will be warned that an enforcement officer may stop by again to check up on the number of occupants; and if the enforcement officer does stop by again and finds a violation, each and every occupant will be ticketed again.

### What is the biggest fine ever imposed for over-occupancy violation?

**Biggest fine for tenants.** At one East Lansing rental property, each of five tenants received two tickets—each ticket was written for a \$500 fine—totaling \$5,000.

**Biggest fine for landlords.** An East Lansing landlord—who knowingly permitted over-occupancy—was ticketed for each day that the violation was proven to exist. The city of East Lansing negotiated a settlement with that landlord for \$20,000—the original fine was much higher.



**RENTAL HOUSING CLINIC**  
(working in partnership with the  
City of East Lansing)

541 East Grand River Avenue  
East Lansing, MI 48823  
(517) 336-8088—phone  
(517) 336-8089—fax

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