

CITY OF ITHACA, MICHIGAN



RENTAL CERTIFICATION POLICY

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TABLE OF CONTENTS

RENTAL CERTIFICATION	
Sec. 1	Purpose..... 1
Sec. 2	Definitions..... 1
Sec. 3	Registration required..... 2
Sec. 4	Responsible local agent..... 3
Sec. 5	Period for registration of residential rental structures..... 3
Sec. 6	Registration forms and fee..... 3
Sec. 7	Registration term and renewal..... 4
Sec. 8	Transfer of ownership..... 4
Sec. 9	Certification required..... 4
Sec. 10	Inspections..... 4
Sec. 11	Annual operating fees..... 5
Sec. 12	Issuance or renewal of certification..... 6
Sec. 13	Notices and orders..... 6
Sec. 14	Inspection guidelines..... 8
Sec. 15	Harassment..... 8
Sec. 16	Appeal process..... 8
Sec. 17	Revocation of certification..... 9
Sec. 18	Penalties..... 9
Sec. 19	Vacating and securing buildings..... 10
Sec. 20	Occupancy prohibited..... 10
Sec. 21	Notice to vacate..... 10
Sec. 22	Notice to secure..... 10
Sec. 23	Posting of building unfit for human occupancy..... 10
Sec. 24	Securing by city..... 11
Sec. 25	Reliance on certification..... 11
Sec. 26	Authority of Rental Housing Inspector..... 11

CITY OF ITHACA RENTAL CERTIFICATION POLICY

Sec. 1. Purpose.

(a) The city recognizes the importance to the general health, safety and welfare of all of its citizens, including its citizens who rent residential rental structures. The city therefore also recognizes a compelling interest in establishing standards for the maintenance of sanitary and safe residential rental structures and residential rental units in the city. This policy is designed to promote the continued maintenance of quality and safe rental properties and to enhance and maintain property value of all properties and to reduce the causes of blight and other deleterious factors affecting neighborhoods.

(b) It is the city's policy that all residential rental structures must be registered with the city and a valid and current rental certification be in effect at all times a residential rental structure is being occupied by a tenant. It is also the policy of the city that rental certification only be available for those residential rental structures who meet and maintain the minimum standards set by the city.

Sec. 2. Definitions.

The following words, terms and phrases, when used in this policy, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Certification means a certificate issued by the department of rental inspection which certifies compliance with this policy and the date of such certification.

He/his. The term "he" shall be synonymous with the terms "she," "it," and "they"; and the term "his" shall be synonymous with the terms "her," "its" and "theirs."

Housing code means the most recent standards of building maintenance for residential property as found in the International Property Maintenance Code as adopted by the city council.

Inspection guidelines means those guidelines as adopted by the city council to be used by the Rental housing inspector in conducting inspections, setting forth the minimum requirements for dwellings inspected under this policy.

Lease means any written or oral agreement that sets forth conditions concerning the use and occupancy of residential rental structures or residential rental units by an entity paying rent or for whom rent is paid.

Manager means a person, partnership, firm or corporation that actively operates or manages a residential rental property for the owner.

Occupants means tenants, lessees and/or persons residing in a residential rental structure or residential rental unit.

Owner means any person, agent, firm or corporation having a legal or equitable interest in a residential rental structure or a residential rental unit.

Premises means any lot or parcel of land that includes a residential rental structure or a residential rental unit.

Rent includes let, lease, barter or any other arrangement whereby one person pays a consideration to another for the privilege of residing in a residential rental unit for any period of time.

Rental Inspector means the code enforcement officer, rental inspector or authorized representative of the city appointed by the city manager.

Residential rental structure means any building that contains one or more residential rental units.

Residential rental unit means any apartment, dwelling house or portion thereof or any condominium unit for which a person or group of persons pays rent directly or indirectly to the owner thereof for the purpose of a person to reside therein. This definition includes one- and two-family dwellings, multiple and multifamily dwellings, apartment units and flats. A residential unit or dwelling house sold on a "land contract" is considered a residential rental unit requiring registration and a rental certification unless the land contract is recorded and a copy is provided to the city as required under Section 3 (a).

Sec. 3. Registration required.

(a) *Initial registration.* The owner of any residential rental structure or residential rental unit shall register each residential rental structure and all residential rental units contained within the residential rental structure with the city and shall designate a person, as defined in section 4, as the responsible local agent who shall be legally responsible for operating the registered residential rental structure or residential rental unit and shall also be responsible for providing access to such premises for making the inspections necessary to ensure compliance with the terms of this policy and all applicable codes and ordinances adopted by the city. A certification shall not be issued unless an applicant complies with the registration sections of this policy.

1. The seller of a residential unit or dwelling house sold on a land contract, within 30 days of its execution, shall (1) record the land contract or memorandum of the land contract with the Gratiot County Register of Deeds, and (2) provide a copy of the land contract or memorandum of land contract to the city.
2. A unit or home that is occupied by an immediate family member of the owner (mother, father, son or daughter) shall not be required to register and be included in the inspection program as long as an affidavit is submitted to the city, signed by the owner and family member occupant stating that no rent is being collected and the utilities remain in the name of the owner.
3. *Tenant information.* The owner of a single-family dwelling unit may include the name of the tenant on the rental registration form. It shall be the property owner's responsibility to update the registration form as to the name of the tenant if there is a change in lease agreement or tenant status. Where a landlord has complied with this tenant information section, the city may provide blight notifications and enforce yard conditions and junk car violations against the tenant where such violations are the result of the conduct of the tenant and not the property owner. The property owner will remain responsible for any code violations pertaining to two or more multiple-unit properties. In the absence of current tenant information, legal action, municipal civil infractions or citations will be issued to the property owner. At all times, the property owner's responsibility for adherence to city codes and ordinances shall remain.

4. *Fees for new registrations.* On any previously unregistered residential rental unit, or any newly-created rental units from a previous single-family, owner-occupied dwelling, new construction, renovation or conversion of any space shall require the property owner pay a registration fee as set by the city council.

Sec. 4. Responsible local agent.

For the purposes of this policy, the responsible local agent shall be an individual person who represents the owner, a real estate holding company, corporation, partnership or other legal entity and must have a place of residence in the state within 75 miles of the city limits. The responsible local agent shall be designated by the owner as legally responsible for operating such premises in compliance with all the provisions of the city codes and ordinances. The owner may act as the responsible local agent provided he resides in the state and within 75 miles of the city limits. All official notices of the city may be issued to the responsible local agent, and any notice so issued shall be deemed to have been issued upon the owner of record.

Sec. 5. Period for registration of residential rental structures.

Residential rental structures required to be registered pursuant to this policy shall comply with the following:

- (1) All existing residential rental structures shall be registered.
- (2) All newly constructed residential rental structures shall be registered prior to the issuance of the certificate of occupancy by the city.
- (3) A residential rental structure which is sold, transferred, or conveyed shall be reregistered by the new owner within 30 days of the date of the deed, land contract, or other instrument of conveyance with both the city's Rental Certification Division and the City's Assessor's office. All documents of conveyance, including Land Contracts, shall be recorded with the Gratiot County Register of Deeds Office and a copy of the same or a Memorandum of Land Contract shall be provided to the Assessor's Office.
- (4) All existing non rental dwellings which are converted to residential rental structures shall be registered, inspected, and certified prior to the date on which the property is first occupied for rental purposes.

Sec. 6. Registration forms and fee.

(a) Applications for registration pursuant to this policy shall be made in such form and in accordance with such instructions as may be provided by the city inspection department and shall include at least the following information:

- (1) The name, address and telephone number of the applicant.
- (2) The names, addresses and telephone numbers of all owners of the residential rental structure.
- (3) The name, local address and telephone number of the responsible local agent.
- (4) The number of residential rental structures at each site, the address of and number of residential rental units in each residential rental structure, and the number of occupants in

each residential rental unit. If the property is a single-family dwelling, the owner must also provide the legal name and contact information of the tenant as shown on the lease.

- (4) An authorization appointing a responsible local agent signed by both the owner and the responsible local agent.

(b) A registration fee for each site where residential rental structures are located shall be paid at the time of registration. No post office box will be accepted as a legal address. A post office box, however, may be accepted as a mailing address for legal correspondence upon written request of the property owner and maintaining the legal street address on file with the city's rental department. Upon registration, the rental housing inspector or authorized representative shall inform the applicant of certification requirements. The fee for each registration shall be as set by resolution of the city council from time to time. The owner shall be responsible for notifying the city of any change of address of either the owner or the responsible local agent.

(c) Registration is not required if any of the following conditions exist:

- (1) The rental unit is vacant (the fee and inspection will be required prior to the unit becoming occupied).
- (2) The unit is occupied by an immediate family member (mother, father, son or daughter) AND a city authorized affidavit is on file with the City.

Sec. 7. Registration term and renewal.

Registration pursuant to this policy shall be made prior to the use or occupancy of any residential rental structure or residential rental unit except as otherwise provided by this policy. The term of the registration shall be valid as long as ownership remains unchanged.

Sec. 8. Transfer of ownership.

(a) It shall be unlawful for the owner of any residential rental structure or residential rental unit who has received a notice of violation of any code or ordinance of the city, to transfer, convey, lease or sell, including by land contract, his ownership and/or interest in any way to another, unless such owner shall have first furnished to the grantee, lessee, vendee, or transferee a true copy of any notice of violation and shall have furnished to the rental housing inspector a signed and notarized statement from the grantee, vendee, lessee, or transferee acknowledging the receipt of such notice of violation and acknowledging legal responsibility for correction of the violation.

(b) The new owner, upon acknowledging and accepting property with outstanding code violations must either correct code violations within 30 days of the transfer or due to the extensive nature of the violations, may enter into a work agreement with the city within 10 days of the transfer in order to ensure repairs and renovations are made in accordance with all codes, ordinances and renovations standards established. Failure to do so may result in a municipal civil infraction, declaration of the building as a public nuisance, dangerous structure or blight.

Sec. 9. Certification required.

(a) No person shall lease, rent or cause to be occupied a residential rental structure or residential rental unit unless there is a valid certification issued by the city inspection department in the name of the owner and issued for the specific residential rental structure and each residential rental unit. The certificate shall be produced upon request. Except to the extent restricted in section 8, the certificate shall be issued after an inspection by the rental inspection department to determine that each rental

dwelling and rental unit complies with the provisions of the codes and ordinances of the city. Such inspections shall commence after the effective date of the ordinance from which this policy is derived and shall continue until all rental dwellings and all rental units in the city have been inspected and continue, thereafter, as required for renewals.

Sec. 10. Inspections.

- (a) The enforcing officer for the city inspection department shall inspect the interior and exterior of residential rental units for the purpose of conducting an initial inspection in the case of new rental certification, or on a periodic basis pursuant to this policy for the purpose of a renewal. In such case, the inspection fee shall be set by resolution of council, subject to the restrictions of Sec. 10-162. The city inspection department may also conduct an inspection under any of the following circumstances:
 - (1) Upon receipt of a complaint from an owner or occupant that the premises are in violation of this policy.
 - (2) Upon receipt of a report or a referral from the police department, other public agencies or departments, or any individual indicating that the premises are in violation of this policy and which is based on the personal knowledge of the person making the report.
 - (3) If an exterior survey of the premises gives the enforcing officer probable cause to believe that the premises are in violation of this policy.
 - (4) Upon receipt of information by the enforcing officer that a rental unit is not registered with the city or certified by the city as required by this policy.

- (b) The owner or local agent shall be sent a reminder notice regarding the need to schedule an inspection for the renewal of certification. Owners of newly registered units must call to schedule their own inspections. If the owner, or agent or tenant does not respond to the reminder notice, the following will take place:
 - (1) The inspector shall notify the owner of a residential rental structure of the date and time such structure is to be inspected. Such notice may be personally delivered or may be sent by first class mail.
 - (2) Upon receipt of the notice, the owner must either:
 - a. Appear at the date and time scheduled for the inspection or have a representative or the tenant at the site to allow complete access; or
 - b. Object within ten days of the mailing or delivery of the notice, and:
 - 1. Schedule an alternative date for the appointment within 30 days from the date identified in the initial notice; or
 - 2. Direct the inspector to contact the occupant of the rental unit directly to schedule the inspection and provide the occupant's name and address.
 - (3) If an owner or occupant subsequently learns he will not be present for a scheduled appointment, the individual must provide the inspector with at least 24 hours' advance notice and must schedule a second inspection date within 30 days from the scheduled appointment. Failure to appear for a scheduled appointment without providing the notice

shall require that a re-inspection fee be paid for any rescheduled date, and may result in the rental unit's certification to expire.

- (d) During the inspection, the enforcing officer shall note any violations of this policy or other sections of this Code and give notice of the violations to the responsible local agent in accordance with section 4. The enforcing officer shall direct the responsible local agent and owner to correct violations within the time set forth in the notice. A reasonable time for correcting violations shall be determined by the enforcing officer in light of the nature of the violations and all relevant circumstances, but shall not exceed 60 days. Upon request of the person responsible for correcting violations, the enforcing officer may extend the time for correcting violations if the enforcing officer deems such action appropriate under all relevant circumstances, but not to exceed an additional 60 days.

Sec. 11. Annual operating fees.

(a) The annual operating fees for periodic inspection of each residential rental unit and any other fees provided by this policy shall be as adopted by resolution by the city council and amended, as necessary, by resolution of the city council. The annual operating fee shall cover the periodic inspection for the issuance or renewal of a certification, except that such fee shall not cover an inspection made pursuant to a final notice of violation issued under section 23(b).

(b) If the enforcing officer determines that a complaint was filed without a factual basis and such inspection is made on a complaint basis, or, if the enforcing officer believes the complaint was maliciously filed, he may seek a warrant under section 10-166.

(c) An administrative late fee of the unpaid balance shall be paid to the city by the person obligated to pay an annual operating fee under subsection (a) of this section if such fee is not paid within 60 days from the billing date, as adopted by resolution of the city council. After 90 days from the date of billing, those fees shall become a lien on the property as a single lot special assessment pursuant to section IX. J. of the Ithaca City Charter and shall be collected as a special assessment.

(d) The rental inspection program as provided for in this policy shall be operated by the city on a break-even basis. This means the annual operating fees charged shall be set at a rate to produce sufficient revenue to cover the actual, direct cost of administering the program. If the fees as set forth in this policy or as amended exceed the actual, direct cost of administering the program, the city council, by resolution, shall reduce the fees to an amount which shall produce sufficient revenue to cover the actual, direct cost of administering the program. If at any time the fees being collected are insufficient to cover the cost of the program, the city council, by resolution, shall increase the fees to an amount which shall produce sufficient revenue to cover the actual, direct cost of administering the program. Fines and fees due to legal action, enforcement proceedings, civil infractions or citations as a result of non-compliance with this ordinance are exempt and will not be included in this calculation.

Sec. 12. Issuance or renewal of certification.

(a) Between 60 and 30 days before the expiration date on the certification issued for a rental property, every owner shall apply to the city inspection department for the scheduling of an inspection for the issuance of a new certification for that residential rental structure.

(b) Upon receipt of a timely request for an inspection for the purpose of the issuance or renewal of a certification, the city shall inspect the premises before the certification expires or is initially issued. Upon failure of the city to conduct an inspection prior to occupancy or expiration of the certification, the owner may rent the property until the city has conducted an inspection, and the owner will not be deemed in violation of section 9 during that time. If, however, the city's failure to inspect is due to the owner's, agent's or tenant's action, failure to act, or refusal to permit an inspection after reasonable notice of the intent to inspect, the owner shall not rent the property without a current certification as required by section 9.

Sec. 13. Notices and orders.

(a) Notice of violation. Whenever the rental housing inspector or enforcing officer determines that there has been a violation of any section of this policy, he shall give notice of such alleged violation and orders for correction of the violation as provided in this section, except this section shall not apply in any way to the prosecution of violations of section 20 or 25 or violations of the registration requirements set forth in this policy as such may be prosecuted without notice. Such notice shall:

- (1) Be in writing.
- (2) Include a statement of the conditions that constitute violations of this policy.
- (3) State the date of the inspection, the name of the inspector, the address of the dwelling, and the date set for reinspection.
- (4) Specify a time limit for the performance of any act it requires.
- (5) Notify the responsible local agent or the occupant, as the case may require, of his right to appeal from the notice or order to the rental housing board of appeals.
- (6) Be served upon the owner or the occupant, as the case may require, and on the responsible local agent and that such notice shall be deemed to be properly served if a copy thereof is (i) served personally, or (ii) sent by first class mail to the last known address. Notice given to the responsible local agent is deemed as notice given to the owner.

(b) Final notice of violation. Upon observing the continued existence of a violation of this policy or applicable code as stated in the notice of violation, the rental housing inspector shall send a final notice of violation and may issue an order to vacate to the responsible local agent. Such notice shall be sent by regular, first-class mail to the last known address of the owner or responsible local agent and shall:

- (1) Specify the date of the inspection.
- (2) Specify the address where the violation was found.
- (3) Include the name, telephone number and signature of the inspector.
- (4) Include a description of each violation observed by the inspector.
- (5) State that each violation is a separate punishable offense.
- (6) Order the premises to be vacated within a time to be set by the inspector, the length of which shall be determined by the extent of the danger to the occupants, but in no case shall it exceed 30 days, or alternatively:
 - a. Order correction of all violations within a time period not to exceed 30 days;
 - b. State that a re-inspection will be made to determine whether all violations have been corrected by the specified date. A re-inspection fee as adopted by resolution by the city council and amended, as necessary, by resolution of the city council will be required to be paid prior to a re-inspection, and the owner or local agent shall be responsible for contacting the rental inspection department for scheduling the re-inspection within ten days of the date on the notice;

c. State that failure to comply with the notice will result in a fine for failure to correct the final notice of violation, or prosecution. The fine for failure to correct a final notice of violation shall be established by a resolution of the city council.

d. Employ any other additional or optional corrective or enforcement measure as provided for under this Code or by law.

e. Each re-inspection, as needed, will require an additional re-inspection fee to be paid prior to a re-inspection.

(c) Posting final notice of violation. Upon issuing a final notice of violation for a residential rental structure or residential rental unit or its accessory building, the city may affix a copy of the notice on the residential rental structure or unit and deliver a copy of the notice to the occupants, if any.

(d) Nuisance per se. Notwithstanding any section in this policy to the contrary, any residential rental structure or unit that is found to be in such condition as to preclude habitation or threaten the health, safety or welfare of the occupants or community shall be considered a nuisance per se and, as such, subject to abatement in a manner prescribed by the Charter, state statute and/or law.

Sec. 14. Inspection guidelines.

The city inspection department shall follow the provisions of the currently adopted International Property Maintenance Code, published by the International Code Council for inspections relating to the enforcement of this policy. The inspection guidelines shall not be construed to relieve the owner from compliance with any other requirements of codes adopted by the city, including but not limited to housing, electrical, building, plumbing, mechanical, blight, property maintenance, fire codes and zoning requirements as necessary due to renovations requiring permits.

Sec. 15. Harassment.

City inspectors are duly authorized to inspect properties in conjunction with this policy. Inspectors shall not be harassed, stalked, threatened, hindered, assaulted or otherwise interfered with in the performance of their duties. Notwithstanding any other section in this policy, a violation of this subsection shall be a municipal civil infraction and shall subject the violator to the penalty provisions indicated in section 28.

Sec. 16. Appeal process.

(a) If the owner disagrees with the opinion of the rental housing inspector as to either the existence of an alleged violation or the period of time that will be reasonably required for the owner to correct the alleged violations as set forth in the notice of violation and order to repair given pursuant to this policy, or a finding of a public nuisance under Sec. 17(b), the owner may appeal to the Ithaca Planning Commission, which is hereby designated to hear such appeals. An occupant of a dwelling shall have standing to appeal any notice or order to vacate the dwelling.

(b) Any owner or occupant requesting such appeal shall file a written request therefor to the rental housing inspector within ten days after the date of receipt of the notice of violation or within the time for taking any action indicated on a notice or order, whichever time is shorter, and on a form designated by the city, and paying a non-refundable application fee as set by resolution of the city council.

(d) The Planning Commission, at their next meeting, shall hear testimony and argument from the owner and the rental housing inspector or enforcing officer and shall by a majority vote determine the

question at hand. The decision of the rental housing board of appeals shall be binding upon the owner and the city.

Sec. 17. Revocation of certification.

(a) If the owner does not correct a violation of any section of this policy, the rental housing inspector shall revoke any existing certification and may bring an action to seek the enforcement of this policy by abatement, mandatory injunction to cause correction of a violation, enjoinder of the violation to prevent an act or violation, the vacation of the premises by all occupants and its discontinuance as a residential rental structure, or such other action as provided for under this policy. Any structure not in compliance with this policy is deemed a nuisance per se. If a residential unit is vacant and not certified, or the certification has expired, or an inspection to certify has not been completed, then the unit may be yellow-tagged to signify that it may not be occupied until a rental inspection has been completed and/or a certificate has been renewed or issued.

(b) A rental certificate may be revoked if the property is declared a “public nuisance” by the City Manager, the rental housing inspector or their designee, under this subparagraph based upon the conduct and activities within a rented property. Evidence of repeated code violations, including blight, or multiple valid police calls or incidences, illegal activity or other activity that threatens the health, welfare or safety of the surrounding residents, whether the result of the activities of the owner, the agent, the tenants, or their guests, may constitute a public nuisance under this subparagraph. A rental certificate revoked under this subparagraph shall be revoked for a minimum period of at least twelve months. Any property owner who wishes to challenge a finding of a public nuisance under this subparagraph, may utilize the procedure set forth in Sec. 16 to appeal said finding.

Sec. 18. Penalties.

- (a) Any owner of a residential rental structure or unit who shall fail to register a residential rental structure as required by this Policy or obtain a certification for each residential rental structure or unit prior to occupancy of a residential rental structure or unit, or any owner or occupant who violates any other requirement of this policy, shall be responsible for commission of a misdemeanor offense as provide for in Section 1-7 of the Ithaca Code of Ordinances.
- (b) An owner or occupant may be charged with more than one violation of this policy in a single complaint or appearance ticket, provided that each violation so charged relates to the same property.
- (c) Any owner who has not paid in full any outstanding municipal civil infraction or related fee for a period of more than ninety (90) days after either the date of issuance, or the end of any appeal period if an appeal is filed, whichever is later, shall have all of their rental certifications on all other units and properties automatically revoked.
- (d) (d) Any owner who rents a residential rental structure for more than sixty (60) days after notice of an order to vacate, shall be responsible for commission of a misdemeanor offense as provide for in Section 1-7 of the Ithaca Code of Ordinances.

- (e) Any owner who fails to comply with the requirements of Sec. 21 or the notice provided under Sec. 22 or Sec. 23, shall be responsible for commission of a misdemeanor offense as provide for in Section 1-7 of the Ithaca Code of Ordinances.
- (f) In addition to fines, imprisonment or corrective action to abate or enjoin the violation, the city's attorney may seek to recover the costs of prosecution or other civil action in either district or circuit court.

Sec. 19. Vacating and securing buildings.

The rental housing inspector may declare a residential rental structure or residential rental unit to be unfit for human occupancy or entry (i.e., red-tagged):

- (1) When a condition exists that constitutes an immediate threat to life or an immediate threat of serious injury to the person or any occupant.
- (2) When an emergency or hazardous condition has not been corrected as ordered.
- (3) When a vacant dwelling or vacant unit has not been secured as ordered in a notice of violation.
- (4) As otherwise provided for in this policy.
- (5) When any other hazardous or dangerous or unsanitary condition exists as defined in any other code or ordinance adopted by the city, including a requirement for proper installation and operation of utility services and access to water, electricity and heat.

Sec. 20. Occupancy prohibited.

No person shall occupy or permit or allow another person to occupy any residential rental structure which has been declared to be unfit for human occupancy or entry.

Sec. 21. Notice to vacate.

Upon declaring a residential rental structure to be unfit for human occupancy and entry, the city shall issue a notice to vacate to the occupants by certified mail and by posting the notice to vacate at an entry of each dwelling unit. The notice shall order the occupants to vacate the affected residential rental structure no later than 72 hours after such notice.

Sec. 22. Notice to secure.

Upon declaring a residential rental structure as unfit for human occupancy and entry, the city shall issue a notice to secure to the owner. The notice to secure shall order the owner to secure the residential rental structure. The notice shall order the securing of a vacant building or unit within 48 hours and the securing of an occupied dwelling or unit within 48 hours of becoming vacant.

Sec. 23. Posting of building unfit for human occupancy.

Upon issuing a notice to vacate or a notice to secure pursuant to this policy, the city shall place signs upon or near the entryways to any dwelling or unit cited in the notice. The sign shall state the address or unit number of the structure or unit and the name of the owner. It shall inform the public that it is a violation of this Code to enter the building or unit unless authorized in writing by the city.

Sec. 24. Securing by city.

If the owner has failed to comply with a notice to secure given pursuant to this policy, the city may secure the structure or unit. The cost of such action shall be a personal debt of the owner to the city and may be assessed as a lien against the property as in a single lot special assessment pursuant to section IX. J. Of the Ithaca City Charter and may be collected as in a special assessment.

Sec. 25. Reliance on certification.

(a) Issuance of a certification pursuant to this policy shall not constitute a guarantee or warranty of the habitability or complete compliance of the building or structure to code requirements, and the occupant of any residential rental structure or residential rental unit shall not rely on any certificate as such a guaranty or warranty. The certification shall contain a notice to this effect.

(b) The city shall not assume any liability to any person by reason of the inspections required by this policy or issuance of a certification.

Sec. 26. Authority of the rental housing inspector.

(a) This policy shall not impair or diminish the authority of the rental housing inspector or duly authorized representative to employ any alternative action or corrective measure provided for under any housing or building codes as adopted or recognized by the city, where applicable.

(b) This policy shall not be construed so as to limit the application and enforcement of the city zoning ordinance, the blight ordinance, or housing and building codes adopted or recognized by the city which touch upon the maintenance of residential dwellings or the health, safety, and welfare of occupants residing in residential dwellings, where applicable.