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## Memorandum

DATE: November 9, 2006  
TO: Mayor and Council  
CC: Bruce Walden and Libby Tyler  
FROM: Jim Gitz  
RE: Rental Registration and Inspection Ordinance

Attached is the current version of the Rental Registration and Inspection Ordinance. There are several points that I would like to share.

First, Barry Weiner has raised several points about occupancy provisions. He claims that the Ordinance makes owners liable for tenant generated over occupancy and lacks due process. I discussed this issue with him. Section 5f requires a statement relating “knowing violation” of such codes. If the tenants do not adhere to the owner’s restrictions, I believe there are sufficient provisions to protect against liability. Second, Section 18 allows for administrative appeals. I believe we have adequate due process to protect against “arbitrary and capricious” decisions.

Second, the Mayor wanted more direct ties between the Rental Registration and Inspection Ordinance, and the Property Maintenance Code. I have attempted to accomplish this objective in two ways. First, the Property Maintenance Code is referenced the Purpose, Section 1. Second, Section 10, Class F, reincorporates many of the old provisions of old Section 15. Accordingly, you cannot occupy a building for rental for major code violations in willful conduct.

Third, there is a violation section (Section 15) which provides for monetary penalties and enforcement. This section also provides for denial of registration and revocation in certain circumstances. This is designed to give you more tools, than just going to court and fining a violator. This is a departure from any other Rental Registration Ordinances which seem to focus on fines and rarely on registration, two examples being Bloomington and Peoria. I have also added an affirmative defense section. It has two parts: what can be an affirmative defense; what cannot be used as an affirmative defense.

For the lay person who wonders what this is about, an affirmative defense is simply a factual assertion, which if true, would not result in liability. We are bound to encounter situations where an owner asserts, "I didn't get the notice". Where notice is sent out, there is no reason for an owner or agent to be able to argue they didn't receive notice if we relied on their address and adhered to the notice provisions. The other affirmative defenses and provisions follow a similar train of thought.

I am attending the National Brownfield Conference next week as an invitational guest of USEPA. Therefore I will not be at the Monday night Committee meeting. However, if you have any questions and would like to contact me prior to the meeting, please feel free to call me on my personal cell phone: 815.821.4487. Alternatively, please e-mail me or write out your questions so that I may respond ASAP when I return.

**City of Urbana**  
**Proposed Rental Registration Program**  
**Draft Ordinance**  
**November 9, 2006**

ORDINANCE NO. 2006-08-109

AN ORDINANCE ADOPTING A REGISTRATION AND INSPECTION PROGRAM  
FOR RESIDENTIAL PROPERTIES BEING RENTED WITHIN THE CITY OF  
URBANA, ILLINOIS

WHEREAS, the City Council finds that there is a growing number of residential rental properties within the City, and that many of these properties are in a declining state of maintenance, and;

WHEREAS, inadequate maintenance directly affects the health, life, safety and welfare of the citizens of Urbana and impacts the health and vitality of the surrounding neighborhood and the City as a whole, and;

WHEREAS, the City of Urbana promotes the use of community policing efforts and cooperation with property owners and residents to help ensure the safety of the entire community, including residential rental properties, and;

WHEREAS, the regular collection and maintenance of accurate, up-to-date information about residential rental properties and the identification of responsible persons for the property who are easily accessible will assist the City in the systematic inspections of these properties to ensure their safety and compliance with relevant property maintenance codes, and:

WHEREAS, the City Council, after several public hearings and extensive deliberation, concludes that a rental registration program which includes regular inspections of rental properties, is the most reasonable method of insuring suitable housing, safe and viable neighborhoods and a healthy City,

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. Purpose. It is the purpose of the City of Urbana Rental Registration and Inspection Program adopted herein to assure that rental housing in the City is maintained in a good, safe, and sanitary condition and does not create a nuisance or blighted conditions to its surroundings. To ensure these conditions and to aid in the enforcement of the Property Maintenance Code, Building Safety Code, Zoning Ordinance, and other relevant provisions of Urbana Code of Ordinances, the City Council hereby establishes this Rental Registration and Inspection Program for all applicable residential rental units within the City.

Section 2. Scope. This Ordinance applies to any dwelling unit and their accessory units that are leased as rental units located within the City of Urbana, with the following exceptions:

- (1) nursing homes, as defined in the Urbana Zoning Ordinance;
- (2) hotels and motels, as defined in the Urbana Zoning Ordinance;
- (3) public housing, owned by a governmental agency;
- (4) University Certified housing.

Section 3. Definitions. The following words and phrases, when used in this Ordinance, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires.

Building Official means the Director of the Community Development Services Department, or his/her authorized designee.

Property Maintenance Code means Article IX of Chapter 5 of the City of Urbana Code of Ordinances, as amended.

Duplex means a building with two (2) Rental Units.

Local Agent means one or more persons who has charge, care, or control of a building in, or part thereof, in which rental units are maintained.

Multi-Family Building means a structure that contains three (3) or more Rental Units.

Owner means one (1) or more persons, jointly, severally or in common, or any corporation or organization, in whom is vested all or part of the legal title to property, or all or part of the beneficial ownership of a property held in trust. It shall also include a mortgagee in possession.

Rental Property means a structure with one or more residential units which are leased to individuals or families for occupancy. However, it does not include property excluded in Section 2.

Rental Agreement means all agreements and valid rules and regulations embodying the terms and conditions concerning the use and occupancy of a rental unit and premises.

Rental Unit means one (1) or more rooms in a structure arranged, designed and used as a residence or living quarters by one (1) or more persons who are not its owner(s), and contained within a rental property as defined herein.

Single Family Dwelling means a structure with one (1) rental unit

Section 4. Registration Required.

a) After the effective date of this Ordinance, it shall be unlawful for any owner, as defined herein, to lease or operate a rental property without registering it with the City of Urbana Building Official and complying with the provisions of this Ordinance, together with other applicable codes and ordinances of the City of Urbana. The registration of rental properties required herein is valid for one year and shall expire on the 14th day of October of each year.

b) No owner shall be allowed to register any property if the owner has outstanding fees or fines due and owing to the City.

c) Registration may be denied or revoked by the Building Official as provided in this Ordinance. If registration is denied or revoked, the Building Official shall notify the Owner or Owner's Agent, in writing, of the denial and the reasons therefore, pursuant to Section 17 of this Ordinance and provide an opportunity to appeal the decision pursuant to Section 18 of this Ordinance.

Section 5. Application. Applications for registration shall be filed with the Community Development Department and accompanied by a registration fee as established by the Urbana City Council. Such application shall be made at least thirty (30) days prior to the expiration of the registration, and shall include the following information:

- a) Name, address and telephone number of the owner of the rental unit.
- b) Name, address, and telephone number of the owner's agent responsible for the management of the premises of the rental unit.
- c) Legal address of the premises.
- d) Number of units in each building within the rental property.
- e) Occupancy as permitted under the Zoning Ordinance, or as specified in the Certificate of Occupancy.
- f) Signed statement of owner and owner's agent indicating that he/she is aware of the City's Building Safety codes and Zoning (occupancy) codes and the legal ramifications for *knowingly* violating said codes.
- g) The name and address of the registered agent, if the Owner is a corporation.
- h) The name and address of the mortgage holder, if there is a mortgage on the Rental Property.
- i) The name and address of any buyer on a Contract for Deed.

Section 6. Registration Renewal. If there are no changes in ownership or agent representation, renewals of the registration may be made by filling out the Registration Renewal form furnished by the City and paying the required fee.

Section 7. Changes in Ownership. Any changes occurring in the ownership of a rental unit shall require the new owner to apply for registration within thirty (30) days of taking ownership. A Contract for Deed sale shall be treated as a change of ownership if the

contract is filed with the County Clerk and Recorder's Office. There shall be no charge for registering new owner information during the registration period.

Section 8. Fees. It being the goal of the City that the Rental Registration and Inspection Program be self-supporting, the Council shall establish a two-tiered schedule of registration fees: 1) for Single-Family Rentals and Duplex Rentals, which shall be applied on a per property basis; and 2) for Multi-Family Rentals, which shall be applied on a per property and per unit basis. The Building Official shall review income from fees and expenses of this program, and make recommendations to the Council on any appropriate adjustments in the fee schedule. Fees shall also be set for failure to register, incomplete registration information, failure to register by the due date, and re-inspections of Rental Properties.

Section 9. Inspections. Both the interior and exterior of properties registered under the Rental Registration and Inspection Program shall be periodically inspected by the City as set forth herein.

a) The Building Official shall establish a schedule of periodic inspections of Multi-Family, Single Family, and Duplex Rental Units to ensure compliance with this ordinance as well as the property maintenance and building codes contained within Chapter 5 of the City Code and the permitted use and residential occupancy provisions contained within Article 5 of the Urbana Zoning Ordinance.

b) The inspection schedule for Multi-Family, Single Family, and Duplex Rental Units shall be determined by the following factors:

- (1) By systematic zones throughout the City, as previously established by Administrative Order (see separate published map of Systematic Inspection Zones).
- (2) By tenant or neighbor complaints about a particular structure or area of rental properties, and/or as indicated by Fire and Police calls or exterior nuisance complaints about a structure or area.
- (3) By the inspection effort proportionate to the amount of the housing stock in each rental housing type: multi-family, single-family, and duplex.
- (4) The inspection class assigned to a particular building, pursuant to Section 10 of this Ordinance.
- (5) The overall condition of the neighborhood in which the property is located.
- (6) The frequency of prior inspections and date of most recent inspection of the property.

c) Notice of Inspection and Right to Refuse.

- (1) Notice of periodic inspections of rental units, pursuant to this Section, shall be given in writing to each owner and each tenant of such rental unit, a minimum of seven (7) days prior to the inspection. Such notice shall be

presumed to have been received as of the time it was served personally on such person, or if mailed by first class U.S. Mail ten (10) days prior to the inspection, it will be presumed to have been received at least seven (7) days prior to the inspection. In such notice, the tenants may be addressed as “occupants” and one such notice mailed to the address of the rental units, shall be regarded as notice to all tenants. Notice to the owner, if mailed, shall be addressed to such owner at the address provided for such Owner in the application to register the Rental Property..

- (2) The notice shall advise that objections to such inspection may be lodged by telephone, fax, or e-mail or in person at the City’s Community Development Department.
- (3) If any owner or any occupant objects to a periodic inspection, no inspection of the rental unit shall be undertaken without an administrative search warrant issued by a Court of competent jurisdiction, setting forth the general scope of the inspection.
- (4) Failure to reschedule an inspection or respond to a notice of inspection shall be treated as agreement to the date and time of the proposed inspection. The Owner shall be liable for the cost of re-inspection if the Owner or his/her Agent fails to provide access to the Rental Property as scheduled. Failure to provide access as scheduled or rescheduled, shall also constitute a violation of this Ordinance.
- (5) The notice and warrant requirements of this sub-section do not apply to inspections conducted pursuant to other parts of the City Code.

Section 10. Assignment of Classifications. Upon completion of a Rental Property’s inspection, the property shall be classified by the Building Official according to the classification system set forth herein. Property will be considered for reclassification at each subsequent inspection. However, an inspection shall not be deemed necessary for designation as Class F in sub-section e).

a) CLASS A - Building has no violations of applicable City Codes. Building inspected as lower priority on regular cycle thereafter.

b) CLASS B - Building has violations of applicable City Codes and the violations do not pose an immediate threat of danger to the life, health and safety of the occupants of the building. Building inspected on regular cycle thereafter.

c) CLASS C - Building has violations of applicable City Codes that are in excess of ten in number and/or that affect the overall livability of the building, but do not pose a threat of danger to the life, health or safety of the occupants of the building. Building may be inspected as frequently as every year thereafter.

d) CLASS D - Building has violations and is either unsafe, contains unsafe equipment, is unfit for human occupancy or is unlawful. Pursuant to the Property Maintenance Code, the Building Official may disallow occupancy of all or a portion of the building until Code violations are corrected. The Building Official may inspect the property on a regular basis to verify that it remains in compliance with City Codes.

e) CLASS F- Building is not in compliance with the Rental Registration Program and may not be occupied for rental. Violations leading to a Class F designation shall include: (1) failure to register after three (3) attempts at notification of such requirements by the City; (2) false information on the application which affects the health, life and safety of the residents; (3) failure to renew registration after three (3) notifications have been issued by the City of such requirements; (4) failure to comply with the City's building codes, health, life, safety codes, or Property Maintenance Code after notification and an opportunity to remedy violations; (5) willful failure to abide by occupancy limits as set forth in the City's zoning ordinance; (6) repeated failure to abide by provisions of the Urbana City Code which directly affect the quality of life of the neighborhood, including but not limited to, noise ordinances, nuisance provisions, animal control ordinances, drug violations, and violations of the Illinois Criminal Code which affect the safety and quality of life of the surrounding neighborhood.

f) CLASS N – New construction within past twenty-four (24) months. First inspection will occur on the next inspection cycle as lowest priority.

Section 11. Publication of Class Listings and Violations. As a public education service and incentive for improved compliance, the City of Urbana shall periodically publish a list of properties receiving a “Class D” or “Class F” pursuant to Section 10 of this Ordinance. Such listings shall be considered to be information available to the public upon request. Listings of pertinent violations for the “Class D” or “Class F” properties shall similarly be provided to the public upon request.

Section 12. Local Agent Required. If the owner of any rental unit covered under this ordinance does not reside within sixty (60) miles of the rental unit, and is not able to be contacted, or is not able to be contacted on a 24-hour basis, the owner shall provide the City with the name, address, and phone number of his/her local agent who resides within Champaign County or an adjoining County and is available to respond reasonably in the event of an emergency on a 24-hour basis.

Section 13. Safety and Security. To ensure the safety of all residents of rental properties, every Owner shall:

a) Establish a building and unit security plan, including a key tracking system.

b) Restrict regular access to building and unit keys to occupied Rental Units to the Owner or the Owner's Agent. Keys may be issued to vendors and contractors for the purpose of maintenance and repair, but in such cases the



Owner or Owner's Agent shall take responsibility for the tracking and prompt return of such keys in order to protect the safety and security of tenants. If keys are lost in the course of maintenance and repair activities, the Owner shall promptly change locks at his/her own expense.

c) Cooperate with the City and its Police Department to address continuing safety issues and crime problems at any rental property. This cooperation shall take the form of at least one meeting with City officials and, if necessary, an inspection of the property to review security and crime issues for formulation of remedies. The resulting security plan may include, but is not limited to, a review of access and security issues, lighting, access to common areas, crime prevention through environmental design (CPTED), neighborhood watch programs, graffiti removal, No Trespass Notices, lease clauses, and such other measures which are appropriate to the individual property and the type of problems at issue. If an owner refuses to cooperate with the City and take reasonable steps to remedy identified problems, the City may revoke the Owner's registration of the Rental Property.

d) Every Owner or Local Agent of a Multi-Family Building containing twenty (20) or more units shall attend a city-sponsored training about crime prevention at rental properties. Said training shall be conducted on an as-needed basis by the Urbana Police Department and other relevant City staff.

e) The Urbana Police Department and Community Development Services Department shall compile and provide educational materials to assist Owners and tenants with safety and security concerns. Such materials may include assistance with developing security plans, model leases, crime prevention information, emergency contact information, etc.

Section 14. Occupancy of Rental Units. Occupancy of residential rental properties shall be restricted and monitored as follows:

a) Every Owner of a Rental Unit subject to this Ordinance, shall inform the tenants, before entering into a Rental Agreement, that no more than one (1) household (as defined in Section II-3 of the Urbana Zoning Ordinance) and three (3) additional unrelated persons (as set forth in Section V-11 of the Urbana Zoning Ordinance) may legally occupy the Rental Unit and shall:

(1) Execute a Rental Agreement Addendum, consistent with the form and content to be provided by the City, clearly stating the legal occupancy limit for the Rental Unit, the Owner's agreement that the Rental Unit has not been offered to be occupied by more than the legal occupancy limit, and the tenants' agreement to allow no more than the occupancy limit to occupy the Rental Unit. The Addendum shall be signed by the Owner or Owner's Agent and all tenants who will occupy the Rental Unit.

(2) Include as part of the Rental Agreement addendum the relationships of any tenants to each other, excluding children if the number of tenants excluding children exceeds four (4).

(3) Provide a copy of the Rental Agreement Addendum to the Building Official, upon request.

b) Rental Units consisting of the following dwelling unit types: single family extended group occupancy, duplex extended group occupancy, community living facility, dormitory, hotel or motel, nursing home and bed and breakfast (as defined in Section II-3 of the Urbana Zoning Ordinance), shall be occupied by no more than the maximum occupancy limit specified on the Certificate of Occupancy, as determined by the Building Official.

c) Rental Units consisting of a boarding house or rooming house, as defined in Section II-3 of the Urbana Zoning Ordinance, shall be occupied at any given time by no more than fifteen (15) persons, related or unrelated, or fewer as specified in the Certificate of Occupancy, as determined by the Building Official. Properties so designated shall be leased on a per person basis.

d) The above requirements shall not limit the Owner from restricting occupancy to a lesser level than that defined above.

#### Section 15. Violations.

(a) Violations of this Ordinance shall be punishable by fine of not less than One Hundred (\$100) dollars nor more than Seven Hundred Fifty (\$750) dollars for each violation. Each day may constitute a separate and continuing violation. The City may seek remedies which include corrective action or prohibitions as a part of its relief. In the event of conviction on three (3) or more offenses, the City shall also be entitled to recover its costs and reasonable attorney's fees in addition to fines imposed by the Court.

(b) The Building Official may refuse to register or revoke the existing registration of any Rental Property which violates the provisions of Section 5, fails to report changes of ownership as required in Section 7 or failure to cooperate with the Urbana Police Department pursuant to Section 13 of this Ordinance.

#### Section 16. Affirmative Defenses.

(a) The following shall not be affirmative defenses to a violation of this Ordinance:

(1) The Owner and/or Owner's Agent did not receive notice, provided that the City issued notice according to the provisions of this Ordinance.

(2) The Property was inspected and issued a classification pursuant to Section 10 which indicated the City's satisfaction with the state of the property at the time of inspection.

(b) The following are affirmative defenses to a violation of this Ordinance:

(1) Full correction of each and every violation charged against the defendant.

(2) The violation charge has been caused by the current occupant or occupants, and the owner and/or owner's agent has persuasive evidence in support of the defense.

(3) The current occupant(s) has refused entry to the owner or his or her agents to that part of the dwelling or dwelling unit requiring correction, for the purpose of correcting the violation charge.

Section 17. Notices. Any written notice required to be given to the Owner of a Rental Property under this Ordinance shall be addressed to such Owner at the address provided for such Owner in the application for registration.

Section 18. Administrative Appeals. An Owner, or Agent of the Owner, may appeal a registration denial or revocation to the Chief Administrative Officer within ten (10) days of the date of written notice to such Owner, or Agent, of the denial or revocation of registration. The Appeal must be in writing and state the reasons the Owner or Agent disagrees with the determination to deny registration or the reasons for the revocation. The Chief Administrative Officer shall appoint a Hearing Officer to conduct a hearing and make a determination of whether the denial or revocation should be upheld. The Hearing Officer shall promptly schedule a hearing at a time and date no later than fourteen (14) days from the date of receipt of the appeal by the Chief Administrative Officer, or at a later date at the request of the Owner/Agent. The Hearing Officer shall have the power to administer oaths and require the attendance of any City employees. The hearing shall be recorded. The Hearing Officer shall make written findings of fact and issue a written decision which shall be promptly mailed to the Owner and Agent, if any.

Section 19. Severability. If any section, provision, or part of this Ordinance is held invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall remain in full force and effect and the application thereof to other persons, entities, or circumstances shall not be affected thereby.

Section 20. Effective Date. This Ordinance shall become effective thirty (30) days after it is passed by the City Council and signed into law.

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

AYES:

NAYS:

ABSTAINS:

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Laurel Lunt Prussing, Mayor

**CERTIFICATE OF PUBLICATION IN PAMPHLET FORM**

I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois.

I certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2006, the corporate authorities of the City of Urbana passed and approved Ordinance No. \_\_\_\_\_, entitled: **"AN ORDINANCE ADOPTING A REGISTRATION PROGRAM FOR RESIDENTIAL PROPERTIES BEING RENTED WITHIN THE CITY OF URBANA, ILLINOIS,** which provided by its terms that it should be published in pamphlet form. The pamphlet form of Ordinance No. \_\_\_\_\_ was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the \_\_\_\_\_ day of \_\_\_\_\_, 2006, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this \_\_\_\_\_ day of \_\_\_\_\_, 2006.