

**CITY OF GALESBURG
KALAMAZOO COUNTY, MICHIGAN
ORDINANCE NO. 286
Adopted: June 6, 2022
Effective: July 1, 2022**

An Ordinance to regulate and provide inspection standards for the condition of housing units which are not owner-occupied; to provide for the registration of such housing units; to provide civil sanctions and remedies for violation of this Ordinance; and to repeal any ordinance or parts of ordinances in conflict herewith.

THE CITY OF GALESBURG, KALAMAZOO COUNTY, MICHIGAN, ORDAINS:

SECTION I: TITLE

This Ordinance shall hereafter be referred to and cited as the "City of Galesburg Registration, Maintenance and Inspection Ordinance for Housing Units not Occupied by the Owner."

SECTION II: PURPOSE

The purpose of the within Ordinance is to protect the health, safety and general welfare of the residents and property owners within the City by requiring the registration of all housing units which are not occupied by the owner thereof; to require certain minimum standards to be maintained with respect to the condition of such housing units within the City which, because of absentee ownership, may tend to become in disrepair, unsightly, unsafe, or unsanitary.

SECTION III: DEFINITIONS

For purposes of this Ordinance, the terms set forth below shall have the following meanings:

1. The terms and definitions of "dwelling", "dwelling unit", "one-family dwelling", "two-family dwelling", "multiple dwelling" and "family" as set forth in the City of Galesburg Zoning Ordinance are incorporated herein by reference. Additionally, the term "dwelling" shall for purposes of this Ordinance be deemed to include a mobile home regardless of whether it meets all of the standards set forth in the definition of "dwelling" in the City of Galesburg Zoning Ordinance.
2. "Building Official" shall mean the Building Official of the City of Galesburg.
3. "Person" shall mean an individual, corporation, partnership, limited liability company or other legal entity.
4. "Housing Unit not Occupied by the Owner ("HUNOO") shall mean any structure containing one or more dwellings which dwellings which are not occupied by the owner thereof. Each unit within an apartment building is considered an HUNOO. As an example a 4-unit apartment building contains 4 HUNOOs.
5. "HUNOO" shall include all dwelling units in which one or more occupants thereof are not the owner(s) of the premises on which the unit is situated and for which consideration is paid in exchange for the right to reside therein or which is not solely occupied by the owner of the premises and his/her family. HUNOO shall specifically include dwelling units which are being sold on land contract, unless such land contract is registered with the County Register of Deeds.
6. "City" shall mean the City of Galesburg, Kalamazoo County, Michigan.
7. "Certified" shall mean that an owner of an HUNOO has properly registered the HUNOO, and has passed rental property inspection(s) made by the Construction Code Enforcing Agency. Certified HUNOO may be occupied by non-owners.

SECTION IV: REGISTRATION

- A. No HUNOO shall be leased or occupied in whole or in part for rental or other remuneration purposes unless it is first registered with the City as provided in this Ordinance.
- B. A separate registration and fee shall be required for each HUNOO Unit, including for each unit within an apartment building.
- C. Occupancy of any housing unit by anyone other than the owner of record and his/her family shall be presumed to require registration under this Ordinance.
 1. This presumption may be rebutted by evidence that the occupant has ownership equity of 25% or more of the fee or life estate evidenced by:
 - (a) A recorded deed, or;
 - (b) A recorded land contract.
 2. Occupants of any housing unit claiming any form of ownership, in accordance with a land contract, option to purchase or any other legal instrument shall establish written proof of ownership. A land contract holder shall not be considered an owner unless the land contract is recorded with the County Register of Deeds.
 3. Owner-occupied units of a duplex or tri-plex shall not require registration; however separate units which are rented shall be registered as provided herein.
- D. Applications for HUNOO Registration shall be submitted to the City Clerk or his/her designee along with an Application Fee established by resolution of the City Council, which shall approximate the costs to the City of maintaining the registration program and which is separate from Construction Code Enforcing Agency inspection fees. The HUNOO Registration application shall be made on forms provided by the City. The forms shall be signed by the owner or the owner's legal agent, if any, and include the following:
 1. Name, driver's license or state identification number (or, in the case of a corporation, the corporate ID number), permanent home address, and business and home telephone number of:
 - (a) The owner;
 - (b) The legal agent designated by the owner, if any; and
 - (c) The resident agent, individual partner, or managing member of any business entity.
 2. The street address(es) of the rental dwelling.
 3. The Zoning District classification within which the rental dwelling is located.
 4. The number and location of off-street parking spaces available for the rental dwelling.
 5. The number of rental housing units and the number of habitable sleeping rooms contained on each floor within each rental housing unit.
 6. A declaration that the maximum number of tenants the owner will allow to occupy the rental dwelling will not exceed the number permitted by the building code and zoning ordinance.
 7. An agreement by the owner to permit the inspections provided for under this Ordinance.
 8. Any other relevant information required by resolution of the City Board.
- E. All HUNOO Registration application shall not be accepted by the City Clerk unless it is signed in ink and accompanied by the application fee. The City Clerk shall within fifteen (15) days of receipt notify the applicant of any deficiencies of the application which prevent its acceptance.
- F. HUNOO Registration does not constitute approval of the HUNOO or any specific uses and such dwelling unit and uses remain subject to the requirements of all City ordinances. A building code inspection to establish compliance with the standards contained in this ordinance shall be required for all first-time registrants. Such inspection shall be made by the Building Official/Construction Code Enforcing Agency or its designee. Units which were previously registered, but which have been unregistered for a period of one or more years shall require an initial building code inspection.
- G. All HUNOO shall be registered on or before July 1, 2022; and every July 1 thereafter. The initial HUNOO Registration Application shall be made available and sent to all owners of residential property which is not homesteaded; or for which the owner's address is not the same as the dwelling unit. The initial registration application shall be filled out and submitted to the City Clerk by no later than July 1, 2022.

All applications submitted to the City Clerk or his/her designee prior to expiration and shall be submitted and acted upon as established in paragraphs C and D herein.

Registrations will expire on July 1 every year after 2022. Renewal HUNOO Registrations shall be made prior to expiration by providing the required form and application fee to the City Clerk or his/her designee. The City Clerk shall process the application as provided in paragraphs C and D herein. The City Clerk or his/her designee shall send an application for renewal to the owner or legal agent, if any, at least thirty days prior to expiration. In the event of a transfer of ownership, the Registration shall expire and the new owner shall immediately submit to the City Clerk or his/her designee an application for HUNOO Registration. All separate units within a multi-unit apartment building or apartment complex shall be required to provide a separate registration application and fee commencing on July 1, 2022.

- H. The owner or legal agent, if any, shall notify the City Clerk or his/her designee of any change of the mailing address and telephone number of the owner within ten (10) working days of the date of the change.
- I. The owner shall notify the Building Official or his/her designee of any change in the owner's designated legal agent, including the name, mailing address and telephone number within ten (10) working days of the date of the change.

SECTION V: INSPECTIONS

1. Authority to inspect. The Construction Code Enforcing Agency and/or its designee shall have the authority to inspect any rental housing unit at the request of a landlord or tenant. In addition, the Construction Code Enforcing Agency may conduct an inspection of an HUNOO including all individual units within a multi-unit building if the building official has a reasonable suspicion that the rental dwelling or any portion thereof is in violation of this Ordinance.
2. Initial Inspections. The Construction Code Enforcing Agency shall make initial inspection of all newly-registered HUNOO and renewed HUNOO as described in Section I.V. of this Ordinance. The Construction Code Enforcing Agency shall additionally have cause to inspect each HUNOO including each unit in a multi-unit building if there are three (3) or more verified violations (separated by time or unit) of Section VII. B. and/or C. of this Ordinance in the prior year.
3. Subsequent Annual Inspections. The Construction Code Enforcing Agency shall make subsequent annual inspections of all HUNOO prior to July 1 of each year. Fees for inspection shall be charged to the owner of the HUNOO in accordance with Section 4 below. Failure to permit or allow inspections shall result in the revocation of rental authority until the unit is inspected as required by this Ordinance.
4. Rental Inspection Fees. Rental property inspection fees by the Construction Code Enforcing Agency are charged per rental unit to the City. The City shall be reimbursed by the owner of each said unit for any inspection fee incurred for that unit. The City Council shall, by resolution, establish the rental property inspection fees approximating that charged by the Construction Code Enforcing Agency. Inspection Fees incurred by the City shall be invoiced to the registered owner of the building and shall be paid within 30 days. Failure to pay an inspection fee shall be deemed to be a violation of this Ordinance.

SECTION VI: REGULATIONS FOR HUNOO OWNERS

The City of Galesburg's primary concern is the safety and wellbeing of occupants of HUNOO and nearby residents and property owners in the City. The City has administered and enforced the State Construction Code through its designated enforcing agency, which agency is deemed to have the expertise to provide minimal occupancy standards intended to comply with the State Construction Code, the Dangerous Buildings Ordinance, and such standards as may be required by the Kalamazoo County Health Department. As such, the Construction Code enforcing agency is designated with the authority to set forth minimal occupancy standards for the HUNOO and for the inspection thereof.

The following regulations apply to all owners of HUNOO within the City. Violation of or failure to comply with any of these regulations shall be deemed to be a violation of this Ordinance (see Section X herein).

- A. All HUNOO shall be registered in accordance with this Ordinance.
- B. All HUNOO shall meet minimal occupancy standards as established by the State Construction Code. The Construction Code Enforcing Agency shall provide a non-exclusive list of minimal occupancy standards to the City Council annually by June 1 of each year. The City Council shall adopt such list by resolution, establishing minimal occupancy standards for HUNOO. Such list shall become part of the application for HUNOO. HUNOO which do not meet such minimal occupancy standards shall not be occupied. Allowing a person or persons to occupy a sub-standard HUNOO shall be deemed to be a violation of this Ordinance.
- C. No HUNOO shall be rented, leased or transferred on land contract if such structure is in violation of the City's Dangerous Buildings Ordinance, or does not meet minimal occupancy standards established in the Housing Law of Michigan (MCL 125.539, et seq, as amended, which is adopted herein by reference). In the case of an HUNOO mobile home, the mobile home construction standards that are applicable to the mobile home under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC 5401 to 5426, or standards or codes to which the mobile home was constructed if it was constructed before application of the National Manufactured Housing Construction and Safety Standards Act of 1974 shall be met prior to occupancy.

SECTION VII: CERTIFICATION AND OCCUPANCY

HUNOO may only be occupied by non-owners upon certification, as described in this Ordinance. Failing to register an HUNOO constitutes a violation of this Ordinance. Allowing occupancy by a non-owner without certification shall be deemed to be a violation of this Ordinance. Failure to allow inspections or to pay for inspections after invoicing constitutes a violation of this Ordinance.

SECTION VIII: REGULATIONS APPLICABLE TO OCCUPANTS

It shall hereafter be unlawful for any tenant of any HUNOO, regardless of the terms and conditions of any lease and rental agreement to the contrary, to engage in any unusual, abnormal, hazardous, malicious or neglectful activity within or upon the premises let which would cause the same to be uninhabitable or a general nuisance in the neighborhood within which the same is located under Michigan law.

SECTION IX: APPEAL TO THE CONSTRUCTION BOARD OF APPEALS

Any property owner or tenant aggrieved by a decision or order of the Building Official/Construction Code Enforcing Agency or his/her designee made under this Ordinance, shall have the right to appeal such action to the City Construction Board of Appeals. Such appeal shall be filed in writing at the City Hall within ten (10) days of the action being appealed. Any such appeal shall temporarily stay the effect of a notice of violation until said appeal has been determined by the Construction Board of Appeals. The Construction Board of Appeals shall have the right to affirm, reverse or modify the decision or order being appealed.

SECTION X: VIOLATIONS AND PENALTIES

Any person, firm, association, partnership, corporation or entity that violates any of the provisions or requirements of this ordinance, including but not limited to failing to register or failing to pay an inspection fee within 30 days after invoicing, shall be deemed responsible for a municipal civil infraction as defined by Michigan statute which shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
1st Offense within a three-year period*	\$ 75.00	\$500.00
2nd Offense within a three-year period*	\$150.00	\$500.00
3rd Offense within a three-year period*	\$325.00	\$500.00
4th or more Offense within a three-year period*	\$500.00	\$500.00

* Determined on the basis of the date of commission of the offense(s).

Additionally, the violator shall pay costs, which may include all expenses, direct and indirect, to which the City of Galesburg has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$10.00 be ordered. In addition, the City shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that violation of this Ordinance continues to exist shall constitute a separate violation of this Ordinance.

SECTION XI: VALIDITY

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by any Court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect.

SECTION XII: REPEAL OF CONFLICTING ORDINANCES

All ordinances or parts of ordinances in conflict herewith are hereby repealed except as otherwise provided herein. The City's Dangerous Building Ordinance and its Construction Code Enforcing Agency Ordinance are specifically retained as not in conflict with this Ordinance.

SECTION XIII: EFFECTIVE DATE

This Ordinance shall take effect 30 days after publication, after adoption.

City of Galesburg
Lisa A. McNeese, Clerk