

RENTING WITHOUT A LICENSE IN EAST LANSING IS ILLEGAL

What if your rental unit does not have a license?

“No person shall occupy, and no owner or owner’s legal agent shall allow a person to occupy a rental unit **unless a Rental License applicable to the rental unit has been issued and remains in effect.** Each day that a violation exists shall constitute a separate offense.” EL Ord. No. 915 §ES-1010.2. [Emphasis added.]

As a tenant, how do you know if your rental unit is properly licensed?

The Rental 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. Ignorance of the East Lansing City Ordinance is no excuse. If no license is displayed, call or stop by the East Lansing Code Enforcement office; they have a list of all properly licensed rental properties.

How else is the tenant notified of the Rental Unit License?

“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. The East Lansing Lease Addendum, paragraph 1., states:

LICENSES AND INSPECTIONS. A valid rental license is required for all rentals. It must be displayed inside the premises. A person who rents out or occupies a rental without a license may be fined a maximum fine of up to \$1,000 per day. All rentals are subject to inspections by the City Housing Compliance Officers.

When is a Rental Unit License required?

“No dwelling shall be leased or occupied for rental purposes by any person unless it is first in compliance . . . **Occupancy of any dwelling by any person other than the owner of record shall be presumed to require a Rental License.**” EL Ord. No. 915 §ES-1001.1.

Can the presumption—requiring a Rental License—be rebutted?

Yes, the presumption can be rebutted—when evidence that the occupant has ownership equity of 25% or more of the fee or life estate evidenced by:

- A recorded deed, or
- A recorded land contract*, or
- An unrecorded land contract* with supporting evidence that it was not entered into in order to circumvent the requirements of this Article, including subsequent recordation. EL Ord. No. 915 §ES-1001.1(1)

Occupants claiming ownership under a land contract, option to purchase, exchange contract, or other legal instrument shall provide proof that the transfer of ownership is supported by *substantial equity interest* in the property. EL Ord. No. 915 §ES-1001.1(2).

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. [Emphasis added.] 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.

- **Costs** of the action, including all expenses to the City, direct and indirect, in connection with the action.” EL Ord. No. 915 §ES-1010.2

Who will be ticketed and fined for renting without a license?

Both the person who rents without a license and the person who allows it will be ticketed and fined—both the property owner and the tenant(s). Ignorance of the East Lansing City Ordinance is no excuse. **Fines for property owners have exceeded \$10,000.** Numerous East Lansing property owners—who allowed someone to rent without a license, or allowed occupancy by someone other than the owner or owner’s family—have paid fines in excess of \$10,000. The property owners were ticketed for each day that the violation was proven to exist.

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 renting without a license violation in the first place?

In most cases, a neighbor may file a complaint. In other cases, the enforcement officers—with information about the each East Lansing licensed rental property—may discover the violation while on routine inspections or observation.

What should a neighbor do if he or she suspects there might be someone renting without a license?

If the neighbor suspects that property is rented without a license, the neighbor should:

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

If evidence of renting without a license is established, each person who occupies the rental property will be ticketed. All tenants will have to vacate immediately. Those persons ticketed will be warned that an enforcement officer may stop by again to check up; and if the enforcement officer does stop by again and finds a violation, each and every occupant will be ticketed again.



RENTAL HOUSING CLINIC

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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.*

In what situations is a Rental Unit License NOT required?

A license is NOT required in certain occupancy situations, **but keep reading because these situations require further detailed explanation:**

- Family occupancy;
- Temporary house-sitting;
- One- and two-family dwelling sales;
- Occupancy by an exchange students, visiting clergy (including missionaries), medical caregiver, or child caregiver; and
- Occupancy by an estate representative.

1) A license is NOT required for family occupancy.

“Any member of a family may occupy a dwelling . . . as long as another member of the family is the owner of that dwelling.” EL Ord. No. 915 §ES-1001.2(1)

- a. **Family** is defined as “one person, two unrelated persons; or where there are more than two persons residing in a dwelling unit, persons classified constituting a family shall be limited to husband, wife, son, daughter, father, mother, brother, sister, grandfather, grandmother, grandson, granddaughter, aunt, uncle, stepchildren, and legally adopted children, or any combination of the above persons living together in a single dwelling unit. EL Zoning Chapter 55, 5.5 (19).

Situations that comply:

- Any two persons, related or not—but one must be the owner;
- Children of owner, even if the owner does not live there.

Situations that do NOT comply:

- Two siblings and a friend;
- Two siblings and a cousin;
- Spouses and a friend;
- Spouses and a cousin.

WARNING: Anyone claiming to be a “family member” will have to prove by clear-and-convincing evidence of their family relationship, e.g., marriage license, birth certificates, adoption papers, etc.

- b. **Domestic Unit.** A domestic unit shall be given the same rights and privileges and shall have the same duties and responsibilities as a family . . . Domestic Unit shall mean a collective number of individuals living together in one dwelling unit whose relationship is of a regular and permanent nature and having a distinct domestic character or a demonstrable and recognizable bond where each party is responsible for the basic material needs of the other and all are living and cooking as a single housekeeping unit.

WARNING: Domestic Unit status must be applied for and approved by the Zoning Administrator of the City of East Lansing BEFORE occupying. Any person seeking the rights and privileges afforded a member of a Domestic Unit under this ordinance shall have the burden to prove each of the elements of a Domestic Unit.

2) A license is NOT required for house-sitting, e.g., during temporary absence of the owner while on sabbatical or residency.

“During the temporary absence of the owner and owner’s family of a domicile [the home to which they intend to return] **for a period not to exceed two years in any five-year period**, the owner may permit up to two unrelated individuals or a family to occupy the house without a rental license . . .” EL Ord. No. 915 §ES-1001.2(2).

Notify the Code Enforcement Department—on the Rental Unit License Application Form provided by the Department—and fill out the back, titled “For House Sitting Only” The following information is required:

- Address of the property where the house sitting will take place;
- Projected duration of the owner’s absence;
- Identity of the individual or family that will be doing the house sitting; and
- Address of the owner’s temporary domicile.

WARNING: House-sitting status must be applied for and approved by the Code Enforcement Department of the City of East Lansing BEFORE occupying.

3) A license is NOT required for one- and two-family dwelling sales.

Sale and leaseback. The sale of any one or two family dwellings intended for occupancy by the owner(s) of record which are to be occupied by the seller under a rental agreement for a period of less than 90 days following closing. . EL Ord. No. 915 §ES-1001.2(3).

Lease with option to purchase/other conditional sale. The sale of one or two-family dwellings intended for occupancy under a lease with option to purchase agreement, or any other form of conditional sale agreement, shall require a Rental Unit License if legal or equitable ownership is not transferred within 90 days. EL Ord. No. 915 §ES-1001.2(3)

WARNING: The 90-day time requirement in this ordinance is meant to prevent sham transactions circumventing proper licensure.

4) A license is NOT required for exchange students, visiting clergy (including missionaries), medical caregiver, or child caregiver.

For an owner-occupied dwelling, additional occupancy by exchange students placed through a recognized education exchange student program, one visiting clergy or clerical aide to a local church congregation, or one person who provides childcare or medically prescribed care. (This is most common with missionaries visiting the East Lansing area.) EL Ord. No. 915 §ES-1001.2(4)

5) A license is NOT required for an estate representative.

In the event of the owner’s death, occupancy by a personal representative, trustee, or guardian of the estate and their family where the dwelling was owner-occupied for the last year prior to the owner’s death, and the occupancy does not exceed two years from the date of death of the owner. EL Ord. No. 915 §ES-1001.2(5). The owner must have been physically staying in the dwelling for the past year. If the owner’s personal belongings remained in the dwelling for the past year, but the owner has been in a nursing home, then the dwelling has *not* been owner-occupied.

WARNING: Estate-representative status must be applied for and approved by the Code Enforcement Department of the City of East Lansing before occupying. Notification of the owner’s name, date of death, and the name of the person to be occupying the premises should be disclosed on the form provided by the Department.

If a Rental Unit License is otherwise required, is there a penalty for renting without one?

Yes. A person who rents without a license, or allows another to rent without a license, will be ticketed and fined. A person who violates ES-1010.2 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