

**Analysis of Issues Regarding
Student Housing near the
University of Florida**



Prepared for the
City of Gainesville, Florida by

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Introduction

Overview of the Issue

The University Context Area

This report examines the issue of student rentals of single-family homes and other units in neighborhoods near the University of Florida campus. The analysis is based in part on information provided by the City for the “University of Florida Context Area.” Some of the analysis is based on U.S. Census data; Census Tracts 9.01 and 9.02 constitute the University of Florida campus; Census Tracts 2, 8, 10 and 16 approximate the UF Context Area in the City. Tracts 15.01, 15.02, 15.03 and 15.04 are also in the UF Context Area, but they are mostly outside the City limits.

For a discussion of the scope and purpose of this report, turn to page 6.

The Issue in Gainesville

The issue of the impacts of student rental housing on neighborhoods is one that has been of long-standing but increasing concern in Gainesville. The current City Code includes specific provisions related to yard parking in the UF Context Area.¹ In 1996, the City Commission adopted provisions requiring that persons wanting to rent dwelling units in Gainesville.² Early in 2000, the City adopted amendments to its 1997 noise ordinance.³ In 2001, the City Commission adopted a new and more restrictive definition of “single family dwelling.”⁴

The issue remains one of concern – “Stable Neighborhoods” is one of the nine major goals of the City Commission for 2001-02, and many of the specific objectives and tasks listed under that goal relate to the neighborhoods around the university.⁵ The Future Land Use Element of the Comprehensive Plan specifically calls for a study like this:

Policy 5.1.7 The City shall prepare a study of the impacts of rentals on single –family neighborhoods and shall implement additional programs as necessary and appropriate to stabilize and enhance these neighborhoods.⁶

An Ad Hoc Committee on University Neighborhoods met during 2000 and 2001 to discuss the issue. On 9 April 2001, that Committee met with the City Commission and presented its recommendations to the City Commission. Those recommendations were then referred to four citizen committees of five members each:

¹ Gainesville Munic. Code Sect. 30-56(c)(4).

² Sects. 14-5-1 through 14-5-4, Gainesville Munic. Code, adopted 22 July 1996, Ord. 96-0031.

³ Ord. No. 00-048, City of Gainesville, adopted 10 April 2000.

⁴ Ord. No. 00-0517, City of Gainesville,, adopted 8 January 2001.

⁵ Goals and Objectives of the City Commission, 28 March 2001. <http://www.state.fl.us/gvl/Kiosk/on-doc20.html>

⁶ One of a number of policies found under Goal 5 of the Future Land Use Element at <http://www.state.fl.us/gvl/Government/Documents/FutureLandUse.pdf>. For further discussion of provisions of the Comprehensive Plan related to neighborhood issues, see the section of this report entitled Policy Issues at page 11.

- Finance
- Infrastructure
- Code Enforcement
- Neighborhood Enrichment/Marketing

In addition, the City Commission referred the recommendations to specific committees of the Commission and/or relevant city departments.

The Ad Hoc Committee on University Neighborhoods made a total of 13 recommendations:

- Implement a long-term capital improvements program to provide sidewalks and curb and gutter in order to provide a level of infrastructure comparable to newer subdivisions.
- Develop methods to prevent cars from parking on the right-of-way in non-curb and gutter areas.
- Identify rental properties in all UF Context Area neighborhoods.
- Create a brochure and other marketing tools (such as a web page) to market the UF Context Area neighborhoods.
- Identify Realtors who are interested in working in the Context Area and selling to persons who will use the property for home occupancy.
- Explore the possibility of establishing creative loan programs for financing homes in the Context Area.
- Create a Home Ownership Incentive Program and draft a letter to the University of Florida and Santa Fe Community College requesting their participation.
- Develop housing programs to assist in housing rehab and repair.
- Promote neighborhood-wide activities and interaction among families.
- Explore the possibility of requiring specific clauses (related to yard maintenance, noise, etc.) in all lease agreements, which could be required to be in place in order to obtain a landlord license.
- Acquire problematic rental properties and return to homeownership.
- Study impacts of rentals and consider modifications to existing programs or create new programs.
- Review existing codes and processes and make recommendations for improvement or better enforcement, if warranted.

Those 13 recommendations can be reclassified into several groups:

Traditional community development concepts, including investments in infrastructure

- Implement a long-term capital improvements program to provide sidewalks and curb and gutter in order to provide a level of infrastructure comparable to newer subdivisions.
- Develop housing programs to assist in housing rehab and repair.
- Identify rental properties in all UF Context Area neighborhoods.
- Promote neighborhood-wide activities and interaction among families.
- Acquire problematic rental properties and return to homeownership.

Nontraditional Community Development and Marketing Programs

- Create a brochure and other marketing tools (such as a web page) to market the UF Context Area neighborhoods.
- Identify Realtors who are interested in working in the Context Area and selling to persons who will use the property for home occupancy.
- Explore the possibility of establishing creative loan programs for financing homes in the Context Area.
- Create a Home Ownership Incentive Program and draft a letter to the University of Florida and Santa Fe Community College requesting their participation.

Typical parking and police enforcement issues

- Develop methods to prevent cars from parking on the right-of-way in non-curb and gutter areas.

Regulatory Reform or Related Studies

- Explore the possibility of requiring specific clauses (related to yard maintenance, noise, etc.) in all lease agreements, which could be required to be in place in order to obtain a landlord license.
- Study impacts of rentals and consider modifications to existing programs or create new programs.
- Review existing codes and processes and make recommendations for improvement or better enforcement, if warranted.

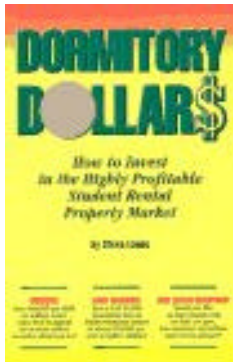
As we note later in the report, the focus of this report is on those recommendations falling in the category of “Regulatory Reform.”

Character of the Use

The business of student rentals is not particularly complex. In a typical scenario, a landlord takes a single-family home (or a unit in a duplex, triplex or fourplex) and, instead of renting the whole unit to a family, rents each bedroom to a different student.

It is not unusual for a landlord to consider a den or dining room as a bedroom for rental purposes, thus offering the opportunity to rent out 4 or 5 separate spots in a 3-bedroom house. Rental rates in Gainesville and elsewhere appear to range from \$300 to \$400 per student per month. If a child (or two) of the owner occupy the premises, which appears to be fairly

common, and two other bedrooms are rented out, the effective rental income (counting attributed rent for the family members) may exceed \$10 per square foot per year, which puts the gross return in the same bracket as quality office space and better than many commercial leases.



A Steven Laube from Ohio has actually written a book on the tremendous profits available from the market – his book is titled *Dormitory Dollars: How to Invest in the Highly Profitable Student Rental Market*.⁷ In it, he tells how he was able to double the rental income on an apartment building along the bus route to Kent State University by replacing traditional tenants with students. With or without the book, this is clearly a business that many landlords in Gainesville and other university communities have discovered.

Policy Reflections

The issue as we understand it from a number of meetings and review of a number of documents is perhaps best captured by the findings of the governing body of another college community:

WHEREAS, the Council of the Borough of West Chester finds that the proliferation of student homes in the residential zoning districts of the Borough of West Chester has been highly detrimental to the public health, safety and welfare of the Borough and has resulted in numerous public nuisances such as excessive noise; the accumulation of trash and litter; undue concentration of population; traffic congestion; unauthorized and illegal parking; lack of off-street and on-street parking for non-transient residents; public lewdness and a decline in the aesthetics of residential properties due to lack of continual maintenance and upkeep of the residential dwellings where students reside; and

WHEREAS, the Council of the Borough of West Chester finds that groups of students, compared to other unrelated cohabiting individuals, have different hours, work and social habits and frequently cause noise and disturbances in a residential neighborhood; and

WHEREAS, the Council of the Borough of West Chester desires to preserve the residential character of the neighborhoods in the Borough and to protect the health, safety, welfare and the quality of life of the Borough's residents by avoiding an institutional atmosphere caused by oversaturation of areas with student homes; and

WHEREAS, the Council of the Borough of West Chester has expressed its intention to prevent the undue concentration of population by mandating a minimum separation distance between student homes in any one residential area in the Borough and a

⁷ Real Estate Analysis Publishing, 1997. Available at Amazon.com .

minimum separation distance from other multi-tenant residential uses, churches and educational uses.⁸



Figure 1 When the number of vehicles at a residence exceeds the parking available there, the vehicles are parked on the road. On narrow streets, such as this one in Hibiscus Park, the result can be a significant reduction in the effective road width.

A snapshot of the issue is also available from looking at planning studies for the Hibiscus Park neighborhood, one of those most affected by the student housing issue and one where more than half the dwelling units are rentals.⁹ Not surprisingly, many of the goals established in the Hibiscus Park Action Plan relate directly to issues of rental housing and the impacts of having students in the neighborhood, including noise and parking issues. Goals included:

- Eliminate vehicles parking on and blocking the street, particularly on N.W. 27th Terrace;

⁸ From the findings included in the adoption of Ord. No. 5-2001, Borough of West Chester, Pennsylvania, adopted 3 April 2001, amending the Chester zoning ordinance; see Appendix B for excerpts from the ordinance.

⁹ Of 91 units, there were 43 units subject to homestead exemptions, although two were also subject to landlord permits, an additional 41 units subject to landlord permits and 7 units that fell were not subject to homestead exemptions but for which there were also no landlord permits [note that such units could be subject to seasonal occupancy or in ownership transition and thus not eligible for homestead exemption but also not rented. All data counted by author from “Hibiscus Park: Homestead Exempt/Landlord License” map, City of Gainesville, Department of Community Development, February 2001

- Reduce the noise level in the neighborhood;
- Enforce city codes related to cars parking in yards, landlord permitting and trash cans left out at the street.¹⁰

In upholding an ordinance in Ann Arbor, home of the University of Michigan, a Michigan appellate court had this comment:

To say that a family is so equivalent to a ragtag collection of college roommates as to require identical treatment in zoning decisions defies the reality of the place of the family in American society, despite any changes that institution has undergone in recent years. Only the most cynical among us would say that the American family has devolved to the point of no greater importance or consideration in governmental decision making than a group of college roommates.¹¹

About this Report

Scope

This report focuses on possible regulatory reforms to address the impacts of student rental housing on neighborhoods. Other programs, such as continued investment in neighborhood infrastructure and other traditional tools of community development, remain important – they are not discussed further because they are simply beyond the scope of this report.

This report provides an analysis of the issue and outlines some possible policy and program responses to it by the City of Gainesville. All of the policy options outlined have costs as well as benefits associated with them. This is a complex problem to which there is no simple solution and no single solution. Determining whether Gainesville should adopt or modify its ordinances and other policies dealing with this issue, and, if so, how it should do so, are the type of decisions that are appropriately left to the City Commission. The purpose of this report is to educate their decision-making process, not to preempt or even guide it.

Author

This report has been prepared by Duncan Associates under contract with the City of Gainesville, under the general direction of the Office of City Attorney Marion Radson and of Community Development Director Thomas Saunders and his staff. The contract between the city and Duncan Associates includes three tasks:

- | | |
|---------------|---|
| Task A | Assessment of the Issue |
| Task B | Comparative University Housing Policies |
| Task C | Summary and Recommendations |

¹⁰ “Hibiscus Park Neighborhood Action Plan,” Hibiscus Park Residents and the City of Gainesville Department of Community Development, March 2001.

¹¹ *Stegeman v. City of Ann Arbor*, 213 Mich. App. 487, 540 N.W.2d 724, 727 (1995), appeal denied, 454 Mich. 879, 562 N.W.2d 199 (1997). The case is discussed in depth in the sub-section of this report entitled Issues and Programs in Other University Communities appearing on page 40.

Duncan Associates is a consulting firm that specializes in plan implementation. Most of its work involves the preparation of zoning and subdivision ordinances, impact fees, and growth management programs. In the course of its implementation work, however, it has developed expertise in some of the most challenging implementation issues facing communities today, including those related to sex businesses, advertising signs and student housing. Current university-town clients of the firm include College Station, Texas, Lawrence, Kansas, and Iowa City, Iowa, but the firm has also dealt with student housing concerns in communities as different from those traditional university communities as Pittsburgh and Toledo.

The Project Director for this project is Eric Damian Kelly, who holds a law degree as well as a Masters degree in city planning and a Ph.D. in public policy. Kelly and firm founder James B. Duncan were among the first class of 46 members named as Fellows of the American Institute of Certified Planners. Kelly is General Editor of *Zoning and Land Use Controls*, a 10-volume treatise published by Matthew Bender and Company. He is also the sole author of three Planning Advisory Service Reports, lead co-author of two others and a contributor to a third. All are aimed at addressing the sort of practical needs of planners and the local governments that they serve – as is this report.

The work is that of Duncan Associates and is not that of the City of Gainesville.

A Note on Data

This report mixes data obtained from the City with data gathered from the Census, both 1990 and 2000. In addition, it makes comparisons among universities and university cities, relying in part on data pulled from university web sites and other third-party sources. Descriptions of the data sources or calculation methods for the data follows.

Population, General Housing and Rental Unit Data

All data was obtained or calculated from the 2000 U.S. Census.

Cost of Living/Cost of Housing Factor

This information is published by Fast Forward Demographics, at www.bestplaces.net.

Total Student Population/Undergraduates

Taken from university websites; includes both full-time and part-time degree-seeking students for Fall 2001. When two sources from the same university provided conflicting information (i.e., a Factbook and the Common Data Set), we used the one with the later publication date.

The following is an explanation of the Common Data Set:

The Common Data Set (CDS) initiative is a collaborative effort among data providers in the higher education community and publishers as represented by the College Board, Peterson's, part of The Thomson Corporation, U.S. News & World Report, and Wintergreen/Orchard House. The combined goal of this collaboration is to improve the quality and accuracy of information provided to all involved in a student's transition into higher education, as well as to reduce the reporting burden on data providers.

This goal is attained by the development of clear, standard data items and definitions in order to determine a specific cohort relevant to each item. Data items and definitions used by the U.S. Department of Education in its higher education surveys often serve as a guide in the continued development of the CDS. Common Data Set items undergo

broad review by the CDS Advisory Board as well as by data providers representing secondary schools and two- and four-year colleges. Feedback from those who utilize the CDS also is considered throughout the annual review process.

The CDS is a set of standards and definitions of data items rather than a survey instrument or set of data represented in a database. Each of the higher education surveys conducted by the participating publishers incorporates items from the CDS as well as unique items proprietary to each publisher. Consequently, the publishers' surveys differ in that they utilize varying numbers of items from the CDS.

Those who report data for their colleges are urged to abide by the definitions and the cohorts specified when answering CDS items. They are also urged to use the answers to CDS items when responding to the numerous survey requests they receive, by distributing photocopies of their answers, posting them on their web sites, or by other effective means.¹²

On-Campus Housing Capacity, Total Living on Campus

This data came from University Housing departmental websites and/or from University Housing offices (via telephone). I have no way of knowing if/when they rounded or estimated numbers.

Percentage of Students living on campus

This is "Total living on campus" column divided by "Total student population" column.

University-Owned Housing Types

Data was obtained from the Common Data Set (This is the same data that U.S. News and World Report uses in its online university profiles.)

Room and Board Costs

This information was obtained from universities' websites. Some listed a range of costs for various types of accommodations, while others only provided one value---none specified whether this is the most common value, or an average.

Alcohol permitted on campus

This data is from U.S. News and World Report's online university profiles.

On Campus Student Parking

All data is from university parking departments. Some provided a range of parking options varying in cost by location on campus.

A Note on Data Comparisons

In some cases, we have had to make comparisons and even computations using data that may not be directly comparable. Even with the Census data, we had to make compromises; the 2000 Census simply did not collect some data for Gainesville that was included in the 1990 and earlier census reports – most notably the types of buildings in which dwelling units are located.

¹² <http://www.commondataset.org> .

For these reasons, we have possibly over-explained our methods and our use of the data. In addition, we have included the data in relatively raw form in Appendix A. Where the difficulties with the data have resulted in difficulties with the analysis, we have said so. Where we have drawn conclusions from the data, we believe that they are entirely warranted.

Home Ownership and Neighborhoods

Policy Issues

Home ownership is important to neighborhoods. With the Housing act of 1948 and the establishment of FHA loans, requiring little down payment, the federal government made the first substantial national policy commitment to home ownership as a goal. The VA loan program, allowing veterans to get into homes with no down payment at all, was also established in the period immediately following World War II. Although the wide availability of private mortgage insurance today has made those federal programs somewhat less significant to the market than they once were, the national commitment to home ownership remains strong – with the tax deduction for mortgage interest now its most important manifestation. Twenty-five years ago, most type of interest were deductible for an individual – today only the mortgage interest deduction remains, illustrating the commitment to home ownership that remains. Florida has similarly demonstrated its policy commitment to home ownership, offering a “homestead exemption” from property taxes for an individual’s “permanent residence.”¹³ These policies have been remarkably successful. According to the 2000 census, 68.6 percent of households owned the dwelling units that they occupied.¹⁴ The percentage of owner-occupied units in Florida is slightly higher, at 70.1 percent.¹⁵

Home ownership is important to the nation, but it is also important to neighborhoods. As a policy statement from the Attorney General of Massachusetts noted:

Without question, no consumer transaction is more critically important to Massachusetts residents than the purchase of their own home. Home ownership is the foundation for maintaining the stability of neighborhoods. It not only serves as the primary vehicle for generating family wealth, but also as a resource for financing education and obtaining emergency funding. Homeowners have a stake in maintaining the economic viability of their home and community. Few can make such a purchase if access to home mortgage loans is unfairly denied. Such a denial diminishes the opportunity of future economic growth and independence for a significant proportion of the Massachusetts population. Fair lending is not only a desirable goal, but serves the economic well-being of the lending industry, the low- and moderate-income, minority, and urban communities in the Commonwealth, and the Commonwealth as a whole.¹⁶

And another recent analysis similarly found:

Numerous social benefits are believed to flow from home ownership. Homeowners move less often than renters. Parents may be induced to take a greater interest in the school system. Voter turnout and other forms of local political involvement increase.

¹³ Fla. Const. Art. VII., Sect. 6.

¹⁴ 2000 Census, Summary of Population Characteristics, U.S.; total occupied units were 105,480,101; of those, 69,815,753 were owner-occupied.

¹⁵ 2000 Census, Summary of Population Characteristics, Florida.; total occupied units were 6,337,929; of those 4,441,719 were owner-occupied.

¹⁶ Richrd Cole, “Article: The Attorney General’s Comprehensive Program to Reform The Mortgage Lending Industry in Massachusetts,” 28 John Marshall L. Rev. 383, at 383 (Winter 1995).

Owners maintain their homes better than renters and landlords, thus providing aesthetic benefits to neighbors. Better maintenance of homes also supports local real estate prices, thereby likely increasing motivation of nearby owners to improve and maintain their property and motivation of lenders to finance such activities.¹⁷

A recent study in Athens, Georgia, supports these findings. Conducted by a faculty member at the University of Georgia, the study provided this description of its methodology:

A one-page form was designed to record the *signs of a sick street*. The “Street Survey” form (attached) is easy to complete by anyone who is instructed to look for specific and observable *signs of a sick street*. The surveyor must walk the full length of the street observing each residence and recording the visible *signs of a sick street*. Back yards are not surveyed unless the residence is on a corner lot. The surveyor completes all residences on one side of a street before surveying the other side.

After a street has been surveyed, the total recorded number of *signs of a sick street* is divided by the total number of residences on the street. Duplexes and multifamily residences are counted as one residence. The quotient is the average number of signs per residence. As the average number of signs per residence increases, the gradient moves from a “healthy street” to a “sick street”. See the attached “Definition of a Sick Street”.¹⁸

The findings were striking, with a strong correspondence between a high incidence of rental housing and a high incidence of neighborhood problems:

A street is defined as a sick street when there is an average of two or more *signs of a sick street* per residence. In all streets found to be sick streets, 50% or more of the residences were not occupied by the owner or were rental properties. Most of the sick streets were 80% or more rentals. See the attached “Sick Streets”.

A street with “major signs” is in danger of becoming a sick street. It has an average of at least one *sign of a sick street* per residence. In all streets with major signs, 45% or more of the residences were not occupied by the owner or were rental properties. Most of the streets with major signs were 60% or more rentals. And many of these streets with major signs were close to the average of two *signs of a sick street* per residence. See the attached “Major Signs Streets”.

A street with “mild signs” has an average of less than one *sign of a sick street* per residence. However, the average is more than one sign for every other residence. A few residences usually have the most signs. In all streets with mild signs, 50% or less of the residences were not occupied by the owner or were rental properties. Most of the streets with mild signs were less than 28% rentals. See the attached “Mild Signs Streets”.

¹⁷ JB McCombs, Refining the Itemized Deduction for Home Property Tax Payments, 44 Vand. L. Rev. 317 (1991), n. 68 at 425-26. See, also, Julia P. Forrester, Mortgaging the American Dream: A Critical Evaluation of the Federal Government's Promotion of Home Equity Financing, 69 Tul. L. Rev. 373, 406 (1994).

¹⁸ Walker, Robert B., Ed.D., “A Survey of Selected Residential Streets near UGA.” (Athens: Unpublished, 2002). The author of this report obtained the Survey report by e-mail; the author’s address is 440 Highland Avenue, Athens, GA 30606.

A healthy street may have some *signs of a sick street*, but they average less than one sign per every other residence. In all healthy streets, less than 50% of the residences are rental properties. Most of the healthy streets were 25% or fewer rentals.¹⁹

The report substantiates with descriptive statistics from a university community the significance of home ownership to neighborhood conservation. The methodology involved descriptive statistics, which some social scientists might challenge – and the author presumably had some direct interest in the subject. On the other hand, the methodology is an entirely rational one and the results are entirely consistent with the many policies of federal, state and local governments that encourage home ownership. The findings are thus useful in this broader context, substantiating what can happen to a single-family neighborhood in which there is a substantial incursion of rental housing. From the Athens study, it appears that the issues become apparent when the number of rentals exceeds 25 percent of the number of single-family dwelling units on a particular block or street section.

Home ownership is often viewed as a middle-class goal, but it can reach much farther than that. Home ownership is often a central objective of efforts to bring back blighted neighborhoods and to improve low-income areas. Consider these comments of one of the leaders of revitalization efforts in New Haven, Connecticut; one of the nation's most challenged small urban areas:

The common thread in these successful projects is a resident property or management interest that guarantees some control over the environment. This is not surprising: home ownership has long been accepted as a stabilizing factor in successful neighborhoods. Try an experiment on any beautiful spring or fall day. Drive or walk through home ownership and rental residential neighborhoods. In a neighborhood dominated by home ownership, people are likely to be outside, working in yards, planting gardens and doing the never-ending chores to improve their personal environment. In rental property, the same people are more likely to be working on their cars or applying their energy elsewhere. The point is not that people who work on houses are better than people who work on cars: both types of work require knowledge and industry. The point is that we are much more likely to improve our own property than property belonging to someone else. Ownership is the American dream. If we want to make housing work, either we either have to pay for enough management to maintain the property or create enough of a stake so that residents will maintain the property. If there is a judgment to be made, it is that a well-maintained housing unit is a greater community benefit than a well-maintained car.²⁰

Decisions about land-use and development in parts of the community should take place in the context of a larger comprehensive plan.²¹ Under Florida law, both creation of a plan and its implementation are mandatory.²² The City's adopted Comprehensive Plan includes several

¹⁹ Walker, op. cit. Report contains tabulated results by street.

²⁰ Robert A. Solomon, "Symposium: Building A Segregated City: How We All Worked Together," 16 St. Louis U. Pub. L. Rev. 265, 315 (1997).

²¹ See, for example, Kelly, Eric Damian,, and Barbara Becker, *Community Planning: An Introduction to the Comprehensive Plan* (Washington: Island Press, 2000).

²² See, generally, Chapter 163, Florida Statutes

goals and policies that relate directly to this effort. Goal 3 of the Housing Element of the Comprehensive Plan provides:

Goal 3: the city with the assistance of private and non-profit organizations shall maintain sound viable neighborhoods and revitalize those that have suffered disrepair and neglect.²³

Objective 3.1 under that goal provides:

By 1992, the City shall continue to establish housing programs to implement the goals, objectives and policies of the Housing Element.

Two of the specific policies set out under that goal are

3.1.4: The Neighborhood Planning Program shall help neighborhoods develop plans that address neighborhood stability, housing, safety, infrastructure, and character including historic resources shall be prepared for all residential neighborhoods targeted for redevelopment.

...

3.1.11 The City shall create heritage, conservation or other appropriate overlay districts, as needed, for neighborhood stabilization.

The Future Land Use Element also includes a goal focused specifically on neighborhoods:

Goal 5:

To enhance the City's commitment to improve and maintain the vitality of its neighborhoods. The neighborhood represents the primary building block of the city, and the health and vitality of existing and new neighborhoods is essential to building a viable, sustainable community.²⁴

Objective 5.1 under that Goal provides:

The City shall work in partnership with neighborhoods to facilitate effective communication between the neighborhood residents and the City and develop specific actions to address neighborhood identified goals and improvements.

Some of the specific policies under that Objective that relate to the protection of single-family neighborhoods include:

Policy 5.1.1 Continue the neighborhood planning program, utilizing a collaborative and holistic planning process, and designate up to 2 additional neighborhoods per year for participation.

Policy 5.1.2 Assist neighborhoods in developing coordinated Neighborhood Action Plans to address neighborhood issues such as land use and housing, codes enforcement, traffic and infrastructure, crime, recreation and beautification. Plans shall include short- and long-term goals identified by the neighborhood and identification of strategies to implement goals.

²³ Found at <http://www.state.fl.us/gvl/Government/Documents/Housing.pdf>

²⁴ Found at <http://www.state.fl.us/gvl/Government/Documents/FutureLandUse.pdf>

...

Policy 5.1.4 The City shall create heritage, conservation or other appropriate overlay districts as needed for neighborhood stabilization.

...

Policy 5.1.7 The City shall prepare a study of the impacts of rentals on single –family neighborhoods and shall implement additional programs as necessary and appropriate to stabilize and enhance these neighborhoods.

The Urban Design Element of the Comprehensive Plan also includes a general goal regarding living in the community and an objective under it that relates specifically to where and how people live:

Goal 2

Provide residents a choice of types of places to live and work.²⁵

Objective 2.1 under that Goal directly addresses neighborhoods, and Policy 2.1.1, which follows it, focuses on issues related to this study:

The City shall, through appropriate land development regulations, provide residential buildings and neighborhoods that meet the diverse needs of all citizens.

Policy 2.1.1 While providing other housing forms and types at appropriate locations in order to diversify housing choice, the City shall maintain and enhance its existing conventional, single-family neighborhoods as essential and valuable in their provision of stable housing in the city and in their support of nearby mixed-use, commercial, office and retail activity centers.

From the earliest days of zoning, one of the principal purposes of the tool has been the protection of neighborhoods. Certainly separating residential areas from intense commercial and industrial uses is a primary goal of zoning, but the protection of single-family neighborhoods from incompatible residential uses is also an important goal of the zoning tool. As the Supreme Court noted in *Belle Terre v. Boraas*,²⁶

The regimes of boarding houses, fraternity houses, and the like present urban problems. More people occupy a given space; more cars rather continuously pass by; more cars are parked; noise travels with crowds.

A quiet place where yards are wide, people few, and motor vehicles restricted are legitimate guidelines in a land-use project addressed to family needs. This goal is a permissible one within *Berman v. Parker, supra*. The police power is not confined to elimination of filth, stench, and unhealthy places. It is ample to lay out zones where family values, youth values, and the blessings of quiet seclusion and clean air make the area a sanctuary for people.²⁷

²⁵ <http://www.state.fl.us/gvl/Government/Documents/FutureLandUse.pdf>

²⁶ *Belle Terre v. Boraas*, 416 U.S. 1, 39 L. Ed. 2d 797, 94 S. Ct. 1536 (1974)

²⁷ 39 L.Ed.23 at 804, 94 S.Ct. at 1541.

Gainesville has embodied these values in its zoning ordinance. The statement of purpose and objectives for the RSF zoning districts, which provide the basic single-family zoning district, read as follows:

- (a) *Purpose.* The single-family districts are established for the purpose of providing areas for low density single-family residential development with full urban services at locations convenient to urban facilities, neighborhood convenience centers, neighborhood shopping centers and activity centers. These districts are characterized by single-family residential structures designed and located so as to protect the character of single-family residential neighborhoods.
- (b) *Objectives.* The provisions of these districts are designed to:
 - (1) Protect and stabilize the essential characteristics of such existing development;
 - (2) Encourage such future development to occur on vacant land where the natural characteristics of such land are suitable for this type of development;
 - (3) Enable single-family development to occur at appropriate locations and with sufficient density so as to facilitate the provision of urban services and facilities in an economical and efficient manner;
 - (4) Encourage low density development where higher density development would be detrimental to the health, safety and welfare of the community by reason of environmental constraints, open space or other factors; and
 - (5) Discourage any activities not compatible with such residential development.²⁸

The purpose and objectives for the RC zoning district, which is also a single-family zoning category, read as follows:

- (a) *Purpose.* The residential low density districts are established for the purpose of providing suitable areas for low density residential development with various dwelling unit types compatible with single-family dwellings. These districts are characterized by one-, two-, ~~three- and four-~~ family residential structures designed and located so as to provide a desirable residential environment and transition between differing intensities of land use. Specifically, the RC district is established for the purposes of providing suitable zoning protection to those areas where single-family development has occurred on properties with minimum lot sizes and where such development patterns are desirable to maintain due to unique neighborhood, social and physical characteristics which are present. ~~The MH district is established for the purpose of providing for mobile home neighborhoods of sufficient size to sustain a stable and sound micro-environment with individual lots of dimensions necessary to provide safe and healthful residential living.~~
- (b) *Objectives.* The provisions of these districts are designed to:
 - (1) Encourage such development to locate within close proximity to neighborhood convenience centers and neighborhood shopping centers;

²⁸ City of Gainesville Land Development Ordinance, Sec. 30-51. Single-family residential districts (RSF-1, RSF-2, RSF-3 and RSF-4).

- (2) Create transition areas between low intensity land uses and other more intense land uses;
- (3) Provide for a variety of dwelling unit types compatible with traditional single-family residential development;
- (4) Provide for low density residential development in areas where such development could be logically integrated with or located near traditional single-family residential development or in transitional areas on land where the clustering of units would permit the most effective utilization of such land, while preserving open space and other natural features;
- (5) Encourage privacy, internal stability, attractiveness, order and efficiency in these areas by providing for adequate light, air and usable open space for residential purposes through the careful design and consideration of the proper functional relationships among uses permitted; and
- (6) Provide for such residential development to occur where public facilities and services are present.²⁹ [material with ~~strike-outs~~ appears not to be relevant to RC district]

Student Housing Around the University of Florida

Overview

Not surprisingly, as home to a major university that dominates local demographics, Alachua County and Gainesville fall significantly below national figures for owner occupancy of dwelling units. Those figures are shown below in Table 1.

Table 1 Owner Occupancy, Gainesville and Alachua County

	Total Occupied Units	Rental Percentage	Owned Percentage
U.S.	105,480,101	33.8	66.2
Florida	6,337,929	29.9	70.1
Alachua County	87,509	45.1	54.9
Gainesville	37,929	52.3	47.7

Source: 2000 Census data, <http://www.census.gov>; most data was extracted using American Fact Finder feature.

Neighborhoods around the university bear much of that burden. Taking the census tracts that approximate the UF Context Area in the City (but excluding the census tracts that cover the university campus itself), 75.9 percent of the dwelling units are rentals, leaving only 24.1 percent owner-occupied.

²⁹ City of Gainesville, Land Development Ordinance, Sec. 30-52. Residential low density districts (RMF-5, RC and MH).

That figure may be misleading, however, because those census tracts include a number of apartment complexes. Removing the two tracts that are dominated by apartments, however, changes the figure only slightly – to 72.3 percent rental and 27.7 percent owner-occupied.

Analysis Using Census Data

The most readily available census data deals with what census officials call “housing tenure” – or the distinction between owner occupancy and rental occupancy. That is the data presented in Table 1. It is useful, because it can be compared at place, county, state and national levels. It does not tell the whole story, however, because it makes no distinction between homes and apartments. We have conducted two additional forms of descriptive analysis to attempt to

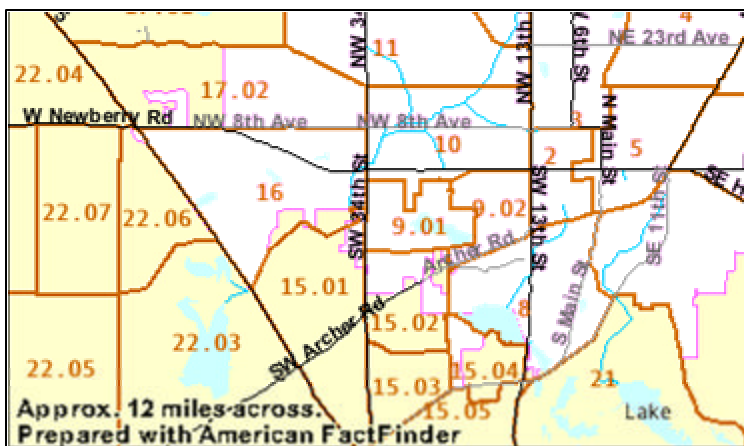


Figure 2 Alachua County Census Tracts in Gainesville, Partial (2000 Census).

show the differences between the census tracts around the University and the rest of the state and nation. First, we attempted to estimate the percentage of single-family homes that were rented. Our effort to do that was complicated by the fact that the 2000 census did not include comprehensive data on the types of buildings in which units were located.³⁰ We thus went to the 1990 census to identify the types of buildings in which dwelling units in each census tract were located. Because there have been a number of apartment units

constructed around the university since 1990, we did not rely on that data from 1990 – instead, we made the assumption that the number of single-family dwelling units remained constant in these tracts from 1990.³¹ We then imputed the number of multi-family dwelling units for each tract by taking the total number of occupied dwelling units in 2000, as reported in the census, and subtracting from that the number of single-family dwelling units reported in the 1990 census; that gave us plausible estimate of the number of multi-family units in each census tract. We then assumed that every multi-family unit was rented and that remaining households that were renting rented single-family homes; from that, we computed the percentage of single-family homes that were rented in each tract and in the area as a whole. We compared that to city and county data (see Table 2); the comparison to state and national data was not meaningful, because the number of owner-occupied units in the state and the nation exceeds the number of single-family detached units, reflecting the common use of condominium and cooperative ownership techniques, particularly in larger cities.

³⁰ That information was included on the “long form” and has been used as the basis for estimates in larger cities; not even estimated data is available for Gainesville or Alachua County.

³¹ This appears to be a reasonable assumption; most of the new construction of apartments appears to have been on vacant land. Our field inspections in the UF Context Area and discussions with City of Gainesville staff indicate that the numbers of new single-family units and of single-family demolitions in the UF Context Area have both been small.

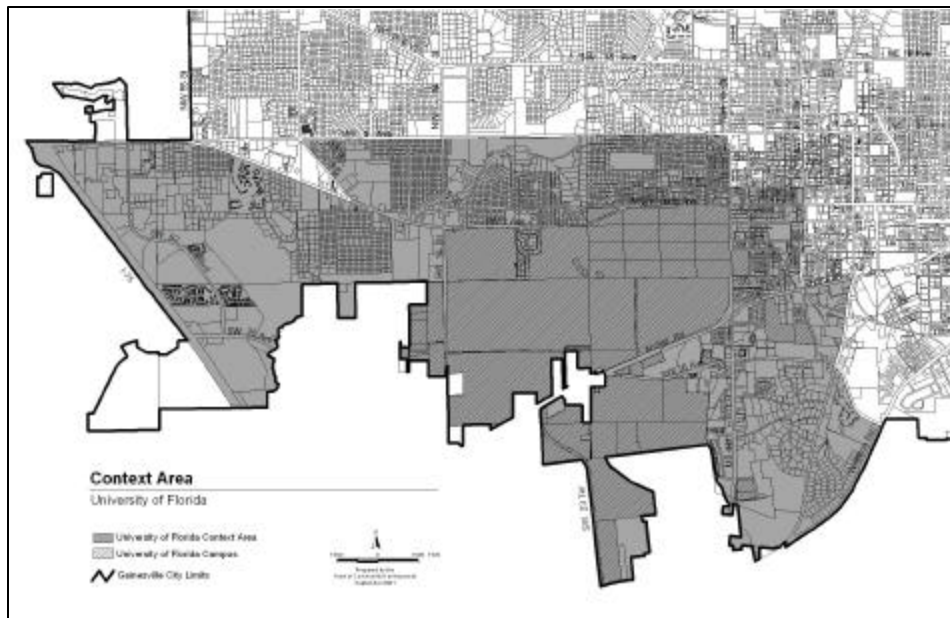


Figure 3 University of Florida Context Area in City of Gainesville.

We also approached the data from a different direction. The 2000 census did include data on household types, including broad classifications of “family” and “non-family” households. The “non-family” category actually includes single-person households, which for neighborhood planning purposes are similar in impact and character to small, 1 family

households; thus we computed a net “non-traditional household” figure by subtracting the number of single-person households from the total number of non-family households reported in the census. We have compared that data to the city, county, state and nation.

Table 2 below summarizes the above findings.

Table 2 Comparative Data on Household and Occupancy Types

	Census Tracts 2, 8, 10, 16	Gainesville	Alachua County	Florida	U.S.
Total Households	8,712	37,279	87,509	6,337,929	105,480,101
Non-traditional Households	4,416	6,779	14,233	439,866	9,020,046
Percentage Non-traditional Households	36.2%	18.2%	16.3%	6.9%	8.6%
Total Single-family Detached Units (1990)	3,804	18,137	37,961	3,032,769	60,383,409
Rental Households in Excess of MF Units	676	346	-10,124	-1,409,030	-9,432,344
Imputed Percentage of SF Units Rented	17.8%	1.9%	Negative percentage; Not Meaningful		

Source: Adapted from Census data at <http://www.census.gov> ; for data used in compilation, Summary File 1.

Analysis of Local Data

The City of Gainesville periodically tabulates data regarding the occupancy of single-family dwelling units in the University of Florida Context Neighborhoods. According to the City,

only 66 percent of the units in those neighborhoods are subject to homestead exemptions; another 34 percent are eligible to be rented.³²

The Florida Department of Revenue shows a total of 21,037 single-family homes in Gainesville, of which 2,645, or about 12.6 percent of the total, are in the University Context Area.³³ The City issued 2,143 landlord permits for the year 2001, which represented rental authorizations for just over 10 percent of the single-family homes in Gainesville (landlord permits are required only for the rental of single-family homes).³⁴ Of those permits, however, 494, or 23 percent, were issued for the University of Florida Context Area.³⁵ That means that at least 18.7 percent of the single-family homes in the UF Context Area were subject to landlord permits in 2001. As anecdotal data from one neighborhood suggests (see immediately following paragraph), however, there are very likely other homes that are rented despite the lack of the requisite landlord permit.

³² “University of Florida Context Area Neighborhood Groups or Associations: Homestead Exempt. Non-Homestead Exempt,” [Map with Data], City of Gainesville, Department of Community Development, December 2001.

³³ Data provided from local data base maintained by City of Gainesville Code Enforcement, March 2002.

³⁴ Data provided from City of Gainesville Code Enforcement data base, March 2002.

³⁵ Data provided from City of Gainesville Code Enforcement data base, March 2002.



Figure 4 One of several new rental housing units in the Hibiscus Park neighborhood.

A snapshot of the issues faced in these neighborhoods is available from examining the data for one neighborhood – Hibiscus Park. The neighborhood, located immediately north of West University Avenue, along NW 26th and 27th Streets, with some small local streets within it, had 91 houses in it, with a handful of vacant lots, as of early 2001. Of those 99 homes, 43 were the subject of homestead exemption filings indicating that they were owner-occupied; of those 43, however, neighbors identified 5 as rental homes. There were 43 landlord permits issued in the neighborhood, two of those for units also showing current homestead exemptions. There were three new rental homes along the west edge of the neighborhood, located on lots still shown for tax purposes as “unimproved.” There were seven units that were not the subject of homestead exemptions that also were not the subject of landlord permits, although neighbors identified one of those units as a rental.³⁶ In short, more than half the homes in this neighborhood – which consists entirely of single-family homes along relatively narrow streets – are rental units.

The Zoning Context

The analysis here is pertinent primarily to areas zoned for single-family use – or designated with the RC zoning classification in Gainesville. It is important to examine that context to understand the issues.

Perhaps the most striking fact about the RC zoning in Gainesville is that it allows a very small minimum lot size – only 3,000 square feet for a single-family unit. The RC zoning district

³⁶ All data counted by author from “Hibiscus Park: Homestead Exempt/Landlord License” map, City of Gainesville, Department of Community Development, February 2001.

allows two-family units throughout, but the district requires a lot of 6,000 square feet for a two-family unit.

To put the size issue in perspective, it is useful to examine the issue of parking. Some of the smaller lots in the Hibiscus Park neighborhood are about 5,000 square feet, with 50 feet of frontage, although the zoning for that district requires a 60-foot lot width. The front yard required under the zoning ordinance is 20 feet or the average of setbacks on adjoining lots. A standard parking space in Gainesville (and many other communities) is 8.5 by 17 feet. To provide parking for 4 vehicles in front of a house with 60 feet of frontage and 20 feet of setback will use 34 of the 60 feet across (assuming head-in parking) – in other words, using 60 percent of what would be the front yard. Although in some cases, it may be possible to provide for parking behind the structure, on the most narrow lots there is often no way to get access to the rear yard. Further on a lot of only 4,000 or 5,000 square feet, there will not be a lot of space left in the rear yard, either. The current yard parking ordinance³⁷ prohibits using more than 40 percent of the front yard for parking, but that standard does not eliminate the cars – which may then wind up along the street.

The streets in many of these neighborhoods have a variable paved width, ranging from 18 feet to perhaps 24 feet, thus providing 2 travel lanes and no off-street parking. Although off-street parking on the shoulders is possible in many areas, the lack of curbs allows easy infringement from the shoulders into the yards. Although the City prohibits front-yard parking in the Context area, parking on the street can easily impede travel on some of these narrow streets.

Many of the homes in these neighborhoods lack garages; others have one-car garages. Although there are some two-car garages, those are not common and certainly not available at all locations. Thus, the issue of where to park multiple cars is a very real one. The size of these lots and the density of development in some of these neighborhoods would make the issue of cars problematic even if only two-car families occupied the units; adding students, who may have 3 or 4 cars in a single unit, significantly adds to the problem.

The problem is less severe for conforming lots in the RSF districts, where the minimum lot sizes range from 4,300 square feet (RSF-4) to 8,500 square feet (RSF-1), with minimum lot widths set proportionately higher – from 50 feet (RSF-4) to 85 feet (RSF-1).³⁸

Note that one of the objectives of zoning – in Gainesville and elsewhere – is to limit density, based on the adequacy of public facilities (a concept now called “concurrency” in Florida) and on the character of the neighborhood. Gainesville, like many communities, has tried to limit the density of occupancy in these neighborhoods. Section 30-57 of the Land Development Code prohibits occupancy of a dwelling unit in the RC and RSF districts by more than one family and contains this statement of purpose:

In addition, the City has, through its zoning ordinance, limited “roominghouses” to the OR and OF districts and does not allow them in the RSF or RC districts. The definitions related to those uses are:

³⁷ Gainesville Municipal Code, Sec. 30-56(c)(4).

³⁸ Gainesville Land Development Code, Sec. 30-51.

Roominghouse means a dwelling used, or intended to be used, for the furnishing of sleeping accommodations for pay to transient or permanent guests and in which no more than 2,500 gross square feet of space are used, or intended to be used, for such purpose. Meals or housekeeping facilities may also be provided such guests or tenants, but no roominghouse shall maintain a public eating or drinking place in the same building or in any building in connection therewith.³⁹

Zoning ordinances often distinguish between a “boarding house” (which usually includes meals, or “board”) and a “rooming house” or “lodging house,” which typically includes only the use of a room.⁴² A common element to both, where they are permitted in residential areas, is that the boarders or roomers live with a family that owns and maintains the house.⁴³

The student rental houses in many ways resemble roominghouses more than they resemble single-family dwellings occupied by single families. The fact that roominghouses are usually owner occupied actually makes the roominghouse a use that is less likely to have adverse impacts on a neighborhood than a group rental to students – because in the roominghouse, the property owner is present to manage the facility and has the same long-term stake in the neighborhood as other owner-residents.

Complaints and Enforcement

One documentable indication of the nature of the issues that arise in the UF Context Area neighborhoods is from complaints processed by Code Enforcement. That data is presented in Table 3, which is shown on the next page.

³⁹ Gainesville Land Development Code, Sec. 30-23.

⁴⁰ Gainesville Land Development Code, Sec. 30-57.

⁴¹ Gainesville Land Development Code, Sec. 30-100.

⁴² L.S. Rogers, “Annotation: What is a Lodging or Boarding House within Provisions of Zoning Ordinance or Regulation?” 64 A.L.R.2d 1167.

⁴³ L.S. Rogers, “Annotation: What is a Lodging or Boarding House within Provisions of Zoning Ordinance or Regulation?” 64 A.L.R.2d 1167. See *St. Louis v. Art Publication Soc.*, 203 S.W.2d 902 (Mo. Ct. App. 1947)

Table 3 Code and Noise Complaints in Gainesville, Nov. 2000 – Oct. 2001

Complaint Type	Total Number	Number in U.F. Context Area	Percentage in UF Context Area
Dangerous Building	205	10	4.88%
Driveway	11	10	90.91%
Major Housing Code Violation	684	106	15.50%
Minor Housing Code Violation	16	6	37.50%
Multiple Violations	16	5	31.25%
Noise	387	197	50.90%
Over Occupancy Limits	26	12	46.15%
Parking	101	101	100.00%
Sign	37	16	43.24%
Vacant Land	117	4	3.42%
Inoperable vehicles	104	5	4.81%
Vision Triangle	14	7	50.00%
Commercial Zoning Violation	55	8	14.55%
Residential Zoning Violation	48	5	10.42%

Source: Tabulated by the author from a spreadsheet provided by City of Gainesville Code Enforcement Division.

As one might expect, the units in the UF Context Area are not particularly troublesome as buildings – they account for only about 5 percent of major housing code violations and 10 percent of general residential zoning violations, but they account for a more significant 15 percent of minor housing code violations. The driveway and parking issues are misleading, because they apply only in the UF Context Area (the one driveway case reported elsewhere is presumed to be a data error). But note that these units account for more than half the noise complaints, 46 percent of the “over-occupancy” (too many people in a unit) complaints, 50 percent of the vision triangle (something, such as an illegally parked car, blocking a driver’s view of traffic approaching on an intersecting street) complaints, more than 37 percent of minor housing violations and some 31 percent of cases involving multiple violations.

The driveway and parking violations are relatively easy to understand, because in many cases there are no real edges separating streets from yards and yards from driveways.



Figure 5 The lack of curbs and edges on driveways makes it difficult to control exactly where vehicles park.

These findings are entirely consistent with the types of complaints one would expect from rentals of family homes to groups of students. As the Borough Council of West Chester, Pennsylvania, found:

WHEREAS, the Council of the Borough of West Chester finds that the proliferation of student homes in the residential zoning districts of the Borough of West Chester has been highly detrimental to the public health, safety and welfare of the Borough and has resulted in numerous public nuisances such as excessive noise; the accumulation of trash and litter; undue concentration of population; traffic congestion; unauthorized and illegal parking; lack of off-street and on-street parking for non-transient residents; public lewdness and a decline in the aesthetics of residential properties due to lack of continual maintenance and upkeep of the residential dwellings where students reside; and

WHEREAS, the Council of the Borough of West Chester finds that groups of students, compared to other unrelated cohabiting individuals, have different hours, work and social habits and frequently cause noise and disturbances in a residential neighborhood....⁴⁴

⁴⁴ From the findings included in the adoption of Ord. No. 5-2001, Borough of West Chester, Pennsylvania, adopted 3 April 2001, amending the Chester zoning ordinance; see Appendix B for excerpts from the ordinance.

Summary and Conclusion

We could easily adopt the just-quoted findings used by the Borough of West Chester, Pennsylvania, to support the adoption of a new ordinance restricting the number and location of student rental houses. To adapt those findings to Gainesville, however, we conclude that census data and local data demonstrate that the issues related to student housing in neighborhoods are real, not just imagined. Specifically:

- Although two-thirds of dwelling units in the United States are owner-occupied, the percentage of owner occupancy for Alachua County is 57.9 percent; the percentage for Gainesville is 47.7 percent; and the percentage for the census tracts surrounding the University of Florida is 26.8 percent;
- Because the numbers included in the previous finding include multi-family units at all levels, and because there are a significant number of multi-family units in the census tracts around the university, we attempted to determine the number of households renting units who cannot be accommodated in multi-family (apartment) buildings – that number is 1240 households in the census tracts around the University of Florida (excluding the on-campus housing area), or 23.3 percent of the apparently available single-family homes. To put that number in context, the comparable figure in the City of Gainesville as a whole is 1.8 percent; in the state and nation, the related percentage figure is actually a negative number, because many multi-family units are also owner occupied, particularly in large cities;
- To evaluate the data from another perspective, we computed the number of “non-traditional households” in the census tracts surrounding the University (again omitting the on-campus housing areas). We found that 32.5 percent of the households in those tracts are non-traditional (more than one person, not a family), compared to 8.6 percent in the nation, 6.8 percent in the state and 18.3 percent in the entire city;
- According to City data on landlord permits and state tax data reflecting homestead tax exemptions, about one-third of the single-family houses in the UF Context area are rentals;
- The City provided data showing that in Hibiscus Park, a small neighborhood with 91 homes in the University Context Area, more than 50 percent of the single-family homes are renter-occupied;
- One of the big issues with neighbors and one of the most obvious indication of the impacts of the student housing on the neighborhoods comes in the form of cars. Because the minimum lot size in some neighborhoods is small (as small as 3,000 square feet) and many of the lots are in fact very small, there is little room for parking – and the effect of
- The dwelling units occupied by the students are generally not dangerous, but they result in a number of nuisance-type complaints, accounting for half the noise complaints and half the sight-triangle complaints in the City, 46.5 percent of the over-occupancy complaints and more than 31 percent of complaints involving multiple violations;

- Although the City of Gainesville has some of the most sophisticated regulatory programs in the nation for student housing, the current programs are not adequate to address the issues in these neighborhoods;
- Our findings and our separate analysis suggest that there are three general categories of issues that should be addressed:
 1. The number and density of the student housing units in these neighborhoods. There are so many rental units and so many non-traditional households in these neighborhoods that they overwhelm any sense of traditional neighborhoods of the sort that the federal government (through its financing programs and tax incentives), the state (through its own tax incentives) and the city (through zoning and other programs) support;
 2. Improved control over the behavior of occupants of rental homes. The current licensing ordinance appears to make a difference but to be inadequate to deal with extreme cases. There is no clear method for revoking a landlord permit except through a nuisance or quasi-nuisance proceeding. The concept of requiring that an agent be available 24 hours a day to respond to complaints at rental houses is a good one, but the requirement lacks teeth and police officers report that they often get only an answering machine when they call during the night;
 3. Improved control over parking in the neighborhoods affected by rental housing.

Housing in Small University Cities

Comparative Analysis

The Peer Communities and Universities – Selection

For purposes of this study, we compared data on housing related to students in 10 communities that we selected as peer communities based on the size and stature of the universities located there (all major state universities) and the size of the communities (generally 100,000 or under); the effect of those two criteria was to examine generally free-standing (non-metropolitan) communities in which university students constitute a substantial portion of residents. The communities used in the comparison and basic demographic data are shown in Table 4:

Table 4 Basic Population and Housing Data for Selected Peer University Cities

University	Location	City Population	Housing Units	Occupied Units	Vacant Units	Vacancy Rate
University of Florida	Gainesville	95,447	40,105	37,279	2,826	7.0%
University of Georgia	Athens, GA	100,266	41,633	39,239	2,394	5.8%
Florida State	Tallahassee, FL	150,624	68,417	63,217	5,200	7.6%
University of Michigan	Ann Arbor, MI	114,024	47,218	45,693	1,525	3.2%
Michigan State University	East Lansing, MI	46,525	15,321	14,390	931	6.1%
University of Virginia	Charlottesville, VA	45,049	17,591	16,851	740	4.2%
University of Iowa	Iowa City, IA	62,220	26,083	25,202	881	3.4%
Iowa State University	Ames, IA	50,731	18,757	18,085	672	3.6%
University of North Carolina	Chapel Hill, NC	48,715	18,976	17,808	1,168	6.2%
University of Oklahoma	Norman, OK	95,694	41,547	38,834	2,713	6.5%
University of Mississippi	Oxford, MS	11,756	6,137	5,327	810	13.2%
Virginia Tech	Blacksburg, VA	39,573	13,732	13,162	570	4.2%

Source: 2000 Census Data, Summary Table 1, <http://www.census.gov> ; most data retrieved using “American Fact Finder” features.

Oxford, Mississippi, is an anomaly in the comparison because the community is so small; it was retained in the comparison, however, because the data on the university housing situation is useful, even though it is difficult to draw comparisons between the impacts of student housing on Oxford and Gainesville. The inclusion of Chapel Hill also raises some analytical challenges, because the community is part of the metropolitan Triangle area, anchored by Raleigh, Durham and Chapel Hill, with Research Triangle Park taking its name from those three metro communities. Norman is now within commuting distance of Oklahoma City, but it appears to continue to function as a university community that happens to have some residents who commute to the larger nearby city; in that respect it is similar to Ames, where some residents work in Des Moines. The University of Wisconsin and the University of Texas were included in an early version of this report, but both were eliminated because the cities (Madison and Austin) are also state capitals and are so large that the student housing does not appear to be such a significant factor in the market as it is in the smaller university cities; in addition, it

seems entirely reasonable to think that these urban universities may rationally depend on the complex housing markets of major metropolitan areas to address many housing needs.

Overview of the Universities

Basic enrollment data on the universities located in these communities appears in Table 5.

Table 5 University Enrollment and Undergraduate Percentage

University	Location	Total Student Population	Undergraduates	Percent Undergraduates
University of Florida	Gainesville	46,107	33,260	72.1%
University of Georgia	Athens, GA	31,288	24,010	76.7%
Florida State	Tallahassee, FL	35,462	27,125	76.5%
University of Michigan	Ann Arbor, MI	38,103	24,412	64.1%
Michigan State University	East Lansing, MI	43,366	34,342	79.2%
University of Virginia	Charlottesville, VA	18,848	12,575	66.7%
University of Iowa	Iowa City, IA	27,900	19,284	69.1%
Iowa State University	Ames, IA	27,823	23,060	82.9%
University of North Carolina	Chapel Hill, NC	25,494	15,844	62.1%
University of Oklahoma	Norman, OK	22,661	18,675	82.4%
University of Mississippi	Oxford, MS	11,873	9,891	83.3%
Virginia Tech	Blacksburg, VA	25,643	21,810	85.1%

Source: Respective University web site, using Common Data Sets where availables.

The basic question that we wanted to answer was “to what extent do these universities provide for student housing needs on-campus?” The answers, as we calculated them from raw data available from the Common Data Set and from university web sites, appear in Table 6.

Student Housing Patterns

We wanted to know what percentage of students the peer universities house on-campus. Our initial inquiry related to the percentage housed in residence halls. The results are presented in Table 6. Note that the University of Florida uses a different measure of the percentage of students housed – a comparison of Florida to these peer institutions using that measure is presented at page 34.

Table 6 Students Living in Residence Halls, Selected Peer Universities

University	Location	Residence Hal; Capacity	Total Living in Residence Halls	Percent Students in Residence Halls	Percent U-grads in Residence Halls	Percent Freshmen in Residence Halls
University of Florida	Gainesville	6,699	6,716	15%	21.0%	70.0%
University of Georgia	Athens, GA	6,000	6,000	19%	16.7%	85.0%
Florida State	Tallahassee, FL	4,319	4,000	11%	15.6%	76.0%
University of Michigan	Ann Arbor, MI	9,400	9,214	24%	37.0%	98.0%
Michigan State University	Lansing, MI	17,060	14,500	33%	44.0%	96.0%
University of Virginia	Charlottesville, VA	6,600	6,171	33%	49.0%	100.0%
University of Iowa	Iowa City, IA	5,528	5,289	19%	27.4%	90.0%
Iowa State University	Ames, IA	13,487	9,887	36%	36%	85.0%
University of North Carolina	Chapel Hill, NC	7, 152	6,756	27%	41.8%	75.9%
University of Oklahoma	Norman, OK	4,300	3,735	16%	20.0%	95.0%
University of Mississippi	Oxford, MS	3,529	3,188	27%	30.0%	100.0%
Virginia Tech	Blacksburg, VA	8,900	8,447	33%	38.3%	N.A.

Source: Respective university web sites and information obtained by telephone from university housing offices.

The data in this table is very significant. Only Florida State houses a smaller percentage of its students in residence halls. Four universities (Iowa State, Virginia Tech, the University of Virginia and Michigan State) house one-third or more of all students in such housing; two others (University of Mississippi and University of North Carolina) provide residence halls for 27 percent of their students and the University of Michigan provides such housing for 24 percent.

Students Living on Campus as Percent of All Students

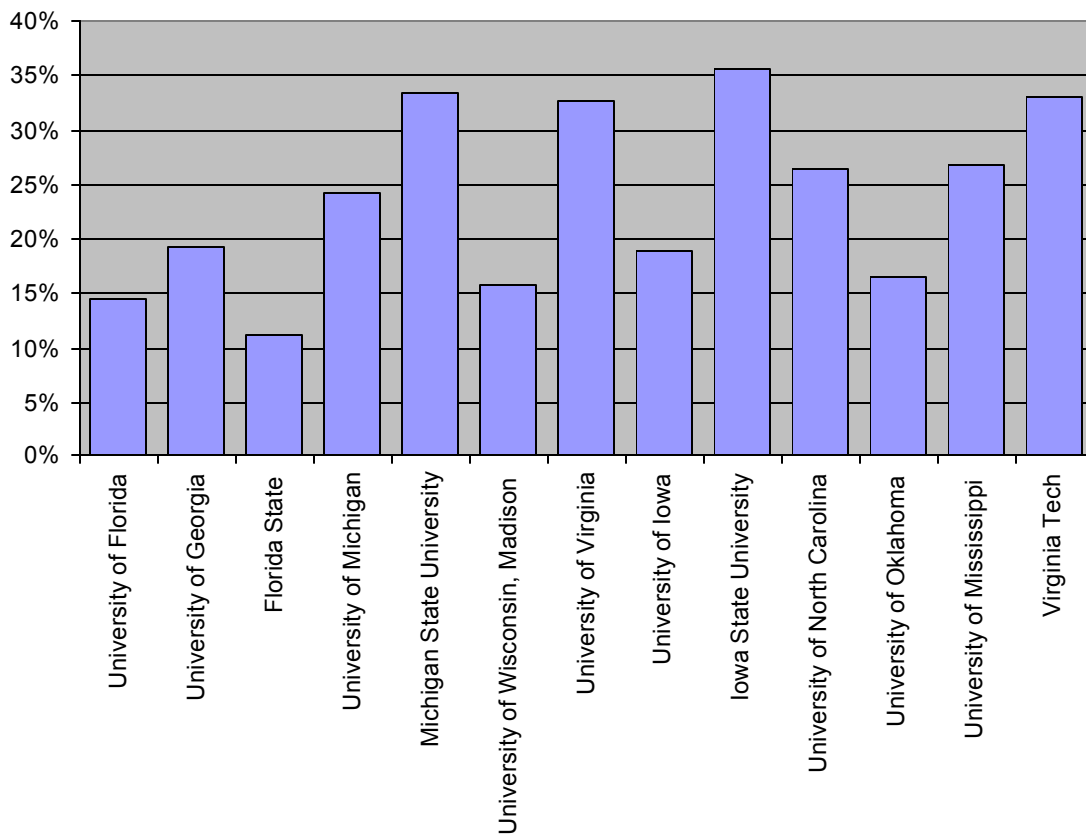


Figure 6 Percent of Undergraduates Living in Residence Halls (adapted from data in Tables 5 and 6).

It is important to note that these differences are not a function of the number of graduate students. Graduate students are somewhat more likely to want to live off-campus than undergraduate students and one might thus expect to find that the universities with the largest percentage of graduate students have a smaller percentage of students living on campus. This is not true. In fact, the three universities with the largest percentage of graduate students are among the ones that house the largest number of students in residence halls: University of Michigan (24 percent housed in residence halls); University of Virginia (33 percent housed in residence halls); University of North Carolina (27 percent housed in residence halls). As Figure 6 illustrates, the two Florida schools, along with Georgia and Oklahoma, rank significantly below the other universities in the percentage of **undergraduates** housed in residence halls, as well as in the percentage of all students living in such housing.

One significant difference regarding the demographics of students housed on-campus relates to the percentage of freshmen housed on campus. The two Florida schools house the smallest percentage of freshmen in residence halls; they are joined by the University of Georgia and University of North Carolina in falling below 80 percent in residence halls; actually, all 5 other universities house 90 percent or more of freshmen on-campus.

The university housing analysis in this report (Table 6) is based on head-count, which includes part-time students as well as full-time. Clearly part-time students are less likely to live on-campus than full-time ones (and, at Florida, part-time students are not allowed to live on-campus⁴⁵), so we examined whether the incidence of part-time students affects the percentage of students living in residence halls.

Table 7 Percentage of Students Who are Part Time, Selected Peer Universities

University	Location	% of Under graduates Full-Time	% of Under graduates Part-Time	% of Graduate Full-Time	% of Graduate Part-Time	% All Students Full-Time	% All Students Part-Time
University of Florida	Gainesville	89.1%	10.9%	75.5%	24.5%	86.1%	13.9%
University of Georgia	Athens, GA	Data Not Available					
Florida State	Tallahassee, FL	85.0%	15.0%	59.7%	40.3%	80.5%	19.5%
University of Michigan	Ann Arbor, MI	94.5%	5.5%	83.1%	16.9%	90.9%	9.1%
Michigan State University	East Lansing, MI	87.7%	12.3%	56.1%	43.9%	81.8%	18.2%
University of Virginia	Charlottesville, VA	93.0%	7.0%	51.6%	48.4%	78.5%	21.5%
University of Iowa	Iowa City, IA	87.7%	12.3%	47.4%	52.6%	77.8%	22.2%
Iowa State University	Ames, IA	92.1%	7.9%	53.5%	46.5%	85.9%	14.1%
University of North Carolina	Chapel Hill, NC	95.1%	4.9%	54.5%	45.5%	82.2%	17.8%
University of Oklahoma	Norman, OK	87.0%	13.0%	58.0%	42.0%	82.4%	17.6%
University of Mississippi	Oxford, MS	91.3%	8.7%	57.2%	42.8%	86.2%	13.8%
Virginia Tech	Blacksburg, VA	Data Not Available					

Source: Respective university web sites, using Common Data Sets where available.

This factor does not appear to explain the housing patterns, either. The range of part-time students as a percentage of head-count runs from a low of 9.1 percent at the University of Michigan to a high of 22.2 percent at the University of Iowa (see Table 7). The University of Florida, at 13.8 percent, is near the low end of the range and is lower than that of all other schools except the University of Michigan and the University of Wisconsin, Madison. Of the two universities with relatively low numbers of part-time students, one is at the low end of the scale for percentage of students housed in residence halls (Wisconsin, 16%) and one is near the middle (Michigan, 23%). The University of Virginia, where 21.2 percent of students are part-time, and Michigan State, where 18.2 percent of the students are part-time, each manage to house 33 percent of their respective total head-count in residence halls. The one university that appears to prove the null hypothesis – that universities with a lot of part-time students will house a smaller percentage of all students on-campus – is Florida’s sister school in Tallahassee. At Florida State, there are a lot of part-time students (19.5% part-time for FSU compared to 13.8% for UF) and a relatively small percentage of all students living in residence halls (11%). Of the other universities with a relatively large percentage of part-time students, only Iowa, with 22.2 percent part-time, is at the low end of the percentage scale for students living in residence halls, in that case housing only 19 percent in such units.

⁴⁵ University of Florida Division of Housing, “Master Plan: 2001-2010,” p. 5 (Gainesville: University of Florida, 2002).

Alternative Analysis of Campus Housing

The University of Florida computes the number of students living on-campus differently. The University of Florida calculates that 21.78 percent “of the enrolled Gainesville campus student population” lives on-campus.⁴⁶ That computation includes fraternity and sorority houses located on-campus. We have not included that capacity in our comparative analysis to other campuses, because most enumerations of campus housing availability at public universities do not appear to include space in Greek or other social houses. That is the figure that the University reported in the Common Data Set, however. The Common Data Set does not include the depth of analysis of housing that we wanted for this report. It simply asks for “Percent who live on college-owned, -operated, or -affiliated housing.”⁴⁷ Thus, we performed our own analysis, presented above.

Because the University of Florida has used that figure in its own plans and analysis, we decided to compare that figure to the figure reported by other institutions in the study in response to that same question. The results appear in Table 8.

Table 8 Percentage of Students Living in University-Owned, -Operated or -Affiliated Housing

University	Location	Freshmen	All Students (degree-seeking undergraduates)
University of Florida	Gainesville	90%	21%
University of Georgia	Athens, GA	[1]	[1]
Florida State	Tallahassee, FL	73%	16%
University of Michigan	Ann Arbor, MI	98%	37%
Michigan State University	East Lansing, MI	96%	44%
University of Virginia	Charlottesville, VA	100%	47%
University of Iowa	Iowa City, IA	90%	28%
Iowa State University	Ames, IA	85%	36%
University of North Carolina	Chapel Hill, NC	76%	42%
University of Oklahoma	Norman, OK	[1]	21%
University of Mississippi	Oxford, MS	99%	27%

Source: University Web sites, as reported in Common Data Set, in response to question F1.

[1] Data not available.

Table 8 essentially speaks for itself. The two Florida schools, along with the University of Oklahoma, are at the bottom of this list – just as they were at the bottom of the list comparing the number of students housed on-campus to the total student population. Although the goal of the University of Florida is to house 25 percent of its students on-campus, even achieving that goal would not move it out of the bottom quartile of these schools in terms of the percentage of students housed on-campus. The two Michigan schools, which house 37 percent (University of Michigan) and 44 percent (Michigan State) of their students in some form of on-campus

⁴⁶ University of Florida Division of Housing, “Master Plan: 2001-2010,” p. 5 (Gainesville: University of Florida, 2002).

⁴⁷ Part of Question F1 in Common Data Set questionnaire, available at <http://www.commondataset.org>

housing stand in stark contrast. Clearly those are much more self-contained university communities than the Florida schools.

Factors Influencing Housing Patterns

We examined factors that might contribute to the housing choices made by students. One factor that we examined was the cost of on-campus housing.

Table 9 University Housing Factors Possibly Affecting Housing Choices

University	Room and Board Costs (academic year) ¹	(Average)	Alcohol permitted on campus (over 21) ²	On Campus Student Parking
University of Florida	\$5,340	\$5,340	x	\$84/yr; location based on class standing
University of Georgia	\$2,453-\$2,913	\$2,683	x	\$67 yr; higher for deck parking
Florida State	\$5,764	\$5,764	x	\$2.85/credit hour/semester; approx. \$85/yr
University of Michigan	\$5,100-\$7,476	\$6,288	x	none; some nearby landlords rent spaces (\$20+/mo.)
Michigan State University	\$4,450-\$6,668	\$5,559	x	\$86/yr. commuter lot only; no freshman parking
University of Virginia	\$4,970	\$4,970		\$120
University of Iowa	\$3,790-\$7,044	\$5,417	x	\$189/9 months
Iowa State University	\$4,666	\$4,666	x	\$42/yr; location based on class standing
University of North Carolina	\$5,570	\$5,570		\$143-\$414/yr; varies by lot
University of Oklahoma	\$2,164-\$5,680	\$3,922		\$114/yr
University of Mississippi	\$1,490-\$2,535	\$2,013	x	\$60/yr
Virginia Tech	\$3,632-\$5,344	\$4,488		\$52/yr

Source: Respective university web sites

¹ Range of room and board costs indicates variety of room choices listed.

² Source: U.S. News and World Report

Although the data may not be entirely comparable, the University of Florida appears to have room and board costs that are in the upper half of the universities examined.

The University of Florida has used a different and somewhat more sophisticated measure to compare its housing costs to a somewhat different set of peer universities. It computes the following figures, comparing it to the average of 17 universities included in the comparison.⁴⁸

⁴⁸.University of Florida, Division of Housing, "Master Plan: 2001-2010," (Gainesville: University of Florida, 2002), p. 32.

Table 10 Housing Costs at University of Florida Compared to Average at 17 Universities

Unit Type	University of Florida	Average
Single	\$1,523	\$1,935
Double	\$1,393	\$1,589
Suite	\$1,837	\$1,696
Apartment	\$2,290	\$2,070

Source: University of Florida, Division of Housing, "Master Plan: 2001-2010," Gainesville, 2002, p. 32.

The University data (Table 10) is interesting, because it indicates that Florida actually has above-average costs for on-campus suites and apartments (presumably the most competitive choices for those otherwise thinking about living off-campus), while it is below-average for standard dorm units. The data is different from but not necessarily inconsistent with the material presented in Table 9. Note, however, that the cost factor is not particularly relevant in 2002, because the university housing is full and no more is available at any price. See Table 13 and text under "Analysis," beginning at page 38.

Note that the cost factor alone is not determinative of patterns, however – the two Michigan universities are among the ones with the highest cost of on-campus housing, but they are also among the universities with the highest percentage of students living on-campus.

We examined rental vacancy data for the respective cities as another factor possibly influencing housing choices. That data appears in Table 11.

Table 11 Housing Characteristics, Selected Peer University Cities

University	Location	Rental Units	Percent Rental Units	Renter-Occupied Units	Vacant Rental Units	Vacancy Rate for Rental Units
University of Florida	Gainesville	20,911	52.1%	19,488	1,423	6.8%
University of Georgia	Athens, GA	24,118	57.9%	22,945	1,173	4.9%
Florida State	Tallahassee, FL	38,508	56.3%	35,552	2,956	7.7%
University of Michigan	Ann Arbor, MI	25,672	54.4%	25,008	664	2.6%
Michigan State University	East Lansing, MI	10,438	68.1%	9,785	653	6.3%
University of Virginia	Charlottesville, VA	10,214	58.1%	9,969	245	2.4%
University of Iowa	Iowa City, IA	13,796	52.9%	13,488	308	2.2%
Iowa State University	Ames, IA	10,080	53.7%	9,748	332	3.3%
University of North Carolina	Chapel Hill, NC	10,883	57.4%	10,176	707	6.5%
University of Oklahoma	Norman, OK	18,908	45.5%	17,393	1,515	8.0%
University of Mississippi	Oxford, MS	3,766	61.4%	3,400	366	9.7%
Virginia Tech	Blacksburg, VA	9,457	68.9%	9,159	298	3.2%

Source: 2000 Census Data, Summary Table 1, <http://www.census.gov>; most data retrieved using "American Fact Finder" features.

Rental units constitute more than half the dwellings in all of the communities except Norman. There is nothing in that data that appears to explain the housing patterns. The vacancy data

may be significant, however. Three of the universities with the highest percentage of students living on-campus are in housing markets with very low vacancy rates: the University of Michigan (24 percent living on-campus), University of Virginia and Virginia Tech (each have 33 percent living on-campus); the University of Iowa is the fourth university located in a market with a low rental vacancy rate, and it has only about 19 percent of students living on-campus. Although the limited availability of alternatives in the market may be a factor influencing the number of students who live on-campus, it is important to examine another piece of data, contained in Table 12 – and that is the vacancy rate of on-campus housing.

Table 12 Vacancy Rate of Residence Halls, Selected Peer Institutions

University	Location	Residence Hall Capacity	Total Living in Residence Halls	Vacancy Rate in Residence Halls
University of Florida	Gainesville	6,699	6,716	0%
University of Georgia	Athens, GA	6,000	6,000	0%
Florida State	Tallahassee, FL	4,319	4,000	7%
University of Michigan	Ann Arbor, MI	9,400	9,214	2%
Michigan State University	East Lansing, MI	17,060	14,500	15%
University of Virginia	Charlottesville, VA	6,600	6,171	7%
University of Iowa	Iowa City, IA	5,528	5,289	4%
Iowa State University	Ames, IA	13,487	9,887	27%
University of North Carolina	Chapel Hill, NC	7,152	6,756	6%
University of Oklahoma	Norman, OK	4,300	3,735	13%
University of Mississippi	Oxford, MS	3,529	3,188	10%
Virginia Tech	Blacksburg, VA	8,900	8,447	5%

Source: Respective university web sites, data adapted from Table A-25, Appendix A.

The data in Table 12 is clearly one major explanation for the rate of students living off-campus – on-campus housing is full. See additional discussion of this topic on page 38. With on-campus housing full, students have no choice but to live off-campus or to find another university.

We also examined the cost of living in the city, a factor which reflects local housing costs. That data is presented in Table 13.

Table 13 Cost of Living Data for Selected Peer University Cities.

University	Location	Cost of Living Factor	Cost of Living Factor for Housing
University of Florida	Gainesville	90.5	78.6
University of Georgia	Athens, GA	102.0	111.3
Florida State	Tallahassee, FL	101.0	85.8
University of Michigan	Ann Arbor, MI	117.0	150.0
Michigan State University	East Lansing, MI	96.2	96.8
University of Virginia	Charlottesville, VA	130.1	191.8
University of Iowa	Iowa City, IA	95.7	89.0
Iowa State University	Ames, IA	91.7	82.0
University of North Carolina	Chapel Hill, NC	125.5	169.4
University of Oklahoma	Norman, OK	87.6	73.5
University of Mississippi	Oxford, MS	88.8	81.1
Virginia Tech	Blacksburg, VA	96.6	103.5

Source: Fast-Forward Demographics (<http://www.bestplaces.net>)

The high cost of living is undoubtedly a factor in influencing more students to live on-campus in Ann Arbor, Charlottesville and the Triangle Region in North Carolina. It may be significant to note that two of the four universities with the lowest cost of living in the local community are among those with the smallest percentage of students living on-campus: Florida (15 percent living on-campus); Oklahoma (16 percent living on-campus); on the other hand, Oxford, Mississippi, has a low cost of living and some 30 percent of students live on-campus, despite a housing vacancy rate of nearly 10 percent. This is one factor considered that is not controllable over the short-run or even over a typical planning period; further, even if Gainesville could resolve some of its neighborhood issues by increasing the cost of living, that would be a high price to pay. It is, nevertheless, important to examine this data, along with the other data considered here, to have a relatively broad understanding of the issue.

We compiled data on the types of on-campus housing available at the various universities, although we drew no conclusions from this data. That data is summarized in Table A-21, in Appendix A.

Analysis

Regardless of which data set one uses, it is clear that the University of Florida houses a far smaller percentage of students on campus than most of the peer institutions to which we compared it. The current housing master plan for the University of Florida acknowledges the source of the issue:

The University of Florida has experienced dramatic growth in student enrollment in the past decade, from approximately 30,000 students in 1990 to 46,106 students in 2001.⁴⁹

During roughly the same period, the number of students in Division of Housing Facilities shrank from 8,128, to 7,777.⁵⁰ Counting the on-campus Greek housing (which has varied from about 1,500 to about 1,800 students over the 10-year period), the University has computed that the percentage of students housed on-campus shrank from 26.62 percent to 20.69 percent.⁵¹

The University acknowledges the fundamental problem identified here – the lack of adequate capacity. According to the current housing Master Plan:

- The demand for campus, single-student residence hall space exceeds the supply for Fall Semester....
- The demand for campus space in Village Communities (graduate and family housing) exceeds the supply year-around (980 apartments). [emphasis in original]⁵²

The good news is that the University is taking steps to address the issue; Partly through the reallocation of space, the university expects to house 7,515 students in dormitory-style housing in the Fall 2002, compared to 6,864 in Fall 2001⁵³ – that represents an increase of 9.5 percent in that housing type. In 2007, the University expects to add apartment-style housing for an additional 169 students, bringing the total to 1,149⁵⁴ -- an increase of 17 percent in that type of housing. Even with those increases, however, the total percentage of students housed on campus will remain less than that at a number of the peer institutions. Nevertheless, those steps at the University should help relieve some of the pressure on the private housing market. As the discussion at page 56 indicates, in response to the university's enrollment growth and the limitations in housing on-campus, the private housing market is substantially over-built. Thus, there are already housing alternatives available to students other than renting single-family homes. There is significant reason to believe that the rapid growth of the University of Florida in the 1990s, with a much slower rate of growth in on-campus housing, contributed to the growth in the off-campus rental market and the interest in renting single-family homes around the University. Now, however, the private apartment market has responded to this opportunity and appears to be substantially over-built. Thus, increasing the availability of housing on-campus will reduce one of the pressures that has led to the problem, but it will not cure the problem.

⁴⁹ University of Florida Division of Housing, "Master Plan: 2001-2010," p. 1 (Gainesville: University of Florida, 2002).

⁵⁰ University of Florida Division of Housing, "Master Plan: 2001-2010," p. 11, Table 2 (Gainesville: University of Florida, 2002). The reporting period for this table is from 1991-2001, rather than from 1990-2000.

⁵¹ University of Florida Division of Housing, "Master Plan: 2001-2010," p. 11, Table 2 (Gainesville: University of Florida, 2002).

⁵² University of Florida Division of Housing, "Master Plan: 2001-2010," p. 5 (Gainesville: University of Florida, 2002).

⁵³ University of Florida Division of Housing, "Master Plan: 2001-2010," p. 5 (Gainesville: University of Florida, 2002).

⁵⁴ University of Florida Division of Housing, "Master Plan: 2001-2010," p. 12, Table 3 (Gainesville: University of Florida, 2002).

Conclusions

There are some clear conclusions that can be drawn from the data in this section:

- The University of Florida, along with its sister school in Tallahassee, provide housing for a significantly smaller percentage of their students – including undergraduate students – than their typical peer institutions, located in similar, small university cities;
- At six of the 11 universities studied, vacancy rates in university housing are at or below 7 percent, indicating that on most of these campuses, university housing is well-occupied when it is provided.
- On-campus housing at the University of Florida is currently over-occupied, although a significant increase in residence hall capacity is planned for Fall 2002.
- By housing an additional 10 percent of its students on-campus (which would bring it into the same range as the University of Iowa, but leave it far below the leading universities that house more than 33 percent of students on-campus), the University of Florida would remove 4,600 students from the local rental market.

Cost of living, the cost of on-campus housing and the range of choices of types of on-campus housing may all influence student choice of places to live – but the one, simple controllable variable in the equation that would make a difference is the provision of additional on-campus housing. The fact that the university's available dormitories are over-subscribed, despite a relatively high cost in comparison to peer institutions, indicates that the demand is there.

Issues and Programs in Other University Communities

The issue that we address in this memo is one that arises in many university towns – particularly those where the university constitutes a large percentage of the population base. Other communities with special rental housing ordinances addressed in whole or in part at the student housing issue include:

- Ames, Iowa (Iowa State University)
- Ann Arbor, Michigan (University of Michigan)
- Blacksburg, Virginia (Virginia Polytechnic University)
- Bloomington, Indiana (University of Indiana)
- East Lansing, Michigan (Michigan State University)
- Iowa City, Iowa (State University of Iowa)
- Macomb, Illinois (Western Illinois University)
- Tallahassee, Florida (Florida State University)
- West Chester, Pennsylvania (West Chester University)
- West Lafayette, Indiana (Purdue University)

For examples of and excerpts from these and other ordinances, see Appendix B.

Neighborhood groups in Macomb, Illinois, and Oxford, Ohio (Miami University of Ohio) maintain websites devoted to the impact of student housing on neighborhoods. The Macomb

project is called “Project HANDS,” explaining that the acronym stands for “Home and Neighborhood Defense Strategy.” The slogan on the site is “Healthy neighborhoods make a healthy city.” It contains a good deal of local information, including links to the city and university web sites.⁵⁵ It is interesting to note that the Oxford site is actually maintained by a university employee (clearly acting as an individual) on a university server.⁵⁶ It is called “Families and Students Living in a College Town” and includes these introductory remarks:

This site presents information about issues related to student and year-round residents living and working together in college towns across the United States.

In older neighborhoods in college towns, it's often difficult to achieve the type of balanced diversity that creates an optimal environment for all residents. These listings illustrate how some communities are addressing that issue.⁵⁷

In College Station, Texas (Texas A&M University), the City Council, Zoning Board of Adjustments, and Planning and Zoning Commission held a joint workshop in 1999 and discussed issues of concern in the community. The top two issues, as reported in the official minutes of the meeting, were:

- Number of non related persons living in single family housing.
- Number of bedrooms versus apartments units and parking requirements.⁵⁸

Even in Charlottesville, where 33 percent of University of Virginia students live on campus⁵⁹, one of the strategies of the city’s 1999 Housing Strategy is “Encourage the University to provide more housing for students on-grounds.”⁶⁰ This is one of nineteen priorities established in the plan.

The 1996 plan for Blacksburg, Virginia, has one housing-related action strategy that relates to housing issues in neighborhoods with student rentals:

Establish a conflict resolution committee comprised of Virginia Tech administrators, town resident students, year round neighborhood residents, landlords, and town staff to coordinate resolution of conflicts between students and non-student town residents in neighborhoods close to campus.⁶¹

⁵⁵ www.projecthands.net

⁵⁶ <http://www.users.muohio.edu/karrowrs/College/index.html>

⁵⁷ <http://www.users.muohio.edu/karrowrs/College/index.html>

⁵⁸ Minutes, Joint Meeting of the City Council, Planning and Zoning Commission and Zoning Board of Adjustments, College Station, Texas, 9 November 1999, Minutes approved 13 January, 2000; found at <http://www.ci.college-station.tx.us/> under City Council, Agendas and Minutes.

⁵⁹ Although in an absolute sense, 33 percent does not seem like a high percentage, it was the highest percentage of students living on campus that we found for any of the peer comparisons, discussed in the next section. Michigan State and Virginia Tech also had 33 percent of their students living on campus.

⁶⁰ <http://www.ci.charlottesville.va.us/neighborhood/strategies/housingstrategies.html>

⁶¹ <http://www.blacksburg.va.us/government/plan/80.php>

Courts have expressed sympathy for communities that recognize that group rentals for college students differ significantly from traditional family occupancies. An ordinance adopted by Ann Arbor, Michigan, and challenged before the appellate court in that state, provides an example of an ordinance focused on “functional families:”

A dwelling unit may not be occupied by more persons than one of the following family living arrangements:

- (a) One or more persons related by blood, marriage, adoption or guardianship living as a single housekeeping unit, in all districts.
- (b) Four persons plus their offspring living as a single housekeeping unit, in all districts.
- (c) Six persons living as a single housekeeping unit in R4 districts.
- (d) A functional family living as a single housekeeping unit which has received a special exception use permit pursuant to section 5:104.⁶²

The court also cited the section of the code defining “functional family”:

In this section functional family means a group of no more than 6 people plus their offspring, having a relationship which is functionally equivalent to a family. The relationship must be of a permanent and distinct character with a demonstrable and recognizable bond characteristic of a cohesive unit. Functional family does not include any society, club, fraternity, sorority, association, lodge, organization or group of students or other individuals where the common living arrangement or basis for the establishment of the housekeeping unit is temporary.⁶³

In upholding this ordinance, the appellate court distinguished an earlier case in which the state supreme court had struck down an ordinance with a much more restrictive definition of “family.” In doing so, the appellate court said:

At issue here is not plaintiffs' desire to rent their buildings to functional families, but to rent them to unrelated, transient college students. These are individuals who are sharing a house not to function as a family, but for convenience and economics. They do not represent a group that is bonded together and intends to live as a unit for the foreseeable future, but a group of casual friends living together for the limited duration of their education.⁶⁴

Similarly, a New Jersey appellate court noted:

It would seem, moreover, that the criterion that the occupying group constitute a bona fide single housekeeping unit is a reasonable zoning prerequisite in areas restricted to one- and two-family occupancy and that enforcement thereof might in and of itself validly and effectively curtail occupancy by those unrelated groups whose use is

⁶² Section 5.7(2) of the Ann Arbor zoning ordinance, as cited at *Stegeman v. City of Ann Arbor*, 213 Mich. App. 487, 540 N.W.2d 724, 725 (1995), appeal denied, 454 Mich. 879, 562 N.W.2d 199 (1997).

⁶³ Section 5.7(4) of the Ann Arbor zoning ordinance, as cited at *Stegeman v. City of Ann Arbor*, 213 Mich. App. 487, 540 N.W.2d 724, 725 (1995), appeal denied, 454 Mich. 879, 454 Mich. 880, 562 N.W.2d 199 (1997).

⁶⁴ 540 N.W.2d at 726.

essentially of a dormitory or rooming house character rather than as true housekeeping units.⁶⁵

And that state's high court similarly said:

We believe a satisfactory resolution to this problem would result, were local governments to restrict single family dwellings to a reasonable number of persons who constitute a bona fide single housekeeping unit. If such a requirement were incorporated into zoning ordinances, it would not only perpetuate the stability, permanence and other beneficial attributes long associated with single family occupancy but also preclude uses closely approximating boarding houses, dormitory and institutional living. Such an enactment--if carefully drawn--would be both reasonably related to the end of maintaining a peaceful family residential style of living--an end we uphold as a legitimate goal of zoning--and yet be neither excessive nor overreaching in its sweep.⁶⁶

The student housing issue became so serious in West Chester, Pennsylvania, that the borough not only passed a restrictive new zoning ordinance, described in the next chapter, but it went on record opposing the university's expansion plans. Its action is so dramatic, so unusual and yet so pertinent to some of the issues in Gainesville that the full resolution adopted by the governing body is set forth here:

Borough of West Chester, Pennsylvania, Resolution No. 18-2000, 18 October 2000.

Whereas, West Chester University has stated the institution's intent to increase its enrollment by up to 1,000 students; and

Whereas, West Chester University has not yet indicated a plan to house this number of students; and

Whereas, 57% of residential units in the Borough of West Chester are rental units, the second highest percentage of rental units of any municipality in the Commonwealth of Pennsylvania with over 15,000 population; and

Whereas, West Chester Borough Council believes a significant increase in the number of rentals in residential neighborhoods will greatly impact the quality of life in the Borough, as well as adversely affect the housing stock and tax base of the Borough; and

Whereas, West Chester Borough Council has proposed an update to the community's Comprehensive Plan in which it is stated, "Since the southeast and southwest planning areas are adversely impacted by the preponderance of student housing, the density of student housing in these areas should be reduced. The Borough should actively oppose any West Chester University actions, inactions or plans that will not reduce or that will increase the problem of student housing and parking in the Borough and, if necessary, the Borough should do so by petitioning, lobbying or otherwise contacting the Pennsylvania legislature and/or Executive Branch of Pennsylvania government, including but not limited to the State System of Higher Education, the Department of

⁶⁵ Gabe Collins Realty v. Village of Margate, 271 A.2d 430, 435 (N.J. Super. 1970).

⁶⁶ Berger v. State, 71 N.J. 206, 364 A.2d 993, 1003 (1976)

Education and the Governor's Office," (page 10, Comprehensive Plan for the Borough of West Chester, October 2000 draft);

Therefore, but it resolved that West Chester Borough Council will strongly oppose the possible increase of up to 1,000 students at West Chester University until the University proposes a plan to house these students, and the Borough will state its objections to West Chester University, the State System of Higher Education, the State Department of Education, the Governor's office and the State Legislature. The Borough will consider actions, including legal remedies, and new ordinances, to protect residential neighborhoods from an increase in the number of renters and rental units which might adversely impact quality of life as a result of increased enrollment.⁶⁷

The 2000 Comprehensive Plan for the Borough of West Chester, Pennsylvania, recommended succinctly that:

Student Housing. It is recommended that an ordinance be prepared and adopted that defines "student housing facilities" and limits the number of such facilities per block.⁶⁸

Macomb, Illinois, home to Western Illinois University, maintains an on-line ordinance violation complaint form,⁶⁹ as does East Lansing, Michigan.⁷⁰ The Borough of West Chester, Pennsylvania, the site of West Chester University, has an on-line list of nonconforming student rental homes, totaling about 1300 units.⁷¹

⁶⁷ Borough of West Chester, Pennsylvania, Resolution No. 18-2000, 18 October 2000.

⁶⁸ "Comprehensive Plan for the Borough of West Chester, Chester County, Pennsylvania," adopted 2000, "Overall Recommendations," No. 4.

⁶⁹ Online Ordinance Violation Complaint Form- <http://www.cityofmacomb.com/complaint.html>

⁷⁰ <http://www.cityofeastlansing.com/> It is an Adobe PDF document found under Code Enforcement and Neighborhood Conservation.

⁷¹ <http://www.west-chester.com/studhom2.htm>

Regulatory Approaches

Overview

This chapter examines some of the regulatory approaches used to address similar issues in other university communities. This material, together with the findings and conclusions in the previous chapters, provide the basis for our recommendations.

Enforcement

Dealing with the symptoms of the student rental housing issue is very labor intensive. The two dominant forms of documented complaints about the student rentals relate to parking and noise (see discussion beginning at page 23). Both are incident-type complaints rather than continuing complaints. Many violations of City Code are continuing and remain until an enforcement officer gets there. Further, once a sign is removed or a defect in a building is fixed, it is likely to stay fixed. In contrast, a party is an annoyance and perhaps a nuisance to neighbors when it occurs. Effective enforcement requires an immediate response by an enforcement officer, and success in shutting down one party does not ensure that there will not be another party at the same location the following week or even the following day. Similarly, parking violations are essentially daily occurrences and must be policed daily.

Thus, most remedies to the student housing ills that concern neighbors in the UF Context Area will require substantial effort at enforcement. At least one of the policy options (improving the landlord permitting ordinance – see page 60) would make existing enforcement efforts more effective, and another policy option (increased fees for landlord permits – see page 64) would help to pay for increased enforcement effort. Regardless of what the City Commission does with the policy options, however, it must at least consider the issue of how existing and future ordinances are to be enforced. The City of Boulder, Colorado, hired an outside consulting firm to evaluate its code enforcement efforts in 2001. The major, over-arching recommendation of the consultant is one that is valid for Gainesville and most other communities today:

The City Manager should assist City Council in a review of the goals and strategic framework for enforcement of the environmental code and of the occupancy limits in the land use code; City Council should adopt a set of code enforcement policies.⁷²

There is currently one code enforcement officer assigned to the UF Context Area. There are two additional officers who focus on rental housing city-wide, both funded at least in part from previous increases in the landlord permit fees and late fees. One of the additional officers is responsible for rental housing inspections, with a 5-year inspection cycle. The other officer deals with violations at rental houses.

Certainly the past additions of fee-funded inspectors were appropriate, but it does not appear that even this increased level of effort is adequate to address the problems in some of these neighborhoods. The biggest challenge is the recurring nature of the most obvious symptoms of the excess student populations in these neighborhoods – parking and parties. When the rental housing inspector works with a landlord to bring a property without smoke detectors or with

⁷² “Performance Audit of Environmental Code Enforcement, City of Boulder, Colorado,” AJW Consulting (Boulder: City of Boulder, January 2002), p. 4.

other violations into conformance with the current code, it is reasonable to think that the property will remain in compliance for some time. Parking and party problems do not, however, stay gone – they are recurring and thus essentially constant in nature. As we understand it, at night – the prime time for parties and noise complaints -- there is basically one police officer responsible for patrolling part of the UF Context Area AND the downtown. The police personnel assigned may be adequate to deal with normal police issues in a similar geographical area occupied by families. It does not appear to be adequate to deal fully with the range of issues facing the neighborhoods around the University. In this context, it would be useful for the City Commission to work with the City Manager, Chief of Police and Community Development Director to assess the current level of enforcement effort and the costs of achieving an optimal level of effort.

No enforcement director – whether uniformed or otherwise – ever believes that she or he has enough staff to do the job. That is one reason that it is important for the City Commission to work with the City Manager and department heads to set enforcement policies and priorities. Although public health and safety issues must always take priority for code enforcement officials, enforcement officers face many choices every day. It is important that these field officers have guidance from policy-makers as to whether front-yard parking, illegal signs or occupancy limits, or fence violations should take priority in their hectic schedules. How much additional staff it would require to enforce the ordinances effectively is not clear, but one thing is clear – any increase in enforcement personnel focused on the UF Context Area and the issues facing those neighborhoods would help. See, also, the discussion of the Party Patrol, beginning at page 66.

At least some neighborhood activists in Gainesville have suggested that the Gainesville Police Department could ticket cars illegally parked in front yards. That is a suggestion worth examining, although local policy varies widely as to whether police will deal with parking violations on private property. Giving the police concurrent jurisdiction over this issue with Code Enforcement might be a constructive addition, but it would be an error to turn the entire matter over to the police. One of the issues examined by the consultants hired to examine code enforcement in Boulder was whether the entire operation should be turned over to the police; the consultants concluded that it should not be, because the police have so many other competing demands for their time – many of which would always take priority over issues like yard parking and over-occupancy.⁷³

A theme that runs throughout the Boulder enforcement audit is the tension between traditional code enforcement values that focus on compliance rather than punishment, and the legitimate desire of neighbors to see some effective remedies adopted to deal with repeat offenders.⁷⁴ The point system suggested for consideration for Gainesville (see discussion beginning on page 60) offers one potential way to balance those concerns – allowing the enforcement officer to focus on immediate compliance but establishing a system for tracking repeated violations, by permit-holder, property or both.

⁷³ “Performance Audit of Environmental Code Enforcement, City of Boulder, Colorado,” AJW Consulting (Boulder: City of Boulder, January 2002), pp. 30-32.

⁷⁴ “Performance Audit of Environmental Code Enforcement, City of Boulder, Colorado,” AJW Consulting (Boulder: City of Boulder, January 2002). See discussion especially at pp. 11-12.

Zoning and Occupancy Limits

One of the traditional purposes of zoning is to limit population density and the intensity of other uses, to ensure that there is a balance between the impacts of the occupancy and the character of the neighborhood and capacities of its system. As suggested earlier in the report, there are a number of indications that the density of students and their cars in the student rental homes is a fundamental part of the problem facing the city. The City has already taken one step toward addressing density issues by limiting the occupancy of a dwelling unit in the RC and RSF districts to a single family.⁷⁵ There are three ways that the City might take further action to address the issue of density using traditional zoning controls: through limiting the density of student rental houses in each neighborhood; through limiting the number of persons occupying a rental house based on the size and number of rooms in the dwelling; by limiting the number of persons occupying a rental house based on the availability of off-street parking; or some combination of these.

Density Limits on Rental Houses

As our analysis above suggests, the real problem with the student rental houses in the University Context area is that there are so many of them. They are a quasi-commercial, quasi-institutional use in a residential neighborhood. Other commercial and institutional uses in neighborhoods are typically not allowed by right but require special use permits or other approvals that provide for some review of the potential impacts of the uses on the neighborhoods. It is common to impose spacing requirements on day-care centers and other high-impact institutional uses in residential areas. The City may want to consider such an approach to rental houses.

The Borough of West Chester, Pennsylvania, passed an ordinance that made a Student Rental Home a use by special exception (granted by the Zoning Hearing Board). The ordinance provides that:

A Student Home shall not be located within five hundred (500) feet of a Group Home, Group Quarters Institution, Church, Educational Use, Housing for the Elderly or Home for Handicapped Individuals....

A Student Home shall not be located closer than the distance equal to twenty times the required street frontage for the Neighborhood Conservation District Block Class where the Student Home is proposed to be located from another Student Home.⁷⁶

The West Chester code defined “student home” as:

A living arrangement for a maximum of four (4) students, unrelated by blood, marriage or legal adoption.⁷⁷

The findings of the borough council indicated that it relied on the decision of the Commonwealth Court in *Farley v. Zoning Hearing Board of Lower Merion Twp.*⁷⁸ The Lower

⁷⁵ Gainesville Land Development Code, Sec. 30-57(a)(2).

⁷⁶ West Chester, Pennsylvania, Code, Sec. 112-100.1.B. and C.

⁷⁷ West Chester, Pennsylvania, Code, Sec. 112-7.

⁷⁸ 636 A.2d 1232 (Pa. Commwlth 1994), app. den. 651 A.2d 544 (Pa. 1995).

Merion ordinance tested in that case was even more restrictive in its definition than the new ordinance in West Chester, defining a student home as “no more than three (3) students located in a dwelling with a floor area of at least one thousand five hundred (1500) square feet, exclusive of basements, garages and accessory buildings.”⁷⁹ It included the following restrictions on location of a student home:

T. No [student home] shall be permitted if another [student home] is located in any Residential Zoning District except R-7 and within 500 feet, measured by the shortest distance between the lot on which the proposed use will be located and the lot or lots which contain the existing use. . . . Student homes shall also be subject to the spacing provisions of Section 155-141.3.

U. In districts which have more than a single set of area and width regulations, community residential programs and student homes shall meet the area and width regulations for single-family dwellings, except that student homes are not permitted in structures designed as townhouses.⁸⁰

The Lower Merion Ordinance also required three off-street parking spaces for each rental home.⁸¹ In ruling for the Township in a challenge brought to enforcement of the ordinance, the court noted this evidence in support of adoption of the ordinance:

In the matter sub judice, the Board was presented with evidence that approximately 120 student homes were licensed in the Township and that these homes were concentrated in relatively small geographic areas in South Ardmore and Bryn Mawr. Neighbors of student homes testified how the residential character of their neighborhood has diminished since student homes have located in their neighborhoods, giving way to a "dormitory-like" atmosphere. Specifically, neighbors testified about excessive noise from radios, stereos and parties that last through the early morning hours; cars parked on sidewalks which force neighborhood children to walk or ride their bicycles in the street in order to pass student houses; constant traffic and parking congestion; trash left on the premises of student houses as well as scattered on neighbors' properties; and public urination. One neighbor also testified that his property has lost value since student housing proliferated on his street.⁸²

The court held in part:

⁷⁹ Lower Merion Ord. Cited at 636 A.2d at 1235.

⁸⁰ Lower Merion Ord., cited at 636 A.2d at 1235.

⁸¹ Lower Merion Ord., cited at 636 A.2d at 1235.

⁸² 636 A.2d at 1238.

As to whether the Ordinance rationally furthers the Township's interest, this Court recently upheld the constitutionality of an ordinance which provided that single-family residences could be used for student housing by special exception when certain physical requirements such as spacing, minimal square footage and off-street parking were met because the ordinance was rationally related to the legitimate purpose of preserving the integrity of single-family neighborhoods. *Lantos*. Similarly, the provisions in the Ordinance limiting the number of students, providing for minimal square footage in a home, and requiring sufficient parking spaces and distance between homes are rationally related to the Township's legitimate purpose of preventing oversaturation of areas within the Township with student homes in an attempt to preserve the residential character and integrity of those communities.⁸³

The case to which the court referred in the extract was apparently *Lantos v. Zoning Hearing Board*, a case challenging the denial of licenses for student homes to a landlord in Haverford Township.⁸⁴ There, the court held:

Because the Township found a need to preserve the character of single-family neighborhoods, if the ordinances have any rational relationship to the required purpose, we cannot hold that the ordinances are not legitimate. The trial court held that the requirements do help preserve the integrity of the zoning district and thus, are rationally related to the ordinances' legitimate goal. We hold, therefore, that *Lantos*' constitutional challenge is without merit.⁸⁵

A federal district court rejected a variety of federal challenges to the Lower Merion ordinance,⁸⁶ and that was affirmed by the Third Circuit.⁸⁷

Implementation of this concept in Gainesville might be accomplished through the use of a Neighborhood Conservation Overlay District that could be adopted for particular neighborhoods, or portions of those neighborhoods, based on an adopted neighborhood plan. Policy 3.1.11 of the Housing Element of the Comprehensive Plan and Policy 5.1.14 of the Future Land Use Element of the Plan both provide:

The City shall create heritage, conservation or other appropriate overlay districts, as needed, for neighborhood stabilization.⁸⁸

⁸³ 636 A.2d at 1238-39.

⁸⁴ 621 A.2d 1208 (Pa. Commwlth. 1993).

⁸⁵ 621 A.2d at 1212.

⁸⁶ *Smith v. Lower Merion Twp.*, 1991 U.S. Dist. LEXIS 11100 (E.D.Pa.)

⁸⁷ 995 F.2d 219 (3rd Cir. 1993).

One reason to consider this approach is that at least some blocks of single-family homes around the University now appear to be so dominated by rental homes that there may be little neighborhood left to conserve. To impose a density limit on such areas may not make sense at the neighborhood level. By tying this approach to a neighborhood plan and by requiring specific action to implement the Neighborhood Conservation Overlay District, the City Commission could make this a plan-driven, neighborhood-specific option. In those neighborhoods with a strong commitment to maintenance of single-family character, it should be easy to develop a request to the City to adopt the Overlay District. In other neighborhoods, there may be less interest in the issue or landlords may be the dominant influence; it may make sense to treat the two types of neighborhoods differently.

Occupancy Limits on Rental Houses based on Dwelling Size

If it is not desirable or practicable to reduce the number of student rental homes in the University Context Area, it may be useful to try to reduce the number of students in some of the dwellings.

East Lansing, Michigan, issues rental licenses for 6 classes of dwelling units:

- (1) "Class I" Rental License: A license that authorizes the owner of a one-family dwelling in which the owner resides to lease or rent room(s) to one person.
- (2) "Class II" Rental License: A license that authorizes the owner of a one-family dwelling in which the owner resides to lease or rent room(s) to two or more persons.
- (3) "Class III" Rental License: A license that authorizes the owner of a one-family dwelling in which the owner does not reside or a two-family dwelling to lease or rent the dwelling to a family or two unrelated persons per rental unit.
- (4) "Class IV" Rental License: A license that authorizes the owner of a one-family dwelling in which the owner does not reside or a two-family dwelling to lease or rent the dwelling to a family or three or more unrelated persons per rental unit.
- (5) "Class V" Rental License: A license that authorizes the owner of a "Class A" multiple dwelling to rent or lease the dwelling units or rooming units contained therein.
- (6) "Class VI" Rental License: A license that authorizes the owner of a "Class B" multiple dwelling to rent or lease the dwelling units or rooming units contained therein.⁸⁹

The East Lansing ordinance does not contain explicit criteria for distinguishing between those properties that will be allowed a Class III Rental License (two unrelated persons per unit) or a Class IV Rental License (three or more unrelated persons), but it is certainly possible to

⁸⁸ Policy 3.1.11 of Housing Element, Policy 5.1.4 of Future Land Use Element, found, respectively at <http://www.state.fl.us/gvl/Government/Documents/Housing.pdf> and <http://www.state.fl.us/gvl/Government/Documents/FutureLandUse.pdf>.

⁸⁹ East Lansing Code, Sec. 1002.1.

develop such criteria. Ames, Iowa, specifically limits the occupancy of single-family and two-family units located in its RH and RM zones to “one more person than the number of bedrooms, up to five people.”⁹⁰ Although the Ames code does not appear to define bedrooms, other codes provide performance criteria that can be used to determine the number of bedrooms. Iowa City and Ann Arbor require that each sleeping room have an exit/rescue window meeting building code standards.⁹¹ Ames has a similar requirement, although it defines the exit window directly, rather than by reference to another code.⁹² Iowa City requires a minimum area of 70 square feet in a sleeping room to be used by one person and at least an additional 40 square feet if the room is to be used by more than one person.⁹³ Ann Arbor also requires a minimum of 70 square feet in a sleeping room.⁹⁴

The classification system suggested by East Lansing could also be used as the basis for creating two (or, perhaps, more) use classifications, based on the number of students permitted in the unit – imposing site and other conditions specific to each. Another approach would be to allow the less intense rental (two students) as a use by right but to make the units with more students a use by review, as discussed in the previous section.

We have no data on the layout of the rental homes in the University Context area and thus can form no conclusion as to how much imposition of an occupancy limit based on the number of bedrooms might reduce the density of student occupancy in these neighborhoods. It may be an issue that is worthy of further study, however.

Occupancy Limits on Rental Houses based on Parking Availability

The current Gainesville ordinance on front-yard parking in the RC and RSF zones in the context area allows parking in a driveway, carport or garage, or two “pullout” parking spaces, provided that “no more than 40 percent of front open space may be devoted to driveway parking area and pullout spaces.”⁹⁵ The ordinance does not address the issue that arises when there are more cars based at a residence than there are parking places. The net result is to force some of the parking into the street or to encourage violations of the front-yard parking ordinance.

Another way to approach this issue would be to treat these the way commercial properties are treated under most zoning ordinances and to limit the intensity of use to the level of use that can be supported by available parking that conforms fully with design standards affecting setback, landscaping and access. East Lansing essentially uses this approach, making the availability of adequate off-street parking one of the criteria for issuance of various classes of rental licenses.⁹⁶

⁹⁰ Ames Municipal Code, Sec. 13.36(3)(b).

⁹¹ Iowa City Code Sec. 14-5E-17.F.1f; Ann Arbor Code Sec. 8:504(3)(c).

⁹² Ames Municipal Code, Sec. 13.35(2).

⁹³ Iowa City Code Sec. 14-5E-17.K.3.

⁹⁴ Ann Arbor Code, Sec. 8:503(1).

⁹⁵ Gainesville Land Development Code, Sec. 30-56(c)(4).

⁹⁶ East Lansing Code Sec. 1005.3(6)(f).

The Borough of West Chester, Pennsylvania, requires a minimum of 1 parking space per “occupant which would be permitted to reside in the dwelling up to a maximum of four spaces, plus one space” for each student rental house in the NC-1 and NC-2 (neighborhood conservation) districts.⁹⁷ Ames, Iowa, requires 1.25 parking spaces per bedroom for single-family and two-family units located in the RH and RM zoning districts and included in the “university impacted area.”⁹⁸

Using that approach and assuming 1 vehicle per student, which is not an unreasonable assumption based on ordinances in other communities, a student rental house with a front yard that is 50 feet by 20 feet would be allowed only 2 occupants, because the 40 percent limitation on the portion of the front yard that may be devoted to parking would allow only 2 parking spaces.⁹⁹ The City could further require that the parking spaces be designed so that each approved parking space is accessible without moving vehicles in or blocking another parking space. Such a standard is entirely consistent with standards imposed on apartment and office buildings – for which the City actually specifies minimum aisle widths for the parking lots. By requiring that each parking space be independently accessible, the City would limit the temptation of full-time residents to park on the lawn or in the right-of-way because another vehicle is in the way or to allow another vehicle to move.

This approach would leave on-street parking and even the bottom portion of the driveway available for guest and other temporary parking. Implicit in this approach is the need to define more clearly the driveway and parking areas, but that is a subject that the City may want to address, anyway – see the next section.

Our field observations in the University Context area, as well as discussions with residents and review of documents from the Ad Hoc Committee and from neighborhood planning groups indicate that the excess of automobiles over off-street parking spaces is one of the most severe symptoms of the issues that arise with the density of student occupancy in the area. There is little question that imposition of occupancy limits based on the availability of off-street parking, particularly using the Ames criterion, would make a difference, at least in the neighborhoods with relatively small lot sizes. There would be less impact in the RSF-1 and RSF-2 neighborhoods, which have larger lot sizes – but at least the symptom of vehicles overflowing onto the street should be less significant in those areas.

Parking Design

The Gainesville ordinance currently requires that:

All unpaved driveway parking areas must be mulched, graveled or covered with other erosion preventing material clearly defining the driveway parking area and have side

⁹⁷ West Chester Code, Sec.12-74A.

⁹⁸ Ames Municipal Code, Sec. 13.36(3)(b).

⁹⁹ Gainesville Land Development Code, Sec. 30-56(c)(4)(b) specifies a size of 9 x 16 for a pullout space, resulting in 144 square feet for each space, without allowing for the driveway or other access; 40 percent of the front yard would be 400 square feet, meaning that there would be room for 2 spaces (288 square feet) plus reasonable access.

borders of plants, landscape ties, pressure treated wood, brick, concrete or similar border materials.¹⁰⁰

Many of the driveways and probably most of the parking areas that we observed at apparent student rental houses used mulch or gravel on the parking areas. The use of pervious surface reduces the stormwater runoff and the related management programs, and it generally is more attractive than a large paved area in a residential area. Unfortunately, it also appears to make enforcement of the front yard parking ordinance extremely difficult – in most cases, we could not really tell where the driveway or pullout parking spaces stopped and the yard began. A greater definition of the parking area would improve the enforceability of the front yard parking ordinance.

East Lansing currently imposes on rental housing parking design standards that are similar to those imposed on multi-family and commercial uses:

302.3.2 Off-Street Parking and Access Facilities: Off-street parking and access facilities shall be constructed and maintained in accordance with the following provisions of this Chapter:

1. Surface Materials. At a minimum, all parking and driveway facilities shall be paved with driving courses as specified below. Each driving course shall be placed over an appropriately prepared and improved subgrade and/or base at least two (2) inches in depth below grade as determined by the Building Official. Thicker courses and base may be required if the subgrade and/or anticipated traffic conditions so warrant.
 - (a) Residential uses with less than seven (7) provided parking spaces shall be paved with one of the following driving courses:
 - i. Concrete with a minimum thickness of four (4) inches, or
 - ii. Bituminous material with a minimum thickness of two (2) inches over a four (4) inch gravel base
 - iii. Brick pavers manufactured for use as a driving course
 - (b) Such materials shall cover the entire width of the driveway. (b) Uses with more than six (6) and fewer than fifty (50) provided parking spaces shall be paved with one of the following driving courses:
 - i. Concrete with a minimum thickness of six (6) inches; or
 - ii. Bituminous material with a minimum thickness of three (3) inches over a minimum six (6) inch gravel base
 - (c) Uses with fifty (50) or more provided parking spaces shall be paved with one of the following driving courses:
 - i. Concrete with a minimum thickness of six (6) inches; or
 - ii. Bituminous material with a minimum thickness of four (4) inches over a minimum six (6) inch gravel base

¹⁰⁰ Gainesville Land Development Code, Sec. 30-56(c)(4)f.

2. Other Improvements. Where seven (7) or more unenclosed parking spaces are provided, exclusive of driveways, the following additional improvements as determined by the City Engineer are required:
 - (a) Drainage. Parking areas shall be appropriately graded and equipped with facilities to collect storm water on site and transmit it to approved public facilities.
 - (b) Marking. All parking spaces shall be appropriately marked with painted lines. This provision shall not apply to single-family and two-family dwellings on individual lots.
 - (c) Curbing. The perimeter of parking areas shall be enclosed with curbing or wheel stops extending six (6) inches above the paved surface.
 - (d) Lighting. Lighting as approved or required to illuminate parking and access areas shall be placed, arranged, or shielded so it does not direct light onto adjacent properties or streets.
3. Existing residential drives and parking surfaces shall first become subject to the requirements of subsections (1) and (2) of this section upon the earlier of (a) rental of the property, (b) transfer of ownership of the property, except transfers on account of death or divorce, or (c) January 1, 1998; except that residential properties with less than seven (7) parking spaces in existence on November 12, 1995, may continue to have gravel, stone, or crushed stone surfaces, provided curbing or some other equally effective and discernable fixed and durable border was installed by October 1, 1998 to adequately contain the paving material. Additional standards for containment and maintenance of soft surface materials may be adopted in accordance with the rule making authority of §105.6 of this Code.
4. Existing commercial drives and parking surfaces shall first become subject to the requirements of this section on November 1, 2001.¹⁰¹

As we noted above, there are good reasons for allowing pervious parking surfaces, such as gravel and mulch, in Gainesville. The City does not have the harsh climate problems that face East Lansing officials. Note, however, the provision in Section three allowing residential properties with fewer than seven spaces in existence when the ordinance was adopted to “continue to have gravel, stone or crushed stone surfaces, provided curbing or some other equally effective and discernable, fixed and durable border was installed...” Compare that to a provision of the Gainesville ordinance related to parking areas for multi-family, commercial and other uses:

- a. All parking spaces as required by this section shall contain some type of vehicle wheel stops. Wheel stops shall be placed to prevent any part of a vehicle from overhanging onto the right-of-way of any public road, alley or walkway.¹⁰²

¹⁰¹ East Lansing Municipal Code, Sec. 303.3.2.

¹⁰² Gainesville Land Development Code, Sec. 30-330(a)(2)a.

Requiring the installation of wheel stops for each parking space would help to define the parking spaces and to limit intrusions into the yard. Requiring the installation of a 5-inch or 6-inch curb around the entire driveway and parking area for a rental house would even more effectively define the entire permitted vehicle use area and would ensure that most vehicles would stay on the designated surface. Although normally such curbs are associated with hard surfaces, such as those described in the East Lansing ordinance, it is certainly possible to require the curbs and still to allow or even encourage the use of a permeable parking surface, such as those now allowed under the Gainesville ordinance. Note also that East Lansing made these provisions requirements of its licensing ordinance rather than its zoning ordinance, ensuring that landlords who continued to rent their properties would come into compliance with this requirement within a specified time.

Note that this technique deals only with a symptom. Noise and problems with excess vehicles (front yard parking in particular) appear to be the most tangible and most common symptoms of the issues that arise with the current density of student rental houses in the University Context Area. Addressing one of the symptoms should help to improve the appearance and livability of some of the neighborhoods, but it does not fix the problem.

Nonconforming Status

Although presumably all of the properly registered student rental houses in Gainesville are now in conformance with the zoning ordinance, it is possible that the City may change the locational, occupancy or other criteria in a way that would make some of those houses nonconforming. The question then arises as to how long they can continue to operate as rental houses.

Tallahassee has provided for the elimination of nonconforming status for a rooming house that has three or more violations of its rental housing ordinance during a six-month period:

E. A rooming house may lose its status as a nonconforming use if the Tallahassee Police Department or the City's Neighborhood and Community Services Department confirm that on 3 or more separate occasions within a six-month period, civil or criminal citations have been issued at the address of the rooming house, or the property is determined to be a public nuisance by the Tallahassee Code Enforcement Board pursuant to Article V, Chapter 15 of the City Code of Ordinances. Multiple citations issued to different people at a single address at the same time shall not be considered "separate occasions."¹⁰³

Bloomington, Indiana, successfully litigated over the enforcement of a provision denying nonconforming status to a student rental house that had not been registered as a nonconforming use, as required by the ordinance making it nonconforming.¹⁰⁴ An interesting twist in the case was that the City sent individual notices of the new ordinance and the registration requirement to every landlord who had registered his or her rental house, as required under an earlier ordinance. The predecessors in interest of the landlords who brought the challenge had not registered under that ordinance and thus did not receive the individual notice. The court had no sympathy:

¹⁰³ Tallahassee Municipal Code, Sec. 27-12.6.E.

¹⁰⁴ Board of Zoning Appeals v. Leisz, 702 N.E.2d 1026 (Ind. 1998).

In granting the Leiszs' motion to correct error, the trial court stated "obviously, the Leiszs (or their predecessors) could not have registered their properties for purposes of grandfathering because the notices were sent only to those who were registered as rentals." We disagree. Notice was mailed to all property owners registered under BMC § 16.12.060, a housing ordinance that requires all rental units to be registered with the city engineer in order to subject them to inspections to ensure compliance with minimum health, safety, and public welfare standards. Leisz, 686 N.E.2d at 936.... By not registering under this ordinance, the prior owners presumably avoided these inspections but also lost the opportunity to receive individualized notice by mail of the enactment of the grandfathering registration requirement.... Sending individualized notice only to those units registered under the housing code satisfied the requirements of procedural due process where both affected properties were required to be registered under a different valid ordinance. We cannot expect a city to canvass all of its housing units to search for those being used as rentals in order to provide them with individualized notice.¹⁰⁵ [three internal citations omitted]

See, also, the Pennsylvania case of *Lantos v. Zoning Hearing Board*, discussed in the section on limiting the density of student rentals, where the court rejected an appeal by a landlord demanding student rental licenses; the court held that the landlord had not proved that the prior use as a student rental home was lawful.¹⁰⁶

Market Impacts of Limits on Student Rentals in Single-Family Homes

Note that a simple adoption of a new ordinance limiting the addition of more student rental houses to these neighborhoods will not reverse the existing problems. If this technique is combined with other techniques – including a relatively aggressive approach to the elimination of units when they become nonconforming through ordinance violations – it will have a significant impact on the root problem in the neighborhoods.

It is important, however, to examine the other side of the coin. Part of the reason that there are so many student rental houses is that there is a demand for them, in part because the University of Florida has elected to house a much smaller percentage of students on-campus than many of its peer institutions. Some will argue that displacing a large number of students without simultaneous programs to provide other housing alternatives could adversely affect both the community and the University. The data suggests that the market can absorb a lot of these students immediately – the 2000 census reported 1,423 vacant rental units in the City of Gainesville, or a vacancy rate of 6.8 percent for rental units.¹⁰⁷ Further, most of these units were in the area around the University of Florida. Table 11 shows the vacant units in the census tracts that surround the University of Florida and that include the UF Context Area. That shows 1192 vacant units, with a vacancy rate of

¹⁰⁵ Leisz, 702 N.E.2d at 1033.

¹⁰⁶ 621 A.2d 1208 (Pa. Commwlth. 1993).

¹⁰⁷ See Table A-3 and sources cited there.

10.7 percent – that accounts for 80 percent of the vacant rental units in the City (compare to data in Table A-21, Appendix A). The Census Tract map is included again here for reference, as Figure 6 below. Adding Census Tracts 15.01, 15.02, 15.03 and 15.04, which are in the UF Context Area but not in the City limits, and Tract 17.02, which is northwest of the Context Area, substantially increases the number of vacant units.

Table 14 Rental Units and Vacancies in Census Tracts including UF Context Area in the City of Gainesville

Census Tract	Total Rental	Vacant Rental	Percentage Vacancy
2	1,693	230	13.6%
8	3,642	254	7.0%
10	1,623	136	8.4%
16	2,201	255	11.6%
TOTAL	9,159	875	10.7%

Source: 2000 Census, Summary File 1, Items H4 and H5. "Vacant rental" units are only those units that were reported to the census as vacant and "for rent" only; it does not include units that might be rented temporarily pending sale.

By adding the large area of apartments south of the Context Area (Census tracts 15.01 through 15.04) and the tract immediately northwest of the Context Area (Census Tract 17.02), the number of rental units jumps to 21,029, with 2,013 of those vacant for a vacancy rate of 9.6% in the area. Note in Figure 6 that most parts of these additional Census Tracts are outside the city limits of Gainesville, leading to a total number of vacant units in the Context Area and near the University of Florida (2,019) that exceeds the number of vacant units reported in the City (1,423 – see Table A-21 in Appendix A). It is perfectly reasonable to include these Census Tracts for purposes of this analysis, however, because all except 17.02 are within the UF Context Area and all are within 4 miles of the center of campus,

Table 15 Rental Units and Vacancies, in Census Tracts Surrounding UF, Alachua County

Census Tract	Total Rental	Vacant Rental	Percentage Vacancy
2	1,693	230	13.6%
8	3,642	254	7.0%
10	1,623	136	8.4%
15.01	3,523	387	11.0%
15.02	3,013	232	7.7%
15.03	2,972	121	4.1%
15.04	50	16	32.0%
16	2,201	255	10.7%
17.02	339	65	19.2%
TOTAL	19,056	1,696	9.6%

Source: 2000 Census, Summary File 1, Items H4 and H5. "Vacant rental" units are only those units that were reported to the census as vacant and "for rent" only; it does not include units that might be rented temporarily pending sale.

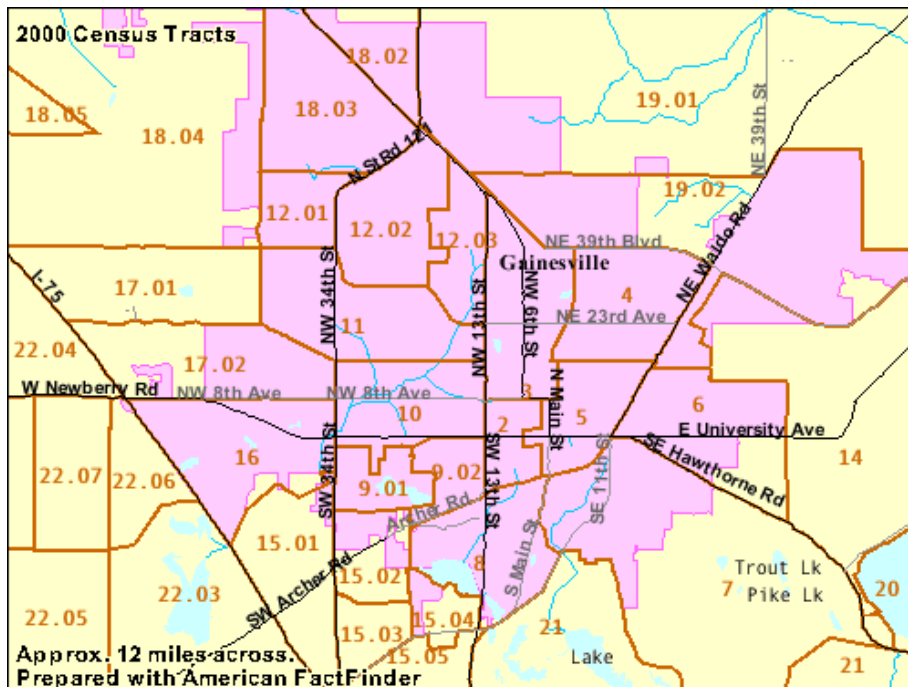


Figure 7 Map of Census Tracts, Gainesville, Florida.

Analysis by the University of Florida Division of Housing confirms the overhanging capacity in the off-campus housing market:

In 2000, there were 4,198 beds under construction or planned for the off-campus Gainesville student market. During the preceding four years, approximately 7,000 student beds were added to the off-campus Gainesville market. The off-campus Gainesville market is overbuilt with most complexes running at 80% average occupancies. Even complexes that historically have been at 100% occupancy are running in the 90% range.¹⁰⁸

Actually, according to the current Master Plan for the Division of Housing at the University, some tightening of the private rental market would be beneficial:

The off-campus market provides a challenge at this point, as rental “wars” exist in Gainesville. Off-campus rental rates are plunging; no security deposit programs have been initiated; and free amenities, like televisions or microwaves, are being offered. There does not appear to be any indication that off-campus apartment construction is slowing down. Another 1,000 beds may be constructed off-campus this year [2002(?)]. There is a clear indication that the Gainesville off-campus housing market is experiencing lower occupancies each year. The Division of Housing staff has to

¹⁰⁸ University of Florida Division of Housing, “Master Plan: 2001-2010,” p. 27 (Gainesville: University of Florida, 2002).

respond by aggressively marketing campus housing, particularly in the summer when there are fewer students in the Gainesville market.¹⁰⁹

It is important to remember that all of these figures are for rental **units**. We do not have data on the size of the vacant rentals, but it is not unreasonable to assume a minimum occupancy of 2 students per rental, which means that existing vacancies around the UF (as reported in the Census) could house 4,000 more students.

There may at one point have been a need to house students in rented houses. Clearly at least some of the growth at the University occurred before the substantial expansion of the apartment market in Gainesville in the last few years. The private market, however, has now responded to the fact that the University expanded far faster than its own housing capacity. As a result, there is clearly ample room to house University of Florida students who cannot live on-campus in off-campus apartment complexes designed and managed as rental units.

Further, to the extent that there is a reduction in the availability of rental homes in the market, it is unlikely that the change would occur immediately. If the City follows the approach used in Tallahassee and Bloomington, the conversion of existing student rentals that become nonconforming would occur over a period of time, through violations and other actions and inactions by the owners and operators of these properties. To the extent that initial displacement of some student numbers from the neighborhoods reduces the vacancy rate around the university to a friction rate of 3 percent or 4 percent, the market would have time to expand the number of apartments available for student rentals.

Other Regulations

In essentially gutting a local ordinance that limited occupancy of dwelling units in some zones to “families” by holding that 10 students who had chosen to live together constituted a family¹¹⁰, the New Jersey Supreme Court noted:

It also bears repetition that noise and other socially disruptive behavior are best regulated outside the framework of municipal zoning. As we observed in *State v. Baker*, 81 N.J. at 111, 405 A.2d 368: Other legitimate municipal concerns can be dealt with similarly. Traffic congestion can appropriately be remedied by reasonable, evenhanded limitations upon the number of cars which may be maintained at a given residence. Moreover, area-related occupancy restrictions will, by decreasing density, tend by themselves to reduce traffic problems. Disruptive behavior--which, of course, is not limited to unrelated households--may properly be controlled through the use of the general police power. As we stated in *Kirsch v. Borough of Manasquan*, supra: Ordinarily obnoxious personal behavior can best be dealt with officially by vigorous and persistent enforcement of general police power ordinances and criminal statutes. *

¹⁰⁹ University of Florida Division of Housing, “Master Plan: 2001-2010,” pp. 27-28 (Gainesville: University of Florida, 2002).

¹¹⁰ *Borough of Glassboro v. Vallorosi*, 117 N.J. 421, 568 A.2d 888 (1990).

* * Zoning ordinances are not intended and cannot be expected to cure or prevent most anti-social conduct in dwelling situations. [59 N.J. at 253-54, 281 A.2d 513].¹¹¹

Holding Business Owners Accountable

East Lansing, Michigan, has taken the advice quoted above to heart, although the advice was actually directed at communities in New Jersey. As the community development director for East Lansing told the *Gainesville Sun* in 1999:

"The biggest change is we (now) hold the property owner responsible for actions that go on at the property," said Asche, who was hired by East Lansing in 1998. Landlords in Gainesville have long opposed similar measures. Landlord Robert Pearce, who owns homes in University Heights behind Farah's on the Avenue and NationsBank, said it is "absurd" to hold the landlord responsible for others' actions.¹¹²

Operating student rental houses is a business, not a hobby. The City of Gainesville cannot hire enough police or code inspectors to manage the behavior of all of the students in all of the rental units in the City. Although the City must have ordinances on the books to impose penalties on those who infringe on the rights of others, it is not realistic to expect the ordinances on parties, front yard parking and other behavior to control all of the activities in all of the rental units of the City all of the time. One possible approach to the issue is that apparently taken in East Lansing – to hold the operators of the student housing business accountable for what happens in their rental units. Cities and states use a similar approach in dealing with other businesses that create the potential for conflicts with neighbors and the larger community – bar operators, for example, know that continuing to operate requires continuing to hold a license, which requires managing the behavior of persons on the premises.

In theory, the Gainesville landlord permit is intended to accomplish this purpose. That ordinance states that "Rental units where there are repeated violations of ordinances that adversely affect the rights of nearby residents to the quiet enjoyment of their property constitute a public nuisance...."¹¹³ It goes on to establish a process through which the permit can be revoked after the occurrence of three specified violations within one year.¹¹⁴ Again, in theory, that should work.

In practice, it has not worked. Consider again the data on complaints from October 2000 through September 2001, included again here as Table 12.

¹¹¹ 117 N.J. at 433, 568 A.2d at 895.

¹¹² Gainesville Sun, quoting Howard Asche, East Lansing Director of Code Enforcement and Neighborhood Preservation, story by Judy Magrin, March 8, 1999, found in on-line archives at <http://www.sunone.com/news/articles/03-08-99a.shtml>

¹¹³ Gainesville Code, Sec. 14.5.2(e).

¹¹⁴ Gainesville Code, Sec. 14.5.2(e).

Table 16 Code and Noise Complaints in Gainesville, Oct. 2000 – Sep. 2001

Complaint Type	Total Number	Number in U.F. Context Area	Percentage in UF Context Area
Dangerous Building	205	10	4.88%
Driveway	11	10	90.91%
Major Housing Code Violation	684	106	15.50%
Minor Housing Code Violation	16	6	37.50%
Multiple Violations	16	5	31.25%
Noise	387	197	50.90%
Over Occupancy Limits	26	12	46.15%
Parking	101	101	100.00%
Sign	37	16	43.24%
Vacant Land	117	4	3.42%
Inoperable vehicles	104	5	4.81%
Vision Triangle	14	7	50.00%
Commercial Zoning Violation	55	8	14.55%
Residential Zoning Violation	48	5	10.42%
TOTAL	1821	492	

Source: City of Gainesville Code Enforcement.

There were only a total of 492 violations actually processed in the UF Context area in the one-year period ending in September 2001. It is our understanding that only one property achieved two violations has occurred, triggering a warning but not a revocation procedure under the ordinance. It is time-consuming under the current Gainesville ordinance and the constraints of Florida law to bring a property to the point that it has two violations. Each violation must be preceded by a written warning; both the warning and the notice of violation must be served in person or by certified mail. Thus, an enforcement officer who visits a property with a violation, such as unauthorized yard parking, faces three choices: 1) to wait for someone to come home; 2) to go back to the office and fill out the paperwork to achieve service of the notice; or 3) to leave a sticker or other informal notice of violation. Obviously the third choice is by far the least time-consuming and it is one that will often achieve compliance, at least over the short-term. Enforcement officers will face that same series of choices four times before bringing a property to the point that it has had “two violations” in a year. Our discussions with Code Enforcement officers and Gainesville Police officers also indicate that they, like good law enforcement officials everywhere, attempt to achieve voluntary compliance with the ordinance without issuing a citation in some cases. That is entirely appropriate in most cases, particularly when a violation may lead to a substantial fine or other penalty for a normally law-abiding citizen. Further, to some extent it is one of practicality. As one City official reported to us:

This works best for noise because noise occurs typically when a tenant is home, so warnings and citations are fairly frequent. For other violation types, such as yard parking, the tenant is often away, so the officers frequently achieve compliance through another means (for example an adhesive sticker on the car window) that brings

compliance but doesn't kick in the steps toward later revocation as the ordinance exists now.¹¹⁵

There are several steps that the City might take to put some real teeth into the landlord permitting system. One violation of the permitting ordinance that does NOT trigger a citation currently is the failure to have a person “18 years of age or older who can be contacted 24 hours a day, seven days a week, regarding the rental unit.”¹¹⁶ Providing a name and phone number for such a person is essentially an application requirement under the ordinance but is not set out as a continuing obligation. Police Officers tell us that it is not unusual for them to reach only an answering machine when they call. At a minimum, the City should make this provision a continuing obligation of a landlord, with real penalties – including the potential loss of a landlord permit. Although it is probably not reasonable to expect that someone can answer the phone immediately, it would seem entirely reasonable to require that a phone call at any hour be returned by an agent or other person with authority to act within 30 minutes of the call – that approach would allow the use of an answering service which could then work down a call list to find someone available to call back. Although it may not be appropriate to impose financial penalties for failure to return the phone call, repeated non-responses should lead to suspension or revocation of permits.

Other steps that the City might consider to strengthen the landlord permitting ordinance would be:

- Using a point system like that used to track violations that can affect driving privileges, assigning more points to serious infractions (housing code violations, major noise complaints) and smaller numbers of points to less serious ones;
- Modify the current ordinance so that there is an assessment of points on issuance of a warning, a step required before issuance of a formal citation under Florida law;
- Considering a system of involving enforcement notices other than citations, in which the Code Enforcement or Police Officer would issue a notice of assessment of points without other penalty. Any such system should also include a right for the person against whom the points are assessed to appeal the assessment;
- Considering the assessment of a single point against any landlord any time there is a valid enforcement call to a property – even if the person responding to the call is able to achieve voluntary compliance. Note that our concept would be that it would take a number of such calls to result in a revocation, giving the landlord time to correct the problem;
- Attaching violations or points cumulatively to a landlord as well as to a property, putting a landlord at risk of losing permits for all of its properties for repeated violations – it would be reasonable to allow more violations on multiple properties than for one (under the current system, perhaps require 6 or 9 total violations to lead to the revocation of all of a landlord’s permits).

¹¹⁵ E-mail communication from Thomas Saunders, Director of Community Development, March 11, 2002.

¹¹⁶ Gainesville Code Sec. 14.5-2(g).

The landlords are in a far better position to control the behavior of their tenants than is the City of Gainesville. A more aggressive approach of holding landlord's accountable would put an increased burden on them, but that is a typical price to exact of someone who has chosen to engage in a high-impact business – like running a bar. Although these student rental homes in the right context would not have as much impact on a neighborhood as would a bar, the proportionate impact of a student rental home on a family neighborhood may be nearly as great as the impact of a bar on a neighborhood shopping center.

If the City Commission decides not to adopt any sort of cumulative point system, holding landlords accountable, it should, at a minimum, require that notices of violations at specific locations be sent to property owners and/or holders of landlord permits for those locations. The consultants who evaluated the Boulder, Colorado, enforcement system recommended such notices to landlords as one important part of an enforcement program.¹¹⁷

The concept of imposing some of the burden for achieving compliance with adopted public policies on the person who controls the premises was recently before the U.S. Supreme Court in another context. The Court unanimously upheld a federal statute that requires local housing authorities to include in their leases clauses providing for the eviction of tenants where there is drug activity on the premises, regardless of whether the tenant is at fault. In upholding the implementation of the statute in the face of both Constitutional and statutory challenges, the Court cited with approval this language from the federal regulations:

Regardless of knowledge, a tenant who "cannot control drug crime, or other criminal activities by a household member which threaten health or safety of other residents, is a threat to other residents and the project."¹¹⁸

Although the issue before the Supreme Court was different factually from that confronting Gainesville, the policy involved was directly relevant to this issue. The Supreme Court upheld action by Congress to hold landlords (in this case, public housing authorities receiving federal funds) and to require that they hold tenants accountable for what occurs on the premises. Clearly such policies are rooted in the recognition that no local government can afford to have a police officer stationed full-time in every trouble-prone premises. To require that the owner who has elected to engage in the activity of managing the premises (whether public or private housing) to control the activity there makes both economic and policy sense. If one of the effects of a system imposing more accountability on landlords is for some of them to choose to leave this business, the result may be to convert some neighborhood homes back to family occupancy – a net benefit for the community.

Related to the discussion of consequences for violations of various ordinances at properties subject to the landlord permitting ordinance is the discussion above regarding “nonconforming situations.” If some of these units become nonconforming under new zoning rules, one of the consequences of violations of other ordinances could be the loss of nonconforming status and the elimination of the right to continue to operate.

¹¹⁷ “Performance Audit of Environmental Code Enforcement, City of Boulder, Colorado,” AJW Consulting (Boulder: City of Boulder, January 2002), pp. 20-22.

¹¹⁸ *Dept. of Housing and Urban Development v. Rucker*, 2002 U.S. Lexis 2144., at 17, quoting from 56 Fed. Reg. at 51567.

One piece of the rental housing enforcement program in Milwaukee is a training program called “So You Want to be a Landlord.” The program includes an informational brochure and a 5-hour training course, offered free each month by the City.¹¹⁹

Another modification to the present system that might make sense would be to require that holders of Landlord Permits register with the City the names of authorized tenants in each property. Such registration could be provided on a standard form on a standard date, such as October 1 of each year, which would facilitate tracking of the reports. One of the problems that Code enforcement officers currently face in dealing with over-occupancy citations is determining who the occupants are – and who is supposed to be there. If an officer called to a particular property has or can pull up a list of all authorized tenants, the officer can then simply take roll; although an extra person found in such a roll-call may claim to be a visitor or otherwise confuse the situation, having a starting list of who should be in the unit would simplify the job of the officer called to the scene. Further, in cases where the landlord is intentionally renting to more than the number of renters allowed, the roll call would, at least in some cases, identify the fact that there are more people with leases on the property than there are names on the list provided to the City. A proposal from a study committee in Muncie, Indiana (home of Ball State University) in April 2002 included a recommendation that a current list of tenants be maintained on the premises, to be available to enforcement officers there.¹²⁰ Such an approach would serve much the same purpose and might be viewed by landlords and tenants as less intrusive; it is also somewhat more difficult to enforce consistently.

Permit Fees and Enforcement Costs

It is a basic principle of licensing law that fees must be limited to the amount necessary to administer the licensing program. Gainesville has relied on that principle in adopting two sets of fee increases for the landlord permits – one adjusting the basic fee from \$25 to \$40 per year and the second adding substantial late fees, with both sets of fee increases used to fund increased enforcement. Clearly the current fee makes no contribution toward inspections or enforcement actions, both of which are part of the cost of administering the program.

In contrast, East Lansing, Michigan, has adopted a fee schedule clearly intended to fund a full program of inspections and enforcement. Here are the basic fees:

¹¹⁹ The informational brochure is available at <http://www.ci.mil.wi.us/citygov/dns/pdf/broc/LLTTBrocV16.pdf>

Information on the training program is available at <http://www.ci.mil.wi.us/citygov/dns/pdf/broc/LLTTBrocV16.pdf>.

¹²⁰ Discussed in point-counterpoint opinion columns, *Muncie Star-Press*, 14 April 2002, front of editorial section.

Table 17 Fee Schedule, Housing Applications and Actions, East Lansing, Michigan

Application/Action	Fee
License Renewal Fee	\$145
Initial Rental License Fee	\$1,535
Commission Hearing Fee	\$760
New Owner Review Fee	\$245
Late Application Fee	\$25

Source: found at <http://www.cityofeastlansing.com> under “Code Enforcement and Neighborhood Conservation, linked to “Housing Regulations” and then to “Fee Schedules.”

Those are not the only fees, however. East Lansing charges separate fees for each inspection, **including those that are generated from a complaint.**

Table 18 Housing Inspection Fees, East Lansing Michigan

Class	Annual	Reinspections	No Show	Complaint
I	\$136	\$70	\$70	\$136
II	\$136	\$70	\$70	\$136
III	\$136	\$70	\$70	\$136
IV	\$136	\$70	\$70	\$136

Source: found at <http://www.cityofeastlansing.com> under “Code Enforcement and Neighborhood Conservation, linked to “Housing Regulations” and then to “Fee Schedules.”

The different classes of rental units in East Lansing are described in some depth at page 50, but it is useful here to recall that Class I allows an owner to rent one room to an unrelated person, Class II allows an owner to rent two rooms to unrelated persons, Class III allows rental of a single-family dwelling to a family or 2 unrelated persons, and Class IV allows rental of such a dwelling to a family or 3 or more unrelated persons.¹²¹ Classes V and VI under the ordinance are also included in the fee schedule, but they relate to multi-family units and thus are not pertinent to the analysis here.

The consultants who evaluated code enforcement in Boulder, Colorado, suggested the use of “excessive consumption fees” for properties that have repeated visits by enforcement.¹²² The consultants based those recommendations on programs in place in Milwaukee and St. Paul.¹²³ The St. Paul program includes the following policy statement:

The City Council finds these property owners take little or no responsibility for the exterior maintenance of their property and the City, through its various inspections programs, has repeatedly ordered them to abate the exterior of their property of the conditions listed in the city ordinance. These property owners have created excessive costs for the City which are over and above the normal cost of providing inspection services city-wide. These property owners have repeatedly been ordered to abate their

¹²¹ East Lansing Code, Sec. 1002.1.

¹²² “Performance Audit of Environmental Code Enforcement, City of Boulder, Colorado,” AJW Consulting (Boulder: City of Boulder, January 2002), pp. 22-24.

¹²³ “Performance Audit of Environmental Code Enforcement, City of Boulder, Colorado,” AJW Consulting (Boulder: City of Boulder, January 2002), p. 23.

property and they consume an unacceptable and disproportionate share of limited City resources. Therefore, it is the intent of the City Council to impose and collect a user fee to defray costs associated with the excessive consumption of City exterior inspection services.¹²⁴

As of April 2002, the City of St. Paul website lists about 50 property owners who owe from \$200 to \$400 in excessive consumption fees.¹²⁵ The concept may be better than the implementation in St. Paul, as the fines seem relatively modest and the website suggests that payment of the fees is dependent upon moral suasion.¹²⁶ The only related concept that we found on the Milwaukee website was a “reinspection fee” of \$60.

Although the St. Paul and Milwaukee systems do not appear to be ideal models, the “excess consumption fee” is a possible alternative to adopting a fee system like the one in East Lansing. The excess consumption fee is essentially similar to the fees imposed by many cities on homes or businesses with repeated false alarms from burglar or fire alarm systems; such a system imposes the most significant costs on those who generate the most demand, while keeping the fees for other users more modest. The East Lansing program is a purer program from the perspective of economics and public administration – every enforcement call costs money. The excess consumption charge for repeated enforcement calls, however, represents a possible political compromise.

Clearly an increase in the fee schedules to help to fund enforcement efforts would make a difference in the rate of compliance in the neighborhoods. On an ordinary day in March 2002, the principal author of this report drove through several neighborhoods and observed a number of apparent violations of the driveway parking rules in the context area. As noted above, the parking and party violations are recurring in nature and require constant attention.

Party Patrol

It is our understanding that the Party Patrol no longer exists in a formal way, although the Gainesville Police Department and Code Enforcement continue to cooperate in dealing with noise and party complaints. Because noise and the density of vehicles in the UF Context Area neighborhoods appear to be the most troublesome symptoms of the rental houses in neighborhoods, one technique that the City must consider is reinstatement of a formal Party Patrol or other expanded enforcement effort for weekend nights and other times of peak social activity among students. One thing we learned from our field studies is that the social life of students in Gainesville appears to start late and end late. Crowds really picked up at the bars starting at about 11 p.m. on the Saturday night that we observed, and many student-oriented establishments downtown appeared to have big crowds right up to closing time at 2 a.m. Police officers informed us that the students then move on to parties in the neighborhoods. Obviously parties that occur in the wee hours of the morning are likely to be much more disturbing to

¹²⁴ Found at http://www.ci.stpaul.mn.us/depts/code_enforcement/consumption.html

¹²⁵ See http://www.ci.stpaul.mn.us/depts/code_enforcement/consumption.html .

¹²⁶ The website contains this note:

If you wish to pay your fee and have your name removed from the list, call Lynn at 651-266-8813.

http://www.ci.stpaul.mn.us/depts/code_enforcement/consumption.html

traditional families in a neighborhood than parties that occurring during the evening hours when families might entertain. The fact that many of the party-goers have started their evenings at bars undoubtedly contributes to the level of activity – and noise – at these early morning parties.

Ohio State University and the City of Columbus have a cooperative party patrol similar to the one used in Gainesville. The University describes it this way on its Website:

Every Friday and Saturday night throughout the autumn quarter, special teams of Columbus and Ohio State University police officers will patrol the off-campus neighborhoods on foot or bicycle to inform students and other residents of the laws regulating public safety and of their responsibilities in hosting parties and other events. They will enforce laws as necessary, but their focus is informational. You can request a visit from the Neighborhood Patrol by calling the Columbus Police dispatch room at 645-4545 and asking for the campus area walking patrol. This is advisable if you are concerned about uninvited or unruly guests or otherwise sense that trouble may be brewing. In case of an emergency (immediate threat to personal safety or major property damage), call 911.¹²⁷

Other Approaches to Parties and Noise

Several communities in Minnesota have adopted a ZAP policy, with the acronym standing for “Zero Adult Providers.” According to a news report, a ZAP policy as implemented there includes these elements:

- Police can enter and search a house with probable cause.
- Fines are determined by a judge, but can go as high as \$3000 for a provider and \$700 for a minor.
- Charges for providing are a gross mis- demeanor, or a felony if a death is involved. Minors face a misdemeanor, which is erased from their records if the defendants commit no violations for a year.
- Providers will always be arrested.¹²⁸

Lexington, Kentucky, passed a new party ordinance in late 2001. Although it was not yet available on-line, a newspaper report described the provisions this way:

The measure passed last night would give Lexington police authority to issue fines of \$50 to \$500 to habitual partyers. At houses where police made arrests or issued citations twice within a year, the occupants could be fined, and the house labeled a nuisance for one year. If police made more citations or arrests at the same place within the year, fines would increase and the nuisance declaration would be renewed for a year on the date of the new citation.¹²⁹

¹²⁷ <http://www.acs.ohio-state.edu/partysmart/police.php> .

¹²⁸ Apparently from a student newspaper at St. Thomas University. Found at <http://www.stthomas.edu/aquin/archive/110201/zap.html>

¹²⁹ Lexington Herald-Leader, December 14, 2001, page A-1.

The December 13, 2001, Lexington-Fayette County Urban Council Agenda described the measure this way:

An Ordinance creating and enacting Section 14-96 of the Code of Ordinances to establish a procedure to be known as the “Lexington Area Party Plan” whereby each dwelling or residence within Fayette County that is identified by the Div. of Police as having multiple substantiated disturbance complaints requiring enforcement action within a one year period is to be certified as a “no party property”, and providing for: definitions, record keeping, certification of a property as a “no party property” for a period of one year, notification of certification as a “no party property” to the property owner and occupants, including providing a sticker or similar document to be displayed within the premises, violation for allowing a substantiated disturbance complaint to occur on a “no party property”, immediate enforcement action by the Div. of Police to shut down any disturbance at a “no party property”, a petition for removal of certification as a “no party property” and the continued enforcement of other regulations, penalties; all effective on the date of passage.¹³⁰

In 2001, Boulder, Colorado, adopted a “nuisance party” ordinance.¹³¹ A “nuisance party” is defined as one at which there are violations of other ordinances, ranging from assault and battery to trash¹³², or where a keg of beer is outside and visible.¹³³ The operative provision of the ordinance says:

All participants in any party or social gathering declared to be a public nuisance by a police officer shall cease participating in that party or social gathering and disperse immediately upon the order of a police officer, and all persons not domiciled at the site of such party or social gathering shall leave the premises immediately. No person shall fail or refuse to obey and abide by such an order.¹³⁴

Again, it is important to note that efforts to deal with the parties are simply efforts to deal with symptoms. These efforts must continue, however, even if the City takes steps to reduce the number of student rental homes in some or all of the UF Context neighborhoods. Reducing the density of student homes and the occupancy level of the smaller homes (or homes on smaller lots) should substantially reduce or eliminate the over-population of cars that is the other most tangible symptom of the student housing issue. In contrast, one house in a neighborhood that throws a loud party at 3 a.m. will be a problem to that neighborhood, even if there are fewer student rentals in the neighborhood or even fewer students living in that house.

¹³⁰ Proposed Lexington-Fayette County Ord. No. 315-2001, from Urban Council Agenda, 13 December, 2001; passed that night.

¹³¹ City of Boulder, Ordinance No. 7126, included in Appendix B.

¹³² City of Boulder, Ord. No. 7126, adopting Code §5-3-11(b).

¹³³ City of Boulder, Ord. No. 7126, adopting Code §5-3-11(c).

¹³⁴ City of Boulder, Ord. No. 7126, adopting Code §5-3-11(d).

Policy and Action Options for Gainesville

This section outlines possible policy and action options that appear to be viable choices for the City Commission in Gainesville to consider. In presenting these options, it is important to remember that the City of Gainesville already has several programs in place to address the issues discussed in this report – see page 1. As this report indicates, however, the current programs have not solved the problem, at least from the perspective of the neighborhoods surrounding the University.

The policy and action options presented here are not ranked and are not discussed again in detail here. There are page references included below to take the reader back to the more detailed discussion of each option, contained in earlier sections of the report.

Expanded Enforcement

Enforcement Options

The City should consider expanding its enforcement efforts in two respects:

- **General Code Enforcement.** There is currently one enforcement officer to deal with the entire University Context Area. There are also two officers assigned to rental housing issues city-wide. Tracking occupancy and parking are extremely labor-intensive tasks. Full enforcement of current policies would clearly require expanded enforcement staff. See more discussion at page 45.
- **Reinforce Party Patrol.** It is our understanding that the original Party Patrol was funded in part with a grant and that the current night-time enforcement effort is limited to a police officer who covers the UF Context Area as well as the downtown area. Expansion of staffing of the Party Patrol would help to deal with some of the most annoying of the symptoms of this issue. Note that such an effort need not be staffed full-time. The emphasis should be on major game weekends and at the time of other events likely to involve major student celebrations. For further discussion, see material beginning at page 66.
- **Establish clear enforcement priorities.** See discussion at page 45.

Related Options

Other options, discussed below, are directly related to these:

- **Increased Permit Fees,** discussed immediately below, could be used as a source of financing for an expanded enforcement effort.
- **Some possible changes to the landlord permitting ordinance** could increase the effectiveness of current enforcement efforts. See description on page 71.

Permit Fees

Policy Options

The basic policy option to be considered here is an increase in landlord permitting fees, although there is a range of options in how to do that and in the amount of fees that might be charged.

- Increase landlord permit fees to a level that incorporates enforcement costs as well as permit processing costs. See description beginning at page 64.
- Alternatively, or in combination with the first option, add a separate fee for inspections, including inspections resulting from valid complaints. See discussion at page beginning at page 64.
- Another alternative to adding a fee for all inspection and enforcement complaints is to add an “excess consumption” fee for enforcement calls, discussed at the end of the section beginning at page 64.

Related Options

- An increase in permit fees should be used to improve enforcement, the topic discussed immediately above.

Spacing or Density Limits on Student Rental Houses

Policy Options

As the discussion in pages 17 through 26 indicates, much of the problem with the student rental houses relates to the number of them in a neighborhood. Options listed here would address directly that problem:

- Establish spacing limits for student rental houses. See discussion beginning at page 47.
- Establish density limits for student rental houses, such as 1 per block. This is not substantially different from using spacing limits. A middle position would be to establishing spacing limits and to measure the relevant distances along street frontages. See discussion beginning at page 47.

Related Options

- The spacing requirement might be tied to the creation of Neighborhood Conservation Overlay Districts, described in the next section.
- Changes in the Landlord permitting ordinance, described on page 71, when combined with possible changes to the portion of the zoning ordinance dealing with the loss of nonconforming use status, described on page 71, would be essential to allow for the gradual elimination of some of the existing rental houses.
- The possibility of phasing out existing rental houses over time, regardless of whether they comply with current ordinances, has not been explored at this time.

Other Zoning Changes

Policy Options

Many of the provisions that address issues in the University Context neighborhoods are incorporated into the Land Development Code. Some possible changes or enhancements to those provisions would include:

- Creation of an Urban Conservation Overlay District, which would be used to implement some of these concepts selectively in UF Context neighborhoods, based on specific neighborhood plans. See discussion at page 47.
- Require improved parking design to delineate parking areas with wheel stops or curbs, similar to the requirements imposed on commercial parking lots. This could be accomplished with or without implementing a hard surfacing requirement for the parking areas. This change would both provide physical barriers to front-yard parking and make it easier for enforcement officers to identify where the authorized parking area stops and the front yard starts. See discussion beginning on page 52.
- Limit rental house occupancy based on parking spaces that are accessible without “stacking” cars and without exceeding current limit that prohibits using more than 40 percent of front yard for driveway and parking. See discussion at page 51.
- Limit student rental house occupancy based on actual number of bedrooms with closets, smoke detectors and egress windows meeting current code. This might further reduce the occupancy of some of the smaller rental units. See page 50.
- Amend Code to provide that loss of an operating permit or license makes a use unlawful and thus deprives it of “lawful, nonconforming use” status. This technique would be useful if the City were to limit the density or spacing of rental houses, thus making some of them nonconforming. See discussion beginning at page 55.

Related Options

- Additional limits on occupancy and parking will make sense primarily if there is an increased enforcement effort. See option on page 69. Note, however, that the requirement for physical barriers around the parking area would simplify the enforcement task somewhat, both by limiting the opportunity for people to violate the ordinance and by making it easier for an officer to determine whether there is a violation at a particular time.
- The change to the nonconforming use provisions makes sense primarily in conjunction with a density or spacing limit on student rental houses or other change that makes some of the units nonconforming. See page 47.

Changes to Landlord Permitting Ordinance

Policy Options

The current Landlord permitting ordinance is solid in principle but not entirely effective in achieving the intended purposes. Some changes to the ordinance that would enhance its effectiveness include:

- Amending the ordinance to create a violation whenever an enforcement officer calls the “24-hour” phone number provided on the application and does not receive a response from the owner or an authorized agent within 20 minutes or some other reasonable period of time. Note that the original purpose of the provision was clearly to provide the opportunity to involve the landlord with the enforcement officer in addressing an issue when it occurs, which may be in the middle of the night. Thus an answering machine or voicemail from which calls are returned the next business day misses the point. See discussion at 62.
- Using a point system like that used to track violations that can affect driving privileges, assigning more points to serious infractions (housing code violations, major noise complaints) and smaller numbers of points to less serious ones. See discussion beginning at page 61.
- Modify the current ordinance so that there is an assessment of points on issuance of a warning, a step required before issuance of a formal citation under Florida law. See discussion beginning on page 62.
- Considering a system of involving enforcement notices other than citations, in which the Code Enforcement or Police Officer would issue a notice of assessment of points without other penalty. Any such system should also include a right for the person against whom the points are assessed to appeal the assessment. See discussion beginning on page 62.
- Considering the assessment of a single point against any landlord any time there is a valid enforcement call to a property – even if the person responding to the call is able to achieve voluntary compliance. Note that our concept would be that it would take a number of such calls to result in a revocation, giving the landlord time to correct the problem. See discussion beginning on page 62.
- Attaching violations or points cumulatively to a landlord as well as to a property, putting a landlord at risk of losing permits for all of its properties for repeated violations – it would be reasonable to allow more violations on multiple properties than for one (under the current system, perhaps require 6 or 9 total violations to lead to the revocation of all of a landlord’s permits). See discussion beginning on page 62.

Related Options

- Clearly, improved enforcement would help to make this system work better. See policy option on page 69. Note, however, that this approach would make even current, limited enforcement efforts more potent and thus more effective.
- It would make sense to tie the new permitting requirements to a new fee schedule. See policy option on page 70.
- Note that this approach could lead to some landlords losing their permits, which, if used in combination with a provision limiting density of the units (page 47) and expanding the circumstances in which a nonconforming use would use its protected status (see page 71), could lead to some reduction in the number of such units.

Other Possible Ordinances

Policy Options

If the Gainesville Police Department believes that it currently lacks adequate tools to break up problem parties, the City could:

- Adopt a “nuisance party ordinance,” based on the Boulder, Colorado, model included in Appendix B. See discussion in material beginning at page 67.

Related Options

- This is closely related to a range of enforcement options, outlined at page 69.

Appendix A: Data Tables with Comparisons to Peer Universities/Communities

Table A-19 Basic Population and Housing Data for Selected Peer University Cities

University	Location	City Population	Housing Units	Occupied Units	Vacant Units	Vacancy Rate
University of Florida	Gainesville	95,447	40,105	37,279	2,826	7.0%
University of Georgia	Athens, GA	100,266	41,633	39,239	2,394	5.8%
Florida State	Tallahassee, FL	150,624	68,417	63,217	5,200	7.6%
University of Michigan	Ann Arbor, MI	114,024	47,218	45,693	1,525	3.2%
Michigan State University	East Lansing, MI	46,525	15,321	14,390	931	6.1%
University of Virginia	Charlottesville, VA	45,049	17,591	16,851	740	4.2%
University of Iowa	Iowa City, IA	62,220	26,083	25,202	881	3.4%
Iowa State University	Ames, IA	50,731	18,757	18,085	672	3.6%
University of North Carolina	Chapel Hill, NC	48,715	18,976	17,808	1,168	6.2%
University of Oklahoma	Norman, OK	95,694	41,547	38,834	2,713	6.5%
University of Mississippi	Oxford, MS	11,756	6,137	5,327	810	13.2%
Virginia Tech	Blacksburg, VA	39,573	13,732	13,162	570	4.2%

Source: 2000 Census Data, Summary Table 1, <http://www.census.gov> ; most data retrieved using “American Fact Finder” features.

Table A-20 Cost of Living Data for Selected Peer University Cities.

University	Location	Cost of Living Factor	Cost of Living Factor for Housing
University of Florida	Gainesville	90.5	78.6
University of Georgia	Athens, GA	102.0	111.3
Florida State	Tallahassee, FL	101.0	85.8
University of Michigan	Ann Arbor, MI	117.0	150.0
Michigan State University	East Lansing, MI	96.2	96.8
University of Virginia	Charlottesville, VA	130.1	191.8
University of Iowa	Iowa City, IA	95.7	89.0
Iowa State University	Ames, IA	91.7	82.0
University of North Carolina	Chapel Hill, NC	125.5	169.4
University of Oklahoma	Norman, OK	87.6	73.5
University of Mississippi	Oxford, MS	88.8	81.1
Virginia Tech	Blacksburg, VA	96.6	103.5

Source: Fast-Forward Demographics (<http://www.bestplaces.net>)

Table A-21 Housing Characteristics, Selected Peer University Cities

University	Location	Rental Units	Percent Rental Units	Renter-Occupied Units	Vacant Rental Units	Vacancy Rate for Rental Units
University of Florida	Gainesville	20,911	52.1%	19,488	1,423	6.8%
University of Georgia	Athens, GA	24,118	57.9%	22,945	1,173	4.9%
Florida State	Tallahassee, FL	38,508	56.3%	35,552	2,956	7.7%
University of Michigan	Ann Arbor, MI	25,672	54.4%	25,008	664	2.6%
Michigan State University	East Lansing, MI	10,438	68.1%	9,785	653	6.3%
University of Virginia	Charlottesville, VA	10,214	58.1%	9,969	245	2.4%
University of Iowa	Iowa City, IA	13,796	52.9%	13,488	308	2.2%
Iowa State University	Ames, IA	10,080	53.7%	9,748	332	3.3%
University of North Carolina	Chapel Hill, NC	10,883	57.4%	10,176	707	6.5%
University of Oklahoma	Norman, OK	18,908	45.5%	17,393	1,515	8.0%
University of Mississippi	Oxford, MS	3,766	61.4%	3,400	366	9.7%
Virginia Tech	Blacksburg, VA	9,457	68.9%	9,159	298	3.2%

Source: 2000 Census Data, Summary Table 1, <http://www.census.gov>; most data retrieved using "American Fact Finder" features.

Table A-22 University Housing Factors Possibly Affecting Housing Choices

University	Room and Board Costs (academic year) ¹	(Average)	Alcohol permitted on campus (over 21) ²	On Campus Student Parking
University of Florida	\$5,340	\$5,340	x	\$84/yr; location based on class standing
University of Georgia	\$2,453-\$2,913	\$2,683	x	\$67 yr; higher for deck parking
Florida State	\$5,764	\$5,764	x	\$2.85/credit hour/semester; approx. \$85/yr
University of Michigan	\$5,100-\$7,476	\$6,288	x	none; some nearby landlords rent spaces (\$20+/mo.)
Michigan State University	\$4,450-\$6,668	\$5,559	x	\$86/yr. commuter lot only; no freshman parking
University of Virginia	\$4,970	\$4,970		\$120
University of Iowa	\$3,790-\$7,044	\$5,417	x	\$189/9 months
Iowa State University	\$4,666	\$4,666	x	\$42/yr; location based on class standing
University of North Carolina	\$5,570	\$5,570		\$143-\$414/yr; varies by lot
University of Oklahoma	\$2,164-\$5,680	\$3,922		\$114/yr
University of Mississippi	\$1,490-\$2,535	\$2,013	x	\$60/yr
Virginia Tech	\$3,632-\$5,344	\$4,488		\$52/yr

Source: Respective university web sites

¹ Range of room and board costs indicates variety of room choices listed.

² Source: U.S. News and World Report

Table A-23 University Enrollment and Undergraduate Percentage

University	Location	Total student population	Undergraduates	Percent Undergraduates
University of Florida	Gainesville	46,107	33,260	72.1%
University of Georgia	Athens, GA	31,288	24,010	76.7%
Florida State	Tallahassee, FL	35,462	27,125	76.5%
University of Michigan	Ann Arbor, MI	38,103	24,412	64.1%
Michigan State University	East Lansing, MI	43,366	34,342	79.2%
University of Virginia	Charlottesville, VA	18,848	12,575	66.7%
University of Iowa	Iowa City, IA	27,900	19,284	69.1%
Iowa State University	Ames, IA	27,823	23,060	82.9%
University of North Carolina	Chapel Hill, NC	25,494	15,844	62.1%
University of Oklahoma	Norman, OK	22,661	18,675	82.4%
University of Mississippi	Oxford, MS	11,873	9,891	83.3%
Virginia Tech	Blacksburg, VA	25,643	21,810	85.1%

Source: Respective University web sites, Common Data Sets.

Table A-24 Percentage of Students Who are Part Time, Selected Peer Universities

University	Location	Percent of Undergraduates Full-Time	Percent of Undergraduates Part-Time	Percent of Graduate Full-Time	Percent of Graduate Part-Time	Percent All Students Full-Time	Percent All Students Part-Time
University of Florida	Gainesville	89.1%	10.9%	75.5%	24.5%	86.1%	13.9%
University of Georgia	Athens, GA	Data Not Available					
Florida State	Tallahassee, FL	85.0%	15.0%	59.7%	40.3%	80.5%	19.5%
University of Michigan	Ann Arbor, MI	94.5%	5.5%	83.1%	16.9%	90.9%	9.1%
Michigan State University	East Lansing, MI	87.7%	12.3%	56.1%	43.9%	81.8%	18.2%
University of Virginia	Charlottesville, VA	93.0%	7.0%	51.6%	48.4%	78.5%	21.5%
University of Iowa	Iowa City, IA	87.7%	12.3%	47.4%	52.6%	77.8%	22.2%
Iowa State University	Ames, IA	92.1%	7.9%	53.5%	46.5%	85.9%	14.1%
University of North Carolina	Chapel Hill, NC	95.1%	4.9%	54.5%	45.5%	82.2%	17.8%
University of Oklahoma	Norman, OK	87.0%	13.0%	58.0%	42.0%	82.4%	17.6%
University of Mississippi	Oxford, MS	91.3%	8.7%	57.2%	42.8%	86.2%	13.8%
Virginia Tech	Blacksburg, VA	Data Not Available					

Source: University Web Site: Common Data Sets where available.

Table A-25 Students Living in Residence Halls, Selected Peer Universities

University	Location	Residence Hal; Capacity	Total Living in Residence Halls	Percent Students in Residence Halls	Percent U-grads in Residence Halls	Percent Freshmen in Residence Halls
University of Florida	Gainesville	6,699	6,716	15%	21.0%	70.0%
University of Georgia	Athens, GA	6,000	6,000	19%	16.7%	85.0%
Florida State	Tallahassee, FL	4,319	4,000	11%	15.6%	76.0%
University of Michigan	Ann Arbor, MI	9,400	9,214	24%	37.0%	98.0%
Michigan State University	East Lansing, MI	17,060	14,500	33%	44.0%	96.0%
University of Virginia	Charlottesville, VA	6,600	6,171	33%	49.0%	100.0%
University of Iowa	Iowa City, IA	5,528	5,289	19%	27.4%	90.0%
Iowa State University	Ames, IA	13,487	9,887	36%	36%	85.0%
University of North Carolina	Chapel Hill, NC	7,152	6,756	27%	41.8%	75.9%
University of Oklahoma	Norman, OK	4,300	3,735	16%	20.0%	95.0%
University of Mississippi	Oxford, MS	3,529	3,188	27%	30.0%	100.0%
Virginia Tech	Blacksburg, VA	8,900	8,447	33%	38.3%	N.A.

Source: Respective university web sites.

Table 26 Percentage of Students Living in University-Owned, -Operated or -Affiliated Housing

University	Location	Freshmen	All Students (degree-seeking undergraduates)
University of Florida	Gainesville	90%	21%
University of Georgia	Athens, GA	[1]	[1]
Florida State	Tallahassee, FL	73%	16%
University of Michigan	Ann Arbor, MI	98%	37%
Michigan State University	East Lansing, MI	96%	44%
University of Virginia	Charlottesville, VA	100%	47%
University of Iowa	Iowa City, IA	90%	28%
Iowa State University	Ames, IA	85%	36%
University of North Carolina	Chapel Hill, NC	76%	42%
University of Oklahoma	Norman, OK	[1]	21%
University of Mississippi	Oxford, MS	99%	27%

Source: University Web sites, as reported in Common Data Set, in response to question F1.

[1] Data not available.

Table A-27 Available Housing Types at Selected Peer Universities

	Coed Dorms	Women's Dorms	Men's Dorms	Sorority/ Fraternity	Single- Student Apartments	Married- Student Apartments	Special Housing for Disabled Students	Special Housing for International Students	Cooperative Housing
University of Florida	x	x		x	x	x			x
University of Georgia	x	x	x	x		x	x		
Florida State	x	x		x					
University of Michigan	x	x	x	x	x	x	x	x	x
Michigan State University	x	x		x	x	x		x	
University of Virginia	x			x	x	x			x
University of Iowa	x				x	x	x		
Iowa State University	x	x	x	x	x	x	x	x	
University of North Carolina	x	x	x	x		x	x	x	
University of Oklahoma	x	x	x	x	x	x	x	x	
University of Mississippi	x	x	x	x		x	x	x	
Virginia Tech	x	x	x	x					

Source: Respective university web sites.

Appendix B: Sample Ordinances

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Nuisance Party Ordinance

ORDINANCE NO. 7126

AN ORDINANCE ADOPTING A NEW SECTION 5-3-11, B.R.C. 1981, CONCERNING NUISANCE PARTIES, AND SETTING FORTH DETAILS IN RELATION THERETO.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Chapter 5-3, B.R.C. 1981, is amended by the addition of a new section 5-3-11 to read:

5-3-11 Nuisance Party Prohibited.

(a) No owner, occupant, tenant, or other person having possessory control, individually or jointly with others, of any premises shall sponsor, conduct, host, or permit a social gathering or party on the premises which is or becomes a public nuisance where such nuisance is either the intentional result of, or reasonably anticipated by, the person or persons having such possessory control. Reasonable anticipation shall be adjudicated using a reasonable person standard.

(b) A social gathering shall be deemed to constitute a public nuisance when, by reason of the conduct of persons in attendance, it results in one or more of the following violations of this code and which violations occur at the site of the social gathering, or on neighboring public or private property:

Section 5-3-1, "Assault," B.R.C. 1981;

Section 5-3-2, "Brawling," B.R.C. 1981;

Section 5-3-4, "Threatening Bodily Injury," B.R.C. 1981;

Section 5-3-5, "Obstructing Public Streets, Places, or Buildings," B.R.C. 1981;

Section 5-3-6, "Use of Fighting Words," B.R.C. 1981;

Section 5-3-8, "Disrupting Quiet Enjoyment of Home," B.R.C. 1981.

Section 5-4-1, "Damaging Property of Another," B.R.C. 1981;

Section 5-4-2, "Damaging Public Property," B.R.C. 1981;

Section 5-4-3, "Trespass," B.R.C. 1981;

Section 5-4-10, "Fires on Public Property," B.R.C. 1981;

Section 5-4-13, "Littering," B.R.C. 1981;

Section 5-4-14, "Graffiti Prohibited," B.R.C. 1981;

Section 5-5-3, "Obstructing a Peace Officer or Fire Fighter," B.R.C. 1981;

Section 5-5-10, "False Reports," B.R.C. 1981;

Section 5-6-1, "Unreasonable Noise," B.R.C. 1981;

Section 5-6-2, "Excessive Sound Levels," B.R.C. 1981;

Section 5-6-6, "Fireworks," B.R.C. 1981;

Section 5-6-7, "Public Urination," B.R.C. 1981;

Section 5-7-2, "Possession and Consumption of Alcoholic Beverages in Public Prohibited," B.R.C. 1981;

Section 5-7-3, "Unlawful to Sell or Give to or Procure for Minors," B.R.C. 1981;

Section 5-7-4, "Possession and Sale by Minors Unlawful," B.R.C. 1981;

A violation of any provision in Chapter 6-3, "Garbage," B.R.C. 1981, relating to the unlawful deposit of trash;

Section 7-4-61, "Obstructing Traffic Prohibited," B.R.C. 1981;

Paragraph 10-8-2(b)(29), B.R.C. 1981, concerning open burning.

(c) A social gathering shall be deemed to constitute a public nuisance when an open keg of beer is located in any yard adjacent to a street, on a front porch in a place visible to the public, or in any side yard of the premises upon which the social gathering takes place such that the open keg of beer is visible to members of the public standing on public streets, sidewalks, or on the grounds of other adjoining or nearby private properties.

(d) All participants in any party or social gathering declared to be a public nuisance by a police officer shall cease participating in that party or social gathering and disperse immediately upon the order of a police officer, and all persons not domiciled at the site of such party or social gathering shall leave the premises immediately. No person shall fail or refuse to obey and abide by such an order.

Section 2. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 3. The council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 3rd day of April, 2001.

READ ON SECOND READING, AMENDED, AND ORDERED PUBLISHED BY TITLE ONLY this 17th day of April, 2001.

READ ON THIRD READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this ____ day of _____, 2001.

Florida: Tallahassee

ROOMING HOUSE ORDINANCE

ORDINANCE NO. 00-O-54AA

AN ORDINANCE OF THE CITY OF TALLAHASSEE, FLORIDA, AMENDING CHAPTER 27, ARTICLE II, SECTION 2.2 OF THE CODE OF ORDINANCES, REVISING THE DEFINITIONS OF ROOMING HOUSE, BOARDING HOUSE, AND FAMILY; DELETING THE DEFINITION OF SINGLE ROOM OCCUPANCY HOUSING (SRO); CHANGING PERMITTED USES IN CERTAIN DESIGNATED ZONING DISTRICTS; PROVIDING FOR ROOMING HOUSES EXISTING IN THE DESIGNATED ZONING DISTRICTS AS OF JUNE 14, 2000, TO QUALIFY AS NON-CONFORMING USES; PROVIDING FOR REGISTRATION OF ROOMING HOUSES AS NON-CONFORMING USES; PROVIDING FOR MANDATORY REGISTRATION AND OTHER CRITERIA TO MAINTAIN NON-CONFORMING STATUS; PROVIDING FOR SEVERABILITY AND CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

NOW THEREFORE BE IT ENACTED

by the People of the City of Tallahassee, Florida, as follows:

Section 1. This ordinance shall be known as the "Rooming House Ordinance."

Section 2. Section 2.2, Article II, of Chapter 27 of the City of Tallahassee Code of Ordinances, the Zoning, Site Plan and Subdivision Regulations, is hereby amended as follows:

Sec. 2-2. Definitions. *Boarding house:* A single-family house, wherein furnished rooms without cooking facilities are rented for a valuable consideration, to one (1) or more individuals unrelated by blood or marriage to the owner or operator of the house, and where renting individuals are also served with meals prepared in one (1) kitchen by the owner or operator of the house.

Family: One natural person, or a group of two or more natural persons, living together and interrelated by bonds of blood, marriage or legal adoption, plus no more than two additional, unrelated, natural persons, occupying the whole or part of a dwelling unit as a separate housekeeping unit. A family also includes any foster children placed in a lawful foster family home and includes a community residential home with six or fewer residents. The persons constituting a family may also include temporary gratuitous guests. "Temporary gratuitous guests" as used herein shall refer to natural persons occasionally visiting such housekeeping unit for a short period of time not to exceed 30 days within a 90-day period.

Rooming house: A single-family dwelling or either unit of a two-family dwelling (duplex), which is rented for a valuable consideration or wherein rooms with or without cooking facilities are rented for a valuable consideration to or occupied by four (4) or more natural persons unrelated by blood, marriage or legal adoption to the owner or operator of the house. Foster children placed in a lawful foster family home, a community residential home with six or fewer residents, a nursing home, or a residential care facility shall not be considered a rooming house.

Temporary gratuitous guests as used herein shall refer to natural persons occasionally visiting the single-family house for a short period of time not to exceed 30 days within a 90-day period.

Single room occupancy housing (SRO): Multi-tenant building utilized for residential purposes wherein units are available for occupancy by a single individual capable of independent living which may or may not contain food preparation and/or sanitary facilities which shall include at least one (1) habitable room of at least one hundred fifty (150) square feet. Habitable rooms include space for sleeping, eating, or food preparation; not included as habitable are closets, halls, toilet compartments, bathrooms, and storage areas.

Section 3. The following sections of Chapter 27 of the City of Tallahassee Code of Ordinances, the Zoning, Site Plan and Subdivision Regulations, are hereby amended as shown in **Attachment 1** to this ordinance to add rooming houses as a permitted use:

Section 10.6.Z and Section 10.6.BB - University Transition District;
Section 10.6.GG - R-4 Single, Two-Family and Multi-Family Residential District;
Section 10.6.JJ - MR-1 Medium Density Residential District
Section 10.6.LL – OR-2, Office Residential District;
Section 10.6.MM - OR-3 Office Residential;
Section 10.6.QQ – CM, Medical Arts Commercial District; and
Section 10.6.YY - IC Interchange Commercial District.

Section 4. The following sections of Chapter 27 of the City of Tallahassee Code of Ordinances, the Zoning, Site Plan and Subdivision Regulations, are hereby amended as shown in **Attachment 2** to this ordinance to prohibit rooming houses as a permitted use:

Section 10.6.X - Residential Preservation 1 and Residential Preservation 2;
Section 10.6.DD - R-1 Single-Family Detached Residential District; and
Section 10.6.EE - R-2 Single-Family Detached Residential District.

Section 5. Article XII of Chapter 27 of the City of Tallahassee Code of Ordinances, the Zoning, Site Plan and Subdivision Regulations, is hereby amended by creating a new Section 12.6 as follows, and renumbering the currently existing sections 12.6 - 12.9 accordingly.

Sec. 12.6. Rooming houses as non-conforming uses.

A. All rooming houses in existence on June 14, 2000, in the following zoning districts: RP-1, RP-2, R-1, and R-2, which districts prohibit rooming houses as permitted uses, shall register with the City as non-conforming uses on or before June 1, 2001.

B. Failure to register as a nonconforming use with the City shall result in failure to obtain nonconforming use status.

C. No dwelling may continue to be used as a rooming house in the zoning districts designated in paragraph A above if it is not registered as a nonconforming use on or before June 1, 2001. Dwellings not used as a rooming house, as that term is defined in Ordinance No. 00-O-54AA,

between June 14, 1998 and June 14, 2000, shall not be allowed nonconforming use status as a rooming house under this section.

D. The owner of a rooming house seeking designation under this section as a nonconforming use shall, at the time of registration of the rooming house under this section, appoint an agent who resides within Leon County for the purpose of receiving notices from the City concerning the use of the nonconforming property. The owner shall provide the name, address, and telephone number of the agent. The agent shall be available to be contacted 24 hours a day, 7 days a week, regarding the rooming house.

E. A rooming house may lose its status as a nonconforming use if the Tallahassee Police Department or the City's Neighborhood and Community Services Department confirm that on 3 or more separate occasions within a six-month period, civil or criminal citations have been issued at the address of the rooming house, or the property is determined to be a public nuisance by the Tallahassee Code Enforcement Board pursuant to Article V, Chapter 15 of the City Code of Ordinances. Multiple citations issued to different people at a single address at the same time shall not be considered "separate occasions." In determining whether a nonconforming use shall be terminated, citations on matters including, but not limited to, the following shall be considered:

- a. Noise ordinance (Section 15-2, City Code);
- b. Animal control ordinances (Chapter 5, City Code);
- c. General Health and Sanitation ordinances (Chapter 11, Article I, City Code);
- d. Solid waste ordinances (Chapter 11, Article II, City Code);
- e. Offensive Accumulation and Growth Code (Chapter 11, Article III, City Code);
- f. Standard Housing Code (Chapter 12, Article I, City Code);
- g. Abandoned and Non-Operating Vehicles (Chapter 15, Article II, City Code);
- h. Compliance with the parking requirements in this Chapter for rooming houses;
- i. Failure to comply with Section 12.6.D. herein; and
- j. State law regarding any of the above topics.

F. Determination of a loss of nonconforming use status for a rooming house shall be made in accordance with Section 12.10, Loss of legal nonconformity status for rooming houses; procedures, herein.

G. A decision by the staff committee under Section 12.10.A. of this Chapter to seek review by the Rooming House Code Board shall be a material breach of a lease of any rooming house regulated by this section, and grounds for termination of the lease.

H. Rooming houses shall not be eligible for nonconformity relief procedures set forth in Section 12.6 (renumbered by this ordinance as 12.7) nor for waiver of non-conforming land uses as provided in Article XII A of this Chapter.

I. The provisions of Section 12.5.E. in this article shall apply to rooming houses with nonconforming use status only to the extent those provisions do not conflict with this section.

Section 6. Section 12.8, (renumbered by this ordinance as 12.9) Loss of legal nonconformity status; procedures, Article XII of Chapter 27 of the City of Tallahassee Code of Ordinances, the Zoning, Site Plan and Subdivision Regulations, is hereby amended as follows:

Sec. 12.9. Loss of legal nonconformity status; procedures.

A. At such time as the Planning Commission determines that reason(s) exist(s) for a property (other than a rooming house under Section 12.6 of this Chapter) to lose its legal nonconformity status, notice of such determination shall be given to the property owner by the City. The notice shall be given by certified mail, return receipt requested,; shall clearly state the reasons for the determination, and shall advise the property owner that a hearing to consider the determination shall be held by the Planning Commission on a date not less than twenty (20) calendar days following the date of the notice. The time and place of the hearing shall be specified in the notice. The Planning Commission shall have no jurisdiction to determine whether the nonconforming status of a rooming house shall be terminated. See Section 12.10 herein.

B. A public hearing shall be conducted by the Planning Commission with respect to all proceedings regarding loss of legal nonconformity status. A staff report shall be prepared and shall contain a recommendation as to the appropriate course of action. Where such proceedings have been instituted against a group of similarly-situated nonconformities, such proceedings may be consolidated for hearing purposes. C. Following the close of the public hearing, the Planning Commission shall render its decision within thirty (30) calendar days of the date of the hearing. The decision shall be supported by written findings, and a record of the proceeding shall be kept.

D. Any party aggrieved by the decision of the Planning Commission may seek judicial relief in Circuit Court by seeking certiorari review.

Section 7. Section 12.9, (renumbered by this ordinance as 12.10) Administrative appeals, Article XII of Chapter 27 of the City of Tallahassee Code of Ordinances, the Zoning, Site Plan and Subdivision Regulations, is hereby amended by deleting it in its entirety and substituting the following in its stead:

Sec. 12.10. Loss of legal nonconformity status for rooming houses; procedures.

A. At such time as it is confirmed that, on 3 or more separate occasions within a six-month period, civil or criminal citations have been issued at the address of a rooming house, a staff committee composed of one representative from the Tallahassee Police Department, Neighborhood and Community Services, and the City Attorney's Office shall review the citations to determine if the citations warrant a hearing before the Rooming House Code Board for possible termination of nonconformity status of the rooming house where the citations were issued.

If the staff committee determines that the citations warrant further review by the Rooming House Code Board, the Neighborhood and Community Services Department shall give notice to the owner or agent of the rooming house that a hearing before the Rooming House Code Board will be set to determine whether the nonconformity status of the rooming house should be terminated. The notice shall be given by certified mail, return receipt requested, shall clearly state the reasons for the hearing, and shall specify the date and time of the hearing. Each notice shall include a conspicuous note informing the property owner or agent that, if a person decides to appeal any decision made by the Rooming House Code Board, he or she will need a record of the proceedings; and, for such purpose, may need to ensure that a verbatim record of the proceedings is made. [See Sec. 286.0105, Fla. Stat. (1999).]

B. The City Manager shall appoint 5 members to the Rooming House Code Board to conduct hearings on the termination of nonconformity status for rooming houses. Of the 5 members, one shall be a landlord with at least 5 years experience as a landlord; one shall be a licensed real estate agent with at least 5 years experience in property management; one shall be a college or university student over the age of 18; one shall be a home owner who resides in one of the following zoning districts: RP-1, RP-2, R-1, or R-2; and one shall be a representative recommended by the Council of Neighborhood Associations. All members shall reside within the City limits.

C. Each member of the Rooming House Code Board shall serve at the pleasure of the City Manager.

D. Hearings shall be staffed by Neighborhood and Community Services, and shall be conducted in the following manner:

1. All hearings shall be held within thirty (30) days of the date the notice from Neighborhood and Community Services was served on the property owner or agent, unless all parties stipulate to a later date.
2. All hearings shall be open to the public.
3. The parties in the hearing shall be the property owner or agent, the property owner's witnesses, city staff, and city witnesses.
4. Neighborhood and Community Services shall provide the following to the Rooming House Code Board at least five (5) working days prior to the hearing:

- a. The notice sent to the property owner or agent;
 - b. Copies of the citations issued at the rooming house address;
and
 - c. A staff report and recommendation with proposed findings.
5. All witnesses shall testify under oath and be subject to reasonable cross-examination, unless all parties waive these formalities.
6. Neighborhood and Community Services shall present its case, followed by the property owner or agent.
7. The Chair of the Rooming House Code Board shall decide all questions of procedure and admission of evidence. The Board may request additional evidence as it deems necessary and appropriate.
8. The Rooming House Code Board may order the hearing continued until a date certain if necessary to obtain additional information for determination of the matters at issue.
9. The Rooming House Code Board shall promptly enter a written order, with findings of fact.
10. Ex parte communications with any member or alternate member of the Rooming House Code Board on the merits of the matter before it are prohibited. However, the foregoing does not prohibit discussions between the Chair of the Board and city staff that pertain solely to scheduling and other administrative matters unrelated to the merits of the matter.

E. If the Rooming House Code Board determines that the non-conforming use status of a rooming house should be terminated, the order shall be effective thirty (30) calendar days after it is rendered unless the property owner or agent initiates eviction proceedings against the residents of the rooming house. In that event, the nonconforming use status of the rooming house may continue as long as the property owner or agent diligently prosecutes the eviction proceedings.

Notwithstanding the foregoing, if the same rooming house is the subject of proceedings before the Rooming House Code Board under this section more than once during a twelve-month period, and the Rooming House Code Board finds in each proceeding that the nonconforming status of the subject rooming house should be terminated, the non-conforming use status of that rooming house may be terminated, regardless of whether eviction proceedings have begun.

If City staff intends to request termination of non-conforming use status under the preceding paragraph, the notice to the owner or agent sent pursuant to Section 12.10.A. herein shall specifically and conspicuously advise the owner or agent that such relief is being requested.

F. Any party aggrieved by the decision of the Rooming House Code Board may seek judicial relief in Circuit Court by seeking certiorari review. The effect of the Board's order shall be stayed until the Circuit Court proceedings are concluded.

Section 8. Within 90 days from the date of this ordinance, the City Manager or his/her designee shall develop a procedure to use in registering rooming houses as nonconforming uses. Within 120 days from the date of this ordinance, the City Manager or his/her designee shall begin accepting and processing applications for nonconforming status.

Section 9. Conflict With Other Ordinances and Codes. All ordinances or parts of ordinances of the Code of Ordinances of the City of Tallahassee, Florida, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 10. Severability. If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

Section 11. This ordinance shall become effective immediately upon passage.

INTRODUCED in the City Commission on the 12th day of July, 2000.
PASSED by the City Commission on the 27th day of September, 2000.
SCOTT MADDOX, MAYOR

Illinois: Macomb

AN ORDINANCE TO REVISE CERTAIN PROVISIONS OF CHAPTER 17 OF THE MUNICIPAL CODE OF MACOMB, ILLINOIS CONCERNING THE DEFINITION OF FAMILY AS USED IN ZONING.

Preamble

A. On November 18, 1997, the City Council of the City of Macomb, McDonough County, Illinois (the Council and City respectively) adopted Ordinance No. 2750 adopting a unified development code for the City (the "Unified Development Code")

B. Since the adoption of the Unified Development Code, the **Project HANDS** (Homeowners and Neighborhood Defense Strategy), (the "Project HANDS") a citizen's group has identified certain definition revision which would improve the operation of the Unified Development Code.

C. On October 8, 2001, notice of public hearing was published in the Macomb Journal, a secular newspaper of general circulation in the City, concerning a public hearing by the City Planning Commission to consider revisions to the Unified Development Code consistent with the request made by Project HANDS recommendations.

D. On October 24, 2001, at 5:15 p.m., the Planning Commission conducted a public hearing at the Wesley United Methodist Church, 1212 West Calhoun Street, Macomb, Illinois to consider the proposed change to the Unified Development Code.

E. The Planning Commission considered the recommended revisions to the Unified Development Code. Substantial objections to the revision were heard as well as substantial support of the revision and the Planning Commission voted unanimously on November 28, 2001 to recommend the revision to the Council for adoption.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MACOMB, McDONOUGH COUNTY, ILLINOIS AS FOLLOWS:

Section 1. Revision of Article II, Section 2 of the Unified Development Code Article II, Section 2 of the Unified Development Code is amended by deleting the words and figures in brackets and by adding the words and figures underlined as follows:

Section 2. Definitions Family In R-1 and R-2, single family residential zoning districts, a family may consist of a person living alone, or any of the following groups living together as a single housekeeping unit (see also definition of "Single Housekeeping Unit") and sharing common living, sleeping, cooking and eating facilities:

- (1) Any number of people related by blood, marriage, adoption, guardianship or other duly-authorized custodial relationship;

- (2) Two (2) unrelated people;
- (3) Two (2) unrelated people and any children related to either of them;
- (4) An individual or group of two (2) or more persons related by blood, marriage or legal adoption, together with not more than six (6) minor children operating as a foster family home or group home which is licensed by the State of Illinois;
- (5) A group home for the disabled as defined in Article Two, Chapter One, Section Two of the Unified Development Code for the City of Macomb;
- (6) Three (3) or more people who are granted a Special Use Permit as a “Functional Family Unit” as defined by the Unified Development Code of the City of Macomb.

In R-1 and R-2, single family residential zoning districts, a family **does not include**:

- (1) Any society, club, fraternity, sorority, association, lodge, combine, federation, coterie or like organizations;
- (2) Any group of individual whose association to each other is temporary and/or seasonal in nature;
- (3) Any group of individuals who are in a group living arrangement as a result of criminal offenses.

In R-3, two family residential zoning district and R-4, multiple family residential zoning district, a family may consist of any of the following living together as a single house keeping unit (see also definition of Single Housekeeping Unit) within a dwelling unit: { See also Single Housekeeping Unit. A family may consist of any of the following living together as a single housekeeping unit within a dwelling unit: }

- (1) An individual or group of two (2) or more persons related by blood marriage or legal adoption, together with not more than three (3) additional persons not related by blood, marriage or adoption;
- (2) An individual or group of two or more persons related by blood, marriage or legal adoption, together with not more than six (6) minor children operating as a foster family home or group home which is licensed by the State of Illinois. (Ord. No. 1403, § 1, 8/20/73)

Functional Family Unit

In R-1 and R-2, single family residential zoning districts, a functional family unit shall consist of a group of individuals living together in a single dwelling unit and functioning as a family with respect to those characteristics that are consistent with the purposes of zoning restrictions in single family residential neighborhoods. In determining whether or not a group of unrelated individuals is a functional family unit under this definition, the following criteria must be used.

(1) The occupants must share the entire dwelling unit. A unit in which the various occupants act as separate roomers cannot be deemed to be occupied by a functional family unit.

(2) The following factors shall be considered in determining whether a functional family unit exists:

(a) The presence of minor dependent children regularly residing in the household;

(b) Proof of the sharing of expenses for food, rent or ownership costs, utilities and other household expenses and sharing in the preparation, storage and consumption of food;

(c) Whether or not different members of the household have the same address for the purposes of voter registrations, drivers' licenses, motor vehicle registrations, summer or other residences and the filing of taxes;

(d) Common ownership of furniture and appliances among the members of the household;

(e) Enrollment of dependent children in local schools;

(f) Employment of the householders in the local area;

(g) A showing that the household has been living together as a unit for a year or more, whether in the current dwelling unit or other dwelling units;

(h) Any other factor reasonably related to whether or not the group or persons in the functional equivalent of a family.

Indiana: Bloomington
Chapter 16.12 HOUSING QUALITY

16.12.010 Definitions.

16.12.020 Purpose--Rules of construction.

16.12.030 Compliance required--Application of chapter.

16.12.040 Inventory and damage lists-- Security deposits.

16.12.050 Disclosure.

16.12.060 Registration of rental units required.

16.12.070 Inspection--Right of entry--Fees.

16.12.080 Occupancy permits.

16.12.090 Retaliatory eviction prohibited.

16.12.100 Penalty.

16.12.110 Severability.

16.12.010 Definitions.

As used in this chapter, the following terms have the following meanings unless otherwise designated:

(a) "Dwelling unit" means a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

(b) "Housing code" means the Building Officials and Code Administrators International Basic Property Maintenance Code, First Edition, 1978, and all amendments thereto as adopted in Chapter 16.04 of the Bloomington Municipal Code.

(c) "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity.

(d) "Owner" means any person, agent, firm or corporation having a legal or equitable interest in the property.

(e) "Person" means a corporation or copartnership as well as an individual.

- (f) "Premises" means a lot, plot or parcel of land including the buildings or structures thereon.
- (g) "Rental building" means a building containing one or more rental units.
- (h) "Rental dwelling unit" means a dwelling unit in a residential premises covered by a tenancy agreement.
- (i) "Rental unit" means a rented dwelling unit or rooming unit.
- (j) "Rooming unit" means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.
- (k) "Security deposit" means any advance or deposit of money, regardless of its denomination, the primary function of which is to secure the performance of a tenancy agreement for rental premises or any part thereof.
- (l) "Tenant" means any person entitled to occupy a rental unit under a tenancy agreement to the exclusion of others.
- (m) "Tenancy agreement" includes all agreements, written, oral or implied, and valid rules and regulations embodying the terms and conditions concerning the use and occupancy of a rental unit and premises.
- (n) "Transient occupancy" means occupancy which is less than two weeks duration in the same or similar units owned by the same owner. (Ord. 79-17 §§ 1 (part), 1979; Ord. 78-86 §§ 1--6, 1978; Ord. 78-56 § 1 (part), 1978).

16.12.020 Purpose--Rules of construction.

This chapter shall be liberally construed and applied to promote its underlying purpose, which is to encourage the maintenance and improvement of the quality of housing in the city. (Ord. 79-17 § 1 (part), 1979; Ord. 78-56 § 1 (part), 1978).

16.12.030 Compliance required--Application of chapter.

- (a) No person shall occupy or maintain a rental unit within the city unless in accordance with the provisions of this chapter.
- (b) This chapter applies to rental units located within the city, including governmental or public agencies acting as landlords, but shall not apply to the following arrangements unless the arrangements are created to avoid the application of this chapter:
 - (1) Occupancy in a rental unit operated by the Indiana University Halls of Residence;
 - (2) Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;

- (3) Occupancy by the purchaser of a dwelling unit under a contract of sale;
- (4) Transient occupancy in a hotel, motel or other similar lodgings;
- (5) Owners who reside in a single-family dwelling unit but who wish to lease to individuals or a family while they are absent from the city for short periods of time, not to exceed one year, and who intend to return to their single-family dwelling unit at the expiration of the lease period;
- (6) Owners who occupy the premises, rent to one tenant, and share common bathroom and kitchen facilities with the tenant. (Ord. 86-19 § 16, 1986; Ord. 79-17 § 1 (part), 1979; Ord. 78-56 § 1 (part), 1978).

16.12.040 Inventory and damage lists-- Security deposits.

(a) The owner or his agent shall contact the tenant and arrange a joint inspection of the premises to occur within ten days of the tenant's occupancy of the rental unit. The owner or his agent and the tenant shall at that time jointly complete an inventory and damage list, and this shall be signed by all parties to the tenancy agreement. Duplicate copies of the inventory and damage list shall be retained by all parties and shall be deemed a part of the tenancy agreement.

(b) The owner or his agent shall contact the tenant and arrange a joint inspection of the premises to occur at the end of the tenant's occupancy and prior to the occupancy of the next tenant. Any damages to the rental unit shall be noted on the inventory and damage list, and the list shall thereupon be signed by the parties. If the parties can agree to the cost of repair, such portion as is due the tenant, shall be refunded within forty-five days.

(c) (1) The owner or his agent shall have a duty to initiate the joint inspections; however, both the owner or his agent and the tenant shall have an affirmative duty to make a good-faith effort in scheduling joint inspections. In the event the owner or his agent is unable to schedule an inspection with the tenant through contacting the tenant by telephone, personal message or personal contact, the owner or his agent may show compliance with this section by producing the following: a carbon copy of a letter to tenant stating the time and place of inspection; and, a normal business record showing that this letter was mailed to the tenant by first class mail at least two days prior to the date of the inspection.

(2) If the owner or owner's agent cannot arrange a joint inspection pursuant to the above procedures, the owner or agent shall complete the inspection, noting on a signed and dated inspection report any damages which exceed normal wear and tear.

(d) The owner's or agent's copy of all inspection reports shall be retained for a minimum of the present lease period and the two subsequent lease periods, or for a period of four years, whichever is less. (Ord. 90-51 § 2, 1990; Ord. 86-19 § 17, 1986; Ord. 81-97 § 1, 1981; Ord. 79-17 § 1 (part), 1979; Ord. 78-56 § 1 (part), 1978).

16.12.050 Disclosure.

(a) A party signing a tenancy agreement as owner shall disclose therein or in a separate writing furnished to the tenant at or before the commencement of tenancy the name and usual address of each person who is:

(1) Authorized to manage the premises; and

(2) An owner of the premises or his agent who is authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving all notices and demands.

(b) In case of an oral tenancy agreement, the owner or his agent, upon written request, shall furnish the tenant with a written statement containing the information required by subsection (a) of this section.

(c) The information required by this section shall be kept current. The provisions of this section shall extend to and be enforceable against any successor owner or manager.

(d) In addition, the owner or owner's agent shall provide to each tenant, at or before the commencement of occupancy, a summary of the tenants' and owners' rights and responsibilities, in such form as shall be prescribed by the neighborhood development manager. For purposes of this subsection, it shall be sufficient if the owner furnishes one copy of the summary to each rental unit at or before each change in occupancy and obtains the signatures of the parties to the contract on the summary.

(e) The neighborhood development division shall furnish, upon request, to each registered owner or owner's agent of rental property subject to this chapter a copy of the Bloomington Property Maintenance Code. The housing quality ordinance and a sufficient number of copies of the summary required by subsection (d) of this section shall be provided to each owner or owner's agent to permit distribution of the summary to each rental unit. Owners shall contact the neighborhood development division for additional copies as needed. The neighborhood development division shall make available additional copies of the summary as owners need them. Owners who first register rental property after the effective date of this subsection shall be furnished the housing quality ordinance at the time of registration. Owners already registered on the effective date of this subsection shall be furnished the housing quality ordinance no later than the time of the next cycle inspection. (Ord. 97-06 §§ 34, 35, 1997; Ord. 93-41 §§ 9, 10, 1993; Ord. 88-40 § 1, 1988; Ord. 78-17 § 1 (part), 1979; Ord. 78-56 § 1 (part), 1978).

16.12.060 Registration of rental units required.

No owner of real estate within the city shall use real estate for the purpose of erecting or maintaining a rental unit thereon without registering such property with the neighborhood development division of the city. Such registration shall be effected by furnishing to such division, upon a form furnished by the division, the following information:

Name of owner;

Street address of owner;

Street address of property;

Brief description of type and number of rental unit(s); and

Name and street address of agent, if any, authorized to receive notification of complaints, damages, emergencies, substandard conditions or other communications, including service of process. The address of any agent so designated shall be within the state. Any owner who does not reside in Indiana shall be required to designate such an agent.

The registration form shall be signed by the owner.

Whenever ownership of a rental unit changes, the new owner shall register the property.

Notification of the owner or his agent at the address shown on the registration form shall constitute sufficient notice pursuant to any provision of this chapter.

It shall be a violation of this chapter for any owner to maintain a rental unit which has not been registered in accordance with this section. (Ord. 98-09 § 1, 1998; Ord. 97-06 § 36, 1997; Ord. 93-41 § 11, 1993; Ord. 79-17 § 1 (part), 1979; Ord. 78-56 § 1 (part), 1978).

16.12.070 Inspection--Right of entry--Fees.

(a) (1) Each rental unit and premises within the city shall be inspected by the neighborhood development division immediately prior to the expiration of its occupancy permit, to establish compliance with the property maintenance code. Occupancy permits shall be issued for three, four or five year periods, as determined by subsections (b), (c), (d), and (e) of this section.

No rental unit having a current occupancy permit shall be inspected in good faith more often than is required for the renewal of the occupancy permit, unless a request for inspection is made as provided in subsection (e) of this section. When a rental unit passes a regularly scheduled cycle inspection, or a complete off-cycle inspection it shall receive an occupancy permit according to the plan and criteria below:

Three-year Permit. A unit shall receive a three-year occupancy permit if any of the subsections below applies:

If the unit has received life-safety variances;

If the owner fails to schedule a cycle inspection prior to the expiration of the unit's occupancy permit;

If a unit has been inspected and the HAND inspector has issued a report citing violations, and the owner fails to have the unit reinspected and found in compliance with the property

maintenance code, excluding exterior painting requirements, within sixty days after the inspection report citing violations was mailed to the owner or agent;

If the owner fails to satisfy all outstanding fee assessments within thirty days from the date of billing.

Four-year Permit. A unit shall receive a four-year permit if both of the conditions below apply:

The inspection uncovers no violations, or all violations cited on a cycle inspection report, excluding exterior painting requirements, are satisfactorily corrected within sixty days after the report was mailed to the owner or agent, and

The owner satisfies all outstanding fee assessments within thirty days from the date of billing.

However, if the unit qualifies under subsection (d)(2) below, a five-year permit shall be issued.

Five-year Permit. A unit shall receive a five-year permit if:

The rental unit is new construction and the inspection uncovers no violations or all violations cited on a cycle inspection report, excluding exterior painting requirements, are satisfactorily corrected within sixty (60) days after the report was mailed to the owner or agent, and the owner satisfies all outstanding fee assessments within thirty days from the date of billing, and HAND has issued a rental occupancy permit prior to occupancy of the unit; or

The unit's occupancy permit at the time of reinspection for permit renewal had been a four-year permit, and the reinspection uncovers no violations or all violations cited on the reinspection report, excluding exterior painting requirements, are satisfactorily corrected within sixty days after the report was mailed to the owner or agent, and the owner satisfies all outstanding fee assessments within thirty days from the date of billing.

Off-cycle inspections may be done at the discretion of the neighborhood development manager, upon the written, signed request of any resident of the city, any governmental agency, or the rental unit's tenant, the tenant's legal representative, the owner, or the owner's agent. An off-cycle inspection shall be confined to the defects complained of, if any, by the person requesting the inspection unless the neighborhood development manager determines that the condition of the rental unit or premises has deteriorated since the last cycle inspection to such an extent that a complete inspection is required to effectuate the purposes of the property maintenance code, in which case a complete new inspection of the entire rental unit and premises may be performed. If a complete off-cycle inspection is performed, a new occupancy permit shall be issued upon compliance. Such permit shall be for a four-year period, provided all violations excluding exterior painting are satisfactorily completed, and the unit reinspection within sixty days after the receipt of the inspection report by the owner or owner's agent. Such permit shall be for a three-year period if the owner or agent fails to have the unit reinspected and found in compliance with the inspection report, excluding exterior painting, within sixty (60) days after such report is mailed to the owner or agent.

All cycle inspections and complete off-cycle inspections shall be charged an inspection fee to be determined by the schedule in subsection (g) of this section. Complaint and limited off-cycle inspections shall not be charged an inspection fee. An administrative fee of three times the inspection fee shall be assessed in addition to the inspection fee for any rental properties subject to this code and operating without a valid rental occupancy permit. First reinspections, and reinspections necessary to obtain information for appeals to the board of housing quality appeals shall not be charged an inspection fee. The fee for each subsequent reinspection that requires entry to the rental unit after the first reinspection shall be thirty dollars per rental unit. The failure of a property owner or his appointed representative to meet the inspector(s) at a confirmed scheduled appointment when the failure results in the inspector being unable to complete the inspection, shall cause an assessment of a no-show fee of thirty dollars. Inspectors shall be required to remain at the property until fifteen minutes past the appointed time. All fees shall be paid by the owner or his agent prior to the issuance of an occupancy permit. All fees are to be paid within thirty days of assessment or any long-term occupancy permit will revert to a three-year permit.

The fee for inspecting a single-unit dwelling shall be fifty dollars. The fee for inspecting a rooming house shall be forty dollars per building, plus ten dollars per bathroom/toilet facilities in the building. The fee for inspecting all other unit/building configurations shall be forty dollars per building, plus ten dollars per unit in the building.

Unless waived by the landlord or tenant, the following procedure shall be used to obtain entry to rental units for the purpose of inspection. The owner of the unit shall be contracted and a date shall be established for inspection. The owner shall also furnish to the neighborhood development division a current list of tenants in each rental unit. The neighborhood development division shall then send a letter to each tenant informing them of the date of the inspection. If no response is received from the tenant, consent to enter will be presumed. An official record shall be maintained of all notices required by this section and all responses received to the notices. The landlord shall be responsible for granting access to the inspector upon presentation of a copy of the official record of notices and responses. If the tenant refuses entry for inspection after proper notification, the neighborhood development division shall not inspect without first obtaining a search warrant. (Ord. 98-09 §§ 2, 3, 4, 1998; Ord. 97-06 §§ 37-40, 1997; Ord. 93-41 § 12, 1993).

16.12.080 Occupancy permits.

(a) All rental units and premises inspected pursuant to Section 16.12.070 and found not to be in violation of the property maintenance code shall be issued an occupancy permit by the neighborhood development division. Upon registration of a rental unit not previously used as such, the neighborhood development division shall issue a temporary occupancy permit which shall be in effect until the unit has been inspected and either an occupancy permit has been issued or the temporary permit is revoked as provided in subsection (d) of this section.

(b) All rental units shall be required to have a current occupancy permit to be displayed on the inside of the main entrance of the unit. The permit shall contain the name of the owner or his agent and the expiration date of the permit.

(c) The owners of rental units and premises found to be in violation of the property maintenance code shall be notified in writing of the reason for disapproval and the reasonable time period during which compliance with the property maintenance code is expected.

(d) At the end of the time period specified in the notice described in subsection (c), any rental unit or premises found to be in violation of the property maintenance code shall be reinspected by the city at the request of the owner or his agent after such owner or agent has effected those corrections and additions required by the city as a result of any previous inspection, and upon such reinspection such rental unit and premises shall be approved or disapproved for an occupancy permit. If reinspection is not requested by the owner or his agent at the end of the time period specified in the notice described in subsection (c), or upon reinspection the unit and premises is not approved, any occupancy permit shall be revoked.

(e) It shall be a violation of this chapter for any owner to maintain a rental unit without an occupancy permit. (Ord. 97-06 §§ 41--43, 1997; Ord. 93-41 § 13, 1993; Ord. 79-17 § 1 (part), 1979; Ord. 78-56 § 1 (part), 1978).

16.12.090 Retaliatory eviction prohibited.

It shall be a violation of this chapter for any owner or his agent to bring or threaten to bring an action for possession for the purpose of retaliating against a tenant for requesting an inspection as provided for in subsection (e) of Section 16.12.070. (Ord. 97-06 § 44, 1997; Ord. 79-17 § 1 (part), 1979; Ord. 78-56 § 1 (part), 1978).

16.12.100 Penalty.

Any person, firm or corporation who violates any provision of this chapter shall, upon conviction thereof, be subject to a fine of not more than one hundred dollars and other penalties provided in Section 1.01.130 of the Bloomington Municipal Code. Each day that a violation continues shall be deemed a separate offense. In addition, the city engineer may:

(a) Declare a rental unit to be unsafe as provided by the Housing Code in Section 105.0, entitled "Unsafe Building Law"; and

(b) Issue an emergency order where immediate action is required to protect the health and safety of the public or of the occupants of the rental unit as provided by the property maintenance code in Section 108.0, entitled "Emergency Orders"; and

(c) Seek any of the additional remedies provided by the housing code in Section 109.3, which provides for an appropriate action or proceeding at law or in equity against the person responsible for the violation for the purpose of ordering him to:

(1) Restrain, correct or remove the violation or refrain from any further execution of work,

(2) Restrain or correct the erection, installation, or alteration of such structure,

(3) Require the removal of work in violation, or

(4) Prevent the occupation or use of the structure, or part thereof erected, constructed, installed or altered in violation of, or not in compliance with, the provisions of this code, or in violation of a plan or specification under which an approval, permit or certificate was issued. (Ord. 97-06 § 45, 1997; Ord. 86-19 § 19, 1986; Ord. 79-19 § 1 (part), 1979; Ord. 78-86 § 8, 1978; Ord. 78-56 § 1 (part), 1978).

16.12.110 Severability.

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. (Ord. 79-17 § 1 (part), 1979; Ord. 78-56 § 1 (part), 1978).

Indiana: West Lafayette

Prepared by the City Attorney

ORDINANCE NO. 17-01 (Amended)

AN ORDINANCE TO AMEND THE PROVISIONS OF WEST LAFAYETTE CITY CODE CONCERNING RENTAL CERTIFICATES AND THEIR REGULATION

WHEREAS, West Lafayette is a unique community enjoying many advantages as the home of Purdue University, but also facing challenges providing sufficient housing and desirable neighborhoods for Purdue University's faculty, staff and students; and

WHEREAS, the growth of the university has increased the pressure on West Lafayette's neighborhoods and housing; and

WHEREAS, West Lafayette has been inspecting and regulating rental housing since 1976 in order to provide for the health and safety of tenants and to protect the peace and harmony of neighborhoods; and

WHEREAS, the number of rental units in West Lafayette has increased by 76% from 1990 and continues to increase at the rate of about one per week; and

WHEREAS, overoccupancy of rental housing is an increasing problem, with studies putting the percentage of overoccupancy in some areas at between 20 to 40%; and

WHEREAS, overoccupancy contributes to problems such as excess noise, traffic, lack of parking, trash and poor property maintenance and deterioration of housing stock; and

WHEREAS, the City of West Lafayette and Purdue University have formed a Community Issues Study Committee, Subcommittee on Housing, which has made a number of recommendations, including that the city should: (1) strengthen the enforcement of the housing and occupancy regulations on rentals and pursue legal action when necessary; (2) increase inspection staff and increase fees so that the inspection program becomes self-supporting; (3) continue to use code enforcement, legislation and appropriate zoning to protect single family residences; and (4) discourage the further conversion of single family homes to rentals; and

WHEREAS, West Lafayette desires to take action on these recommendations to preserve the quality of life in its neighborhoods and to maintain a healthy and sustainable balance between owner occupied and rental housing and between housing that serves student and non-student residents.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE that:

Section 1. A new chapter 117 be added to the West Lafayette City Code to read as follows:

Section 117.01. Legislative finding and purpose.

(a) It is hereby declared that the purpose of the ordinance codified in this article is to protect the health and safety of the people and to promote the public welfare by requiring periodic systematic inspection and certification of all rental housing now in existence or hereafter created or constructed in the City of West Lafayette.

(b) The common council did, under Resolution No. 19-76, mandate a systematic inspection program of Housing-Property Maintenance Code enforcement and that program began in August of 1976 and has been in continuing operation from that time, affording now a performance record by which to assess its applicability to the need of this community.

(c) It is hereby found that there exist and may in the future exist within the City of West Lafayette units of rental housing which by reason of their operation, use or occupancy affect or are likely to affect adversely the public health (including the physical, mental and social well-being of persons and families), safety and general welfare.

(d) The program of inspection and certification of rental housing established by Ordinance No. 14-78 has improved the maintenance and appearance of rental housing property in the city and the level of compliance with the city's Housing Code, thereby promoting the health and safety of the residents of rental housing, the appearance of the city's residential neighborhood, and the preservation of residential property values throughout the city to the benefit of all its citizens.

(e) It appears that there continue to be widespread problems with the overoccupancy of rental housing, especially that rental housing consisting of single-family houses converted to rental housing and that this overoccupancy adversely impacts the city's residential neighborhoods through overcrowding, excessive traffic, demand for too much parking, noise, various nuisances and the diminution of the public welfare of the city's existing residential neighborhoods.

(f) The council desires to update the requirements of the program of inspection and certification of rental housing to continue the existing inspection and rental certificate program and to strengthen the regulation and enforcement to prevent overoccupancy of rental housing.

(g) The council desires to provide a new fee structure that more equitably apportions the cost of the rental inspection and rental certificate program. In particular, (1) the owners of such property who derive income from such rental operations should bear a larger proportion of the cost of the rental inspection and rental certificate program, and (2) converted rental units, particularly those in

single-family zoned neighborhoods, should bear a higher proportion of the cost as such properties are responsible for a higher proportion of all inspection and enforcement activity.

Section 117.02. Definitions.

The following definitions shall apply in the interpretation and enforcement of this article:

- (a) Condominium rental means any condominium that is rental housing.
- (b) Converted housing means any housing used as rental housing that is not purpose-built multi-unit housing.
- (c) Dwelling unit means the abode of a family; a single unit providing complete, independent facilities for the exclusive use of the household, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- (d) Family means one or more persons all related by blood, marriage or adoption.
- (e) Guest shall mean a person who is a temporary resident (less than 25% of the time) of a dwelling unit and does not utilize the unit as an address for any purpose.
- (f) Initial inspection means a periodic systematic inspection of a rental property, according to the district and schedule, for the purpose of determining compliance with the Housing-Property Maintenance Code.
- (g) Maximum allowable occupancy shall be the maximum number of unrelated persons permitted to occupy a dwelling unit, determined under the Housing-Property Maintenance Code PM-404 or the Tippecanoe County Unified Zoning Ordinance (West Lafayette Ordinance No. 32-97), whichever is less.
- (h) Multi-unit district means any of the following zoning districts: R-3, R-3W, R-3U, CB or any PD-R permitting multi-unit housing.
- (i) Occupant means a person occupying a dwelling unit, other than a guest, or using the property as a legal address for any purpose.
- (j) Person includes a corporation, firm, partnership, association, organization or any group acting as a unit, as well as a natural person. References in the masculine gender include the feminine and the neuter, in the present tense include the future, and the singular includes the plural.
- (k) Purpose-built multi-unit housing means any building that was originally built for the purpose of multi-unit (three or more units) housing.

(l) Rental housing is a term denoting any room, dwelling unit, rooming unit or portion thereof let or intended to be let to a family or person for compensation (which may include money or services and includes the sharing of expenses).

(m) Rooming unit is a room or suite of rooms forming a single, separate, habitable unit to be used for living, or for living and sleeping, but not for cooking and eating purposes.

(n) Reinspection means an inspection of rental property to determine the landlord's correction of code deficiencies cited during the initial inspection. Provisions for the notification of code deficiencies and time period for code compliance is made under § 112.29.

(o) Program administrator means the person designated by the Mayor to perform the duties as such under this chapter.

(p) Shared housing shall have the meaning set forth in the Unified Zoning Ordinance.

(q) Single-family district means any of the following zoning districts: R-1, R-1B, R-1U, R-2, R-2U or any PD-R permitting single-family dwelling units.

(r) All other terms that are not defined in this chapter shall have the meanings assigned to them, in the following order, by the West Lafayette housing and property maintenance code, the Unified Zoning Ordinance or common usage.

Section 117.03. Rental Certificate Required.

It shall be unlawful for any person to allow another person to occupy rental housing without a current, unrevoked city rental certificate for such rental housing at the specific location set forth thereon, except in the following circumstances:

(a) One (1) and Two (2) Family Dwelling Sales: The sale of any one (1) or two (2) family dwelling intended for occupancy by the owner or owners of record which are to be occupied by the seller under a rental agreement for a period of less than ninety (90) days following closing. The sale of any one (1) or two (2) family dwelling intended for occupancy under a lease with Option to Purchase Agreement, Life Estate Agreement or any other form of conditional sale agreement, shall require a Rental Unit License if legal or equitable ownership is not transferred in its entirety within ninety (90) days of execution of the conditional sales agreement.

(b) Exchange Student, Visiting Clergy, Medical Caregiver, Child Care: 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 or congregation, or one person to provide child care or medically prescribed care.

(c) Estate Representative: 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 (2) years from the date of death of the owner by notifying the Code Enforcement Department on a form provided by the Department of the owner's name, date of death, and name of the person occupying the premises.

Section 117.04. Requirements for Rental Certificate.

A rental certificate shall be issued after:

(a) The applicant has made a complete and accurate application upon forms prescribed by the program administrator, including the occupancy affidavit as set forth in section 117.05, including the following information:

(1) The name, (or in the case of a corporation, the corporate ID number), permanent home address, and business and home telephone number of:

(A) The owner, including the names and addresses of any owners or beneficial owners of any interest in any corporation, partnership, limited liability company, trust beneficiaries, or other entity owning the property;

(B) The agent designated by the owner, if any;

(C) The resident agent, individual partner, or managing member of any business entity.

(2) The number of rental units and the number and size of habitable sleeping rooms contained within each rental unit.

(3) A declaration of whether subletting by any tenant(s) is permitted.

(4) The street address(es) of the rental unit. - Complete all addresses of all buildings.

(5) The occupancy sought.

(6) The category of license sought.

(7) Any other information required by administrative rule approved by the City Council.

(8) A Floor Plan and Site Plan drawn to scale showing the location, size and use of all rooms and the location of all improvements on the site, including sidewalks, drives and parking. Provided that this floor plan and site plan are not required for purpose-built multi-unit housing or single-family housing used for family occupancy, unless the same contains a basement.

(9) For a corporate owner and/or corporate agent, a copy of the most recent Annual Report filed with the State of Indiana.

An application for the renewal of a rental certificate shall contain the same information as an initial application except that if there have been no changes from the previous application, it may incorporate by reference the information previously submitted.

(b) The applicant has authorized the program administrator to conduct any inspections under the West Lafayette City Code;

(c) The program administrator has determined that the property has been inspected and fully complies with all requirements of the West Lafayette City Code and the Unified Zoning Ordinance;

(d) The rental certificate is not subject to being revoked under section 117.10(c) as a result of violations occurring at the property; and

(e) The applicant has paid the fees as set forth in this chapter and payment of any assessed and unpaid fines assessed against the applicant.

Section 117.05. Occupancy Affidavit.

(a) The owner or manager of each property shall make a signed application upon the forms provided by the program administrator. Such application shall include a statement reading as follows for each dwelling unit covered by the application, signed by the owner and/or manager and signed by each occupant:

Dwelling: _____ (street and apt. no).

I have made personal and diligent inquiry and make this affidavit based upon personal knowledge. The names of all the occupants who reside in this dwelling and those persons and their relationship to any other persons residing in the dwelling (if no relationship, state none) are as follows:

Name Relationship

If any relationship is claimed between occupants, the names of the tenants who claim to be related shall be identified below, together with the names and addresses of the persons through whom they claim to be related:

Initial one of the following:

_____ I am the owner of the property.

_____ I am the manager of the property.

I understand that I may be requested to furnish the updated information on this form to the City of West Lafayette.

I affirm under the penalties for perjury that the foregoing representations are true. Under Indiana law, perjury is a Class D Felony punishable by incarceration for one year. Submission of an incorrect affidavit is a violation of West Lafayette City Code section 117.20, punishable by a fine of \$1,000 to \$2,500, and may result in the suspension of the rental certificate.

Date: _____ Signature: _____ Printed: _____

Occupant Confirmation: I affirm under the penalties for perjury that the foregoing representations are true. Under Indiana law, perjury is a Class D Felony punishable by incarceration for one year. Submission of an incorrect affidavit is a violation of West Lafayette City Code section 117.20, punishable by a fine of \$1,000 to \$2,500.

Date: _____ Signature: _____ Printed: _____

Date: _____ Signature: _____ Printed: _____

Date: _____ Signature: _____ Printed: _____

Date: _____ Signature: _____ Printed: _____

If the occupants refuse to sign the occupant confirmation in a timely manner, the owner or manager shall sign below certifying that the occupants have refused. The occupants may then be prosecuted for violation of § 117.20(d). I certify under penalties of perjury that I have demanded that the occupants sign this occupancy affidavit and one or more occupants have refused to do so.

Date: _____ Signature: _____ Printed: _____

(b) For any building located in an R-3W or R-4W zone or in a PD-R permitting only multi-unit residential structures, the requirement of such statement is waived unless there has been a complaint about occupancy concerning the building. For any owner or manager of more than six units in one building, the program administrator may waive the requirement of such a statement for all units and may require such statement only for certain units, being not less than two units, selected by the program administrator.

(c) Each applicant shall submit an updated occupancy affidavit and each occupant shall sign the same, as set forth above, for each unit located in a single-family zone between August 15th and September 15th and between January 15th and February 15th of each year. If there is no change since the previously filed occupancy affidavit, the owner may indicate "no change" in place of the names and need not include occupant signatures.

(d) The program administrator may request in writing and the applicant shall provide and each occupant shall sign an updated occupancy affidavit within 15 days of such request in connection with any investigation by the program administrator of occupancy of such property.

Section 117.06. Categories of Rental Units.

All rental units shall be divided into the following categories for the purposes of determining the term of the rental certificate and the fees to be charged:

(a) Category 1 is occupancy of a single-family dwelling unit by a family.

(b) Category 2 is "house sitting", that being the temporary occupancy of a dwelling unit by a family during the absence of the owner, not to exceed one year out of five.

(c) Category 3 is occupancy by not more than two unrelated persons as roomers, along with a family, one or more of whose members owns the property.

(d) Category 4 is any occupancy in purpose-built multi-unit housing.

(e) Category 5 is any occupancy involving unrelated persons in converted housing in a multi-unit district.

(f) Category 6 is any occupancy involving unrelated persons in converted housing in a single family district.

(g) Category 7 is any occupancy of a condominium by unrelated persons where the condominium unit is under the same management and has the same agent as the entire condominium development.

(h) Category 8 is any occupancy of a condominium by unrelated persons where the condominium unit is not under the same management or does not have the same agent as the entire condominium development.

Section 117.07. Rental Certificate Fees and Terms.

Rental Certificates shall have the following fees and terms:

(a) For Category 1, the fee shall be \$150 and the rental certificate shall be valid for a term of two years.

(b) For Category 2, the fee shall be \$150 and the rental certificate shall be valid for a term of one year.

(c) For Category 3, the fee shall be \$150 and the rental certificate shall be valid for a term of two years.

(d) For Category 4, the fee shall be \$150 per structure and \$2 per unit and the rental certificate shall be valid for a term of two years. Provided that if the property meets the following conditions, the rental certificate shall be valid for a term of four years:

(1) The application for certification of rental property is filed and inspection scheduled in a timely manner and in response to first notice;

(2) All applicable inspection fees are paid on time and in response to the first notice;

(3) The property owner and designated manager or representative and all existing (or established) rental property must have history

of compliance with all aspects of the inspection program in the two previous certification rounds;

(4) The inspection of a property finds it to be in substantial compliance with the Housing - Property Maintenance Code and all other applicable codes, standards and regulations of the City of West Lafayette and the State of Indiana. Substantial compliance means an inspection of the property finds that there are (A) no observations made of conditions that endanger the life, health and safety of the building occupants or the public; and (B) all structural, plumbing, mechanical, electrical and fire safety systems are operational and properly maintained with no defects in the building's exterior envelope that would allow the elements, insects or rodents to enter into the interior of the structure;

(5) The property has maintenance personnel readily available and an established maintenance and renovation program that provides for the routine inspection and maintenance and the long-term upgrades of the building and property; and

(6) The rental certificate is not suspended under section 117.10(b) or subject to being revoked under section 117.10(c) as a result of violations occurring at the property

(e) For Category 5, the fee shall be \$300 per structure and \$2 per unit and the rental certificate shall be valid for a term of two years.

(f) For Category 6, the fee shall be \$300 per structure and \$2 per unit and the rental certificate shall be valid for a term of one year.

(g) For Category 7, the fee shall be \$150 per structure plus \$2 per unit and the rental certificate shall be valid for a term of two years.

(h) For Category 8, the fee shall be \$75 plus \$10 for each additional unit in the same development and the rental certificate shall be valid for a term of two years.

(i) All such fees shall be doubled for any property that is rented before a rental certificate is issued. All such fees shall be tripled for the issuance of a rental certificate during the period of probation pursuant to section 117.10(a).

(j) For any reinspection after the first reinspection, there shall be an additional fee of \$150. If the owner or agent fails to attend any inspection, there shall be an additional fee of \$100 for each such failure to appear.

(k) It is the goal of the common council that the rental certificate and housing inspection program be self-supporting. Each two years after adoption of this chapter, the program administrator shall review the income from fees and fines and the expenses of administering the rental certificate and housing inspection program. The program administrator shall recommend to the common council any revisions to the schedule of fees (such as reduction in fees or extension of term for those owners with good records) and fines to maintain the goal of a self-supporting program and to minimize the fees on owners who have a history of full compliance with the rental certificate and housing inspection program.

Section 117.08. Rental Certificate.

(a) The rental certificate shall be for the stated term of the rental certificate or until the general expiration date of the then current round for such dwelling unit, whichever is sooner.

(b) For all units located in any area zoned R-1, R-1A, R-1B, R-1U, R-2, R-2U, or PD-R permitting single or two unit residential structures, the city shall issue a sticker stating the unit's certification, date of expiration and allowable occupancy. The property owner and/or manager must prominently and continuously display the sticker on the inside of the door to the main entrance of the dwelling unit.

(c) It shall be a violation of this chapter to remove the sticker or for the owner or manager to fail to continuously display the sticker as provided in subsection (b) in each dwelling unit located in any area zoned R-1, R-1A, R-1B, R-1U, R-2, R-2U, or PD-R permitting single or two unit residential structures.

(d) It shall be the continuing duty of the owner and manager to personally monitor the occupancy of each dwelling unit and to ensure that it is not occupied by more persons than the maximum allowable occupancy. It shall be a violation of this chapter by the owner and/or occupants to exceed the maximum allowable occupancy or to hold the dwelling unit out for occupancy by more than the maximum allowable occupancy or to permit or allow the dwelling unit to be occupied by more persons than the maximum allowable occupancy.

Section 117.09. Conditional Rental Certificate.

If the program administrator determines that all of the requirements of section 117.04 have been met except for minor violations of the housing and property maintenance code and that such violations do not pose a threat to health or safety, the program administrator may issue a conditional rental certificate that shall be valid only until the deadline set by the program administrator for correction of all remaining housing and property maintenance code violations.

Section 117.10. Probation, Suspension or Revocation of Rental Certificate.

(a) Probation. Based upon charges filed by the program administrator, the Housing Appeals Board shall, if it finds the charges to be true, impose a three-year probation for the rental certificate for any property under the following circumstances:

- (1) If there is an adjudication of three or more violations of the West Lafayette City Code or Indiana criminal code on the property within one year, unless the owner or person acting on behalf of the owner was the party reporting the violation or, unless the owner or owner's agent has evicted the tenants;
- (2) Refusal by an owner to attend a mediation noticed by the program administrator to resolve repeated conflicts involving neighbors and public nuisance allegations through voluntary cooperative agreements facilitated by the program administrator between any complainant, property owner, or group of tenants; or
- (3) An adjudication that the owner, owner's agent, or person acting on behalf of the owner has violated section 117.05(c) or (d), 117.18 or 117.19.

(b) Suspension. Based upon charges filed by the program administrator, the Housing Appeals Board shall, if it finds the charges to be true, impose a 120-day suspension of the rental certificate for any property under the following circumstances:

- (1) One or more additional bases exist that would support the imposition of probation within one year of any other sanctions being imposed under this section and the owner has not taken appropriate corrective action.
- (2) An adjudication that the owner, owner's agent, or person acting on behalf of the owner has:
 - (A) Violated the maximum occupancy provisions of section 117.02(g);
 - (B) Illegally used or allowed the illegal use of non-habitable or non-occupiable space;
 - (C) Illegally converted space to occupiable or habitable use or illegally added an additional dwelling unit to the property;
 - (D) Violated the provisions of section 117.03 (Rental Certificate Required);

(E) Failed to correct any code violation at the property affecting health and safety within the time allowed;

(F) Provided the program administrator with any false or materially incomplete information in connection with the property or the rental certificate;

The suspension shall begin upon the vacation of the property. The owner shall take any legal steps necessary to vacate the property as soon as possible.

(c) Revocation. Based upon charges filed by the program administrator, the Housing Appeals Board shall, if it finds the charges to be true, permanently revoke the rental certificate for any property under the following circumstances:

(1) Any occupancy during or payment of rent for the period of any suspension under section 117.10(b); or

(2) Within three years after any suspension, any further occurrence or violation that would be grounds for a suspension of the rental certificate.

(d) The program administrator shall prepare and file charges with the Housing and Property Maintenance Appeals Board specifying the specific violation and relief requested. Such charges and notice of a hearing shall be served upon the owner and/or manager by certified return receipt U.S. mail to the address of record for the rental certificate.

(e) The Housing and Property Maintenance Appeals Board shall set a date for hearing of the charges, not less than 10 days after mailing of the notice. The Housing and Property Maintenance Appeals Board shall hear the evidence and argument of the program administrator and the owner and/or manager. After the hearing, the Housing and Property Maintenance Appeals Board shall make a written decision supported by findings. The decision of the Housing and Property Maintenance Appeals Board may be appealed to a court of general jurisdiction in Tippecanoe County within 30 days of the decision.

Sec. 117.11. Established district schedule of systematic inspections.

For the purposes of this article, the program administrator shall divide the city into inspection districts and shall prepare a schedule of the order in which such districts shall be taken for systematic inspection coverage. The established district schedule of systematic inspections shall be available for public inspection during office hours at the office of the program administrator.

Sec. 117.12. Notice of inspections.

Not less than thirty days prior to the date on which systematic inspection of rental housing within a district is scheduled to begin, the program administrator shall cause a written notice to be mailed to the owner of each rental property for certification or recertification of rental housing within that district, setting forth in such notice the date of beginning of inspections in the district, the time period allotted to the district, and include with each notice the appropriate application. After notification by the program administrator to applicant, the applicant shall have a period of twenty-one days from the notice issuance date in which to notify all tenants of the pending certification inspection by the city. During the twenty-one-day period, the applicant shall arrange with the program administrator's office for inspection of the units on days and times consistent with the inspection schedule period. In the event the owner and/or tenant refuses entry to any given unit for inspection pursuant to this article, the appropriate court of Tippecanoe County shall be utilized by the city to obtain a warrant for entry and inspection as provided in this chapter.

Sec. 117.13. Notification of deficiencies to landlord.

In the event any inspection reveals a deficiency with the application of the codes referenced herein, the program administrator shall within the ten days from the date of the set inspection notify the landlord of the subject property of the deficiencies and shall apprise and fix a time period within which all code compliance and repairs shall be made. Any person so notified shall have the right of appeal to the board of Housing/Property Maintenance Code appeals as provided in the ordinances adopted and amended by the City of West Lafayette, Indiana.

Sec. 117.14. Remedy of violations prior to renting or leasing.

Except as provided in section 117.09, if any residence unit within a building is found to be deficient with respect to the codes cited herein, the subject unit shall not be rented by the owner or manager until the code violations are remedied in total and a certification or recertification has been issued by the program administrator.

Sec. 117.15. Owner's Agent.

If no owner of the property resides in Tippecanoe County or an adjoining county, the owner must retain and keep at all times an agent responsible for management of the property and authorized to receive notices from and deal with the program administrator for purposes of this chapter, who resides or maintains a permanent office within Tippecanoe County.

Sec. 117.16. Change of Address.

Within 10 days of any change of address of the owner or any agent, such owner or agent shall notify the program administrator in writing.

Sec. 117.17. Transfer of Rental Certificate.

A rental certificate is issued to an owner of a rental unit and only permits the owner to lease the rental unit in conformance with the rental certificate. A rental certificate may be transferred to a new owner, except as prohibited in this section, by the owner filing the required owner information and agent information, if applicable, and payment of a fee of \$50. This includes transfers of ownership between corporations or other legal entities even where there is identical ownership interest in the acquiring legal entity as in the previous legal entity. A rental certificate may not be transferred or a new rental certificate issued to any owner, owned in whole or in part by an owner, that currently has any rental certificate on probation, under suspension or that has been revoked. A rental certificate may not be transferred nor any new rental certificate issued for a property during any period of suspension of a rental certificate under this chapter.

Sec. 117.18. Exterior Maintenance Responsibility.

The occupant will perform snow removal on the public sidewalk, if any, and all yard maintenance on Category 1 and 2 rental units. The owner will perform snow removal (as required by West Lafayette City Code § 66.01) on the public sidewalk, if any, and all yard maintenance on Category 3, 4, 5, 6, 7 and 8 rental units. If the owner and occupant of a Category 3, 4, 5 or 6 rental unit have made any other agreement in regard to such maintenance, the owner must file a copy of such agreement together with a maintenance responsibility certificate signed by the owner and occupants (on forms specified by the program administrator) with the program administrator. The owner is responsible for providing proper trash receptacles as required by West Lafayette City Code and the occupants are responsible for proper use of the trash receptacles. For Category 1, 2, 5 and 6 rental units, the occupants are responsible for keeping the exterior clean and free from trash.

Sec. 117.19. Truth in Advertising.

- (a) No owner or owner's agent of a specific rental unit shall fail to clearly state in any advertisement, sign, other form of written representation, and in any oral statement, the licensed occupancy limits of the rental unit.
- (b) No lessee of a Category 4, 5 or 6 rental unit advertising for sublease shall fail to clearly state in an advertisement or other form of written representation, and in any oral statement, the licensed occupancy of the rental unit.

Sec. 117.20. Violation--penalty.

Violation of this chapter shall subject the violator to a civil penalty as follows:

- (a) For submitting an incorrect affidavit under section 117.05, a fine of \$1,000, unless the violator has been convicted of a previous violation of submitting an incorrect affidavit, in which case the fine shall be \$2,500;
- (b) For submitting any other false or materially incomplete information on an application or any other information submitted under this chapter, a fine of

\$500, unless the violator has been convicted of a previous violation of submitting an incorrect affidavit, in which case the fine shall be \$2,500;

(c) For failure to post an occupancy sticker pursuant to section 117.08(c), a fine of \$500, unless the violator was an owner or part owner, directly or indirectly, which has been convicted of a previous violation of failing to post an occupancy sticker, in which case the fine shall be \$1,000;

(d) For failure to timely sign or submit a complete occupancy affidavit when required under section 117.05, a fine of \$100, each day a violation of this provision occurs or continues is a separate and distinct violation of the chapter;

(e) For committing, permitting or allowing any overoccupancy as set forth in section 117.08(d), a fine of \$200, unless the violator was an owner or part owner, directly or indirectly, which has been convicted of a previous violation involving overoccupancy, in which case the fine shall be \$1,000, with each day a violation of this provision occurs or continues being a separate and distinct violation of the chapter (however, it is a defense to a violation under this subsection if the owner or agent was diligent in monitoring the occupancy and the overoccupancy occurred without the owner or agent's knowledge and the rent was reasonable for the permitted legal occupancy and the burden of proof of such defense shall be on the owner and/or agent);

(f) For rental of any dwelling unit without first obtaining or continuing to have a valid rental certificate, a fine of \$100, unless the violator was an owner or part owner, directly or indirectly, which has been convicted of a previous violation involving renting without a rental certificate, in which case the fine shall be \$500, with each day a violation of this provision occurs or continues being a separate and distinct violation of the chapter

(g) For violation of any other provision of this chapter, a fine of \$100, with each day a violation of this provision occurs or continues being a separate and distinct violation of the chapter.

Section 2. West Lafayette City Code sections 112.20 to 112.32 are repealed as of July 1, 2001.

Section 3. All rental certificates issued under chapter 112 of the West Lafayette City Code that are valid and in full force and effect on the effective date of this ordinance shall continue in effect as though issued under chapter 117 adopted by this ordinance.

Section 4. As to any occurrences or violations that occurred before July 1, 2001 the provisions of sections 112.20 through 112.32 shall continue to apply.

Section 5. This ordinance shall be in full force and effect on and after July 1, 2001.

Office of the Clerk-Treasurer

Judy Rhodes

Iowa: Iowa City

Housing Code

14-5E-1: SHORT TITLE:

This Article shall be known and designated as the Iowa City Housing Code, hereinafter referred to as "the Housing Code". (1978 Code §17-1)

14-5E-2: PURPOSE:

It is hereby declared that the purpose of the Iowa City Housing Code is to ensure that housing facilities and conditions are of the quality necessary to protect and promote the health, safety and welfare of not only those persons utilizing the housing, but the general public as well. It is hereby further declared that the purpose of this Article is to determine the responsibilities of owners, operators, occupants and the City necessary to maintain and administer the standards of the Housing Code. (1978 Code §17-1)

14-5E-3: DEFINITIONS:

As used in this Article, the following definitions shall apply. Whenever the words "dwelling", "dwelling unit", "rooming house", "rooming unit", "Type III dwelling unit" or "premises" are used in this Article, they shall be construed as though they were followed by the words "or any part thereof". Whenever the term "dwelling unit(s)" is used in this Article, it shall include Type III dwelling unit(s).

ACCEPTABLE or APPROVED: In substantial compliance with the provisions of this Article.

ACCESSORY STRUCTURE: A detached structure not used, nor intended to be used, for living or sleeping by human occupants.

ADJOINING GRADE: The elevation of the ground which extends five feet (5') from the perimeter of the dwelling.

APPROVED: (See "Acceptable")

APPURTENANCE: That which is directly or indirectly connected or accessory to a thing.

ATTIC: Any story situated, wholly or partly, within the roof and so designed, arranged or built to be used for business, storage or habitation.

BASEMENT: A portion or story of a building, next below the first or main floor, which may or may not be considered habitable space.

BATH: A bathtub or shower stall installed in compliance with the Iowa City Plumbing Code ¹⁹

CELLAR: A space below the first or main floor, used or intended to be used for storage and location for heating equipment and shall not be considered habitable space.

CENTRAL HEATING SYSTEM: A single system supplying heat to one or more dwelling unit(s) or more than one rooming unit.

CERTIFICATE OF STRUCTURE COMPLIANCE: A permanent document showing that the structure for which it is issued was in compliance with the provisions of Sections 14-5E-17 and 14-5E-18 of this Article at the time of issuance.

CHIEF: The administrative head of the Fire Department.

COMMUNAL: Used or shared by or intended to be used or shared by the occupants of two (2) or more rooming units or two (2) or more dwelling units.

CONDOMINIUM: A dwelling unit in compliance or conformance with the requirements of the Code of Iowa, as amended.

COOPERATIVE: A dwelling unit in compliance or conformance with the requirements the Code of Iowa, as amended.

COURT: An open, unoccupied space, other than a yard, on the same lot with a dwelling. A court not extending to the street or front or rear yard is an inner court. A court extending to the street or front yard or rear yard is an outer court.

DESIGNATED AGENT: The person designated by owner(s) of rental property who are not residents of Johnson County, as well as condominium associations, who has authority to act on the owners' behalf to accept service of legal processes and notices and to authorize repairs as required.

DINING ROOM: A habitable room used or intended to be used for the purpose of eating but not for cooking or the preparation of meals.

DIRECTOR: The Director of the Department of Housing and Inspection Services.

DUPLEX: Any habitable structure containing two (2) single dwelling units. The classification shall be determined by the existence of two (2) separate dwelling units, as defined herein, and shall not be based upon the identity of the occupants.

DWELLING: Any building, structure or manufactured housing, except temporary housing, wholly or partly, used or intended to be used for living or sleeping by human occupants and includes any appurtenances attached thereto.

DWELLING, MULTIPLE: (See "Multiple Dwelling")

DWELLING, SINGLE-FAMILY: (See "Single-Family Dwelling")

DWELLING UNIT: Any habitable room or group of adjoining habitable rooms located within a dwelling and forming a single unit with facilities which are used or intended to be used for living, sleeping, cooking and eating of meals.

EGRESS: An arrangement of exit routes to provide a means of exit from buildings and/or premises.

EXIT: A continuous and unobstructed means of egress to a public way and shall include intervening doors, doorways, corridors, exterior-exit balconies, ramps, stairways, smokeproof enclosures, horizontal exit, exit passageway, exit court, walkways, sidewalks and yards.

EXTERMINATION: The control and elimination of insects, rodents or other pests by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating or trapping or by any other recognized and legal pest elimination methods approved by the inspector.

FAMILY: One person or two (2) or more persons related by blood, marriage, adoption or placement by a governmental or social service agency, occupying a dwelling unit as one housekeeping organization. A family may also be two (2), but not more than two (2), persons not related by blood, marriage or adoption.

FRATERNITY/SORORITY HOUSE: A building used as a residence by a chapter of a fraternal or sororal nonprofit organization recognized by the University of Iowa. For purposes of this Code, a fraternity/sorority house shall be considered a rooming house. Occupancy classification for State of Iowa Fire Code is "dormitory".

HABITABLE ROOM: A room or enclosed floor space, having a minimum of seventy (70) square feet of total floor area within a dwelling unit or rooming unit used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, toilet rooms, pantries, laundries, foyers, communicating corridors, closets, storage spaces, stairways and recreation rooms in basements (see "Recreation Room in Basement").

INFESTATION: The presence, within or around a dwelling, of any insects, rodents or other pests in such quantities as would be considered unsanitary.

INSPECTOR: The official or officials of the City appointed to administer the provisions of the Housing Code, together with duly authorized representative(s) and/or agent(s).

KITCHEN: A habitable room used or intended to be used for cooking or the preparation of meals.

KITCHEN SINK: A basin for washing utensils used for cooking, eating and drinking, located in a kitchen and connected to both hot and cold water lines.

KITCHENETTE: A food preparation area not less than forty (40) square feet in area.

LAVATORY: A handwashing basin connected to both hot and cold water lines and separate and distinct from a kitchen sink.

LIVING ROOM: A habitable room within a dwelling unit used or intended to be used primarily for general living purposes.

MANUFACTURED HOUSING: Any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons.

MULTIPLE DWELLING: Any dwelling containing three (3) or more dwelling units.

OCCUPANT: Any person, including owner or operator, living in, sleeping in and/or cooking in or having actual possession of a dwelling unit or a rooming unit.

OPERATOR: Any person who rents to another or who has custody or control of a building or parts thereof in which dwelling units or rooming units are let or who has custody or control of the premises.

OWNER: Any person who has custody and/or control of any dwelling, dwelling unit or rooming unit by virtue of a contractual interest in or legal or equitable title to said dwelling, dwelling unit or rooming unit as guardian or conservator.

PERMIT: (See "Rental Permit")

PERSON: Any individual, firm, corporation, association, partnership, trust or estate.

PLACARD: A display document showing that the unit for which it is issued has been determined to be unfit for human habitation.

PLUMBING: Means and includes any or all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, solid waste disposal units, waste pipes, toilets, sinks, lavatories, bathtubs, shower baths, water-heating devices, catch basins, drains, vents and any other similar supplied fixture, together with all connections to water, sanitary sewer or gas services.

PREMISES: A lot, plot or parcel of land, including a building(s) and/or accessory structure(s) thereon.

PRIVACY: The existence of conditions which will permit a person or persons to carry out an activity commenced without interruption or interference by unwanted persons.

PUBLIC WAY: Any parcel of land, unobstructed from the ground to the sky, more than ten feet (10') in width, dedicated to the free passage of the general public.

RECREATION ROOM IN BASEMENT: A room located in a basement used for general recreation purposes and not used, nor intended to be used, for sleeping. This room shall be in addition to the minimum space and facility requirements for a dwelling unit or rooming unit.

REGULATIONS: (See "Rules and Regulations")

RENTAL PERMIT: A document, issued periodically, which grants the owner or operator the option of letting a unit for rental purposes and showing that the unit for which it is issued was in compliance with the applicable provisions of this Article at the time of issuance.

RENTAL PROPERTY: Any dwelling not owner occupied, regardless whether rent is paid.

RESIDE: The place where a person physically resides not less than ten (10) months of any applicable calendar year.

ROOMER: An occupant of a rooming house or rooming unit and shall also mean an occupant of a dwelling who is not a member of the family occupying the dwelling.

ROOMING HOUSE: Any dwelling or that part of any dwelling containing one or more rooming units or Type III dwelling units, in which space is let by the owner or operator to four (4) or more roomers. Occupants of units specifically designated as Type III dwelling units within a rooming house shall be included in the roomer count.

ROOMING UNIT: Any habitable room or group of adjoining habitable rooms located within a dwelling and forming a single unit with facilities which are used or intended to be used primarily for living and sleeping. A rooming unit shall have bath and toilet facilities available for the exclusive use of the occupant(s) or for communal use in accordance with Section 14-5E-18 of this Article, and in addition, rooming units may be let with or without communal kitchen and/or communal dining room privileges in accordance with said Section 14-5E-18.

RUBBISH: Inorganic waste material consisting of combustible and/or noncombustible materials.

RULES AND REGULATIONS: Those administrative procedures adopted by the Director for the efficient internal management of the Department of Housing and Inspection Services. All rules and regulations shall be limited to departmental administrative and procedural matters, rather than substantive matters and shall not be inconsistent with this Article.

SINGLE-FAMILY DWELLING: A structure containing one dwelling unit.

SOLID WASTE: Animal or vegetable waste resulting from the handling, preparation, cooking or consumption of food and shall also mean combustible waste material. The term shall also include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings and other combustible materials.

SOLID WASTE CONTAINER: A watertight container that is constructed of metal or other durable material impervious to rodents, that is capable of being serviced without creating unsanitary conditions.

SUPPLIED: Paid for, furnished by, provided by or under the control of the owner or operator.

TEMPORARY HOUSING: Any tent, trailer, motor home or other structure used for human shelter and designed to be transportable and not attached to the ground, to another structure or to any utilities system on the same premises for more than thirty (30) calendar days.

TOILET: A water closet, with a bowl and trap made in one piece, of such shape and form and holding a sufficient quantity of water so that no fecal matter will collect on the surface of the bowl and equipped with a flushing rim or flushing rims.

TYPE III DWELLING UNIT: Any habitable room or group of adjoining habitable rooms located within a dwelling and forming a single unit with facilities which are used or intended to be used for living, sleeping, cooking and eating of meals but does not have a toilet or bath available for the exclusive use of the occupants thereof. (1978 Code §17-2; 1994 Code)

14-5E-4: SCOPE OF PROVISIONS:

The provisions of this Article shall apply to all dwellings within the jurisdiction of the City used or intended to be used for human occupancy, except said provisions shall not be applicable to temporary housing, as defined herein. (1978 Code §17-1)

14-5E-5: COMPLIANCE WITH STATE LAW:

The City, in compliance with the requirements of the Code of Iowa, as amended, hereby adopts the December 17, 1979, version of the *Housing Quality Standards* promulgated by the United States Department of Housing and Urban Development (24 C.F.R. Section 882.109[a] through [l]) as the adopted model Housing Code for the City, as amended. The City has integrated the Housing Quality Standard in Sections 14-5E-1 through 14-5E-20 of this Article, which provisions, to be enforced by the City, are as stringent as, or more stringent than, those in the model Housing Code as adopted. (1978 Code §17-1; 1994 Code)

14-5E-6: ADMINISTRATION AND ENFORCEMENT OFFICIAL:

The inspector is hereby authorized to administer and enforce the provisions of the Housing Code and to make inspections to determine the condition of all dwellings, dwelling units, rooming units, structures and premises located within the City, in order that the inspector may perform the duty of safeguarding the health, safety and welfare of the occupants of dwellings and of the general public under the provisions of the Housing Code. (1978 Code §17-3)

14-5E-7: INSPECTIONS:

- A. Inspection of Owner-Occupied, Single-Family Dwellings: Inspections of owner-occupied, single-family dwellings shall occur only upon request or complaint to the inspector, and only the standards of Sections 14-5E-17, 14-5E-19 and 14-5E-20 of this Article shall be applicable.
- B. Inspections of Structure Items: The provisions of Sections 14-5E-17 and 14-5E-18 of this Article in effect at the time of issuance of a certificate of structure compliance shall be the only structure standards applicable to a dwelling. Upon the issuance of a certificate of structure compliance, there shall be no further inspection and enforcement of the structure items under Sections 14-5E-17 and 14-5E-18 of this Article.
- C. Maintenance Inspections: Inspections of the provisions of Section 14-5E-19 of this Article shall be conducted upon request, on a complaint basis and/or through a program of regular rental inspections. Regular inspections shall be conducted as determined by resolution of the City Council.
- D. Right to Access by Inspector:
1. The inspector is hereby authorized to conduct consensual inspections of any dwelling within Iowa City in order to perform the duty of safeguarding the health, safety and general welfare of the occupants or the public. Whenever necessary to make an inspection to enforce any of the provisions of the Housing Code or whenever the inspector has reasonable cause to believe that there exists in any dwelling, dwelling unit, rooming unit or premises any condition which makes such unit or premises in violation of any provision of the Housing Code or in response to a complaint that an alleged violation of a provision of the Housing Code may exist, the inspector may enter such unit or premises at all reasonable times to inspect the same or to perform any duty imposed upon the inspector by the Housing Code, provided if such unit or premises be occupied, the inspector shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. The inspector and/or authorized representative shall, at such time: a) identify themselves and their positions; and b) explain why entry is sought.
 2. If entry is refused, the inspector shall request that the inspection be conducted at a reasonable time, suitable to the owner or occupant. If the request for future entry is refused, the inspector shall, at that time or at a later time, explain to the owner and/or occupant that: a) the occupant may refuse, without penalty, entry without a search warrant; and b) the inspector may apply to the magistrate for a search warrant.
- E. Search Warrant: If consent to inspect a building is withheld by any person having the lawful right to exclude, the inspector may apply to a magistrate of the Iowa District Court in and for County for a search warrant of the building. No owner or occupant or any other person having charge, care or control of any dwelling, dwelling unit, rooming unit, structure or premises shall fail or neglect, after presentation of a search warrant, to properly permit entry therein by the inspector or authorized representative for the purpose of inspection and examination pursuant to the Housing Code. (1978 Code §17-3)

14-5E-8: ACCESS BY OWNER OR OPERATOR FOR MAINTENANCE:

Every occupant of a dwelling, dwelling unit or rooming unit shall, upon proper notice, give access to the owner, operator or agent or employee to any part of such dwelling, dwelling unit, rooming unit or premises at all reasonable times for the purpose of effecting such maintenance, making such repairs or making such alterations as are necessary to effect compliance with, or any lawful notice or order issued pursuant to the provisions of the Housing Code. (1978 Code §17-3)

14-5E-9: EMERGENCY ORDERS:

Whenever the inspector, in the enforcement of the Housing Code, finds that a condition exists which requires immediate action to protect the health or safety of the occupants and/or the general public, the inspector may, without notice or hearing, issue an order reciting the existence of such a condition and requiring that action be taken such as the inspector deems necessary to abate the condition. If necessary, the Director may order that the premises be vacated forthwith, and said premises shall not be reoccupied until the order to make repairs has been complied with. Notwithstanding other provisions of the Housing Code, such order shall be effective immediately or in the time and manner prescribed by the order itself. (1978 Code §17-3)

14-5E-10: PLACARDING OF STRUCTURES; CONDEMNATION REFERRALS:

- A. Placarding Procedures: Any dwelling, dwelling unit or rooming unit found to be so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a hazard to the health or safety of the occupants or of the public shall be determined to be unfit for human habitation and shall be so designated and placarded by the Director.
- B. Order to Vacate Placarded Dwelling: Any dwelling, dwelling unit, rooming unit or any portion thereof placarded as being unfit for human habitation by the Director shall be vacated immediately or as ordered by the Director. (1978 Code §17-3)
- C. Approval Required to Re-Occupy Placarded Dwelling: No dwelling, dwelling unit, rooming unit or portion thereof which has been placarded as unfit for human habitation shall not be used for human habitation again until written approval is secured from, and such placard is removed by, the Director. The Director shall remove such placard whenever the defect(s) for which the dwelling was placarded has been eliminated. (1978 Code §17-3; 1994 Code)
- D. Removal of Placard Prohibited: No person shall deface or remove a placard from any dwelling, dwelling unit or rooming unit which has been deemed unfit for human habitation and placarded as such, except as provided in subsection C of this Section.
- E. Condemnation Referral: After a reasonable period of time after a property has been placarded and no remedial action begun, the inspector may refer the case to the authority charged with enforcement of the Uniform Code for the Abatement of Dangerous Buildings 20, as amended, for appropriate action. (1978 Code §17-3; 1994 Code)

14-5E-11: FEES:

The Department of Housing and Inspection Services is authorized to assess permit and reinspection fees, the amounts of which shall be established by resolution of the City Council. (1978 Code §17-3)

14-5E-12: RULES AND REGULATIONS:

The inspector shall make all rules and regulations available to the general public. Standard forms and blank notices shall also be available upon request. (1978 Code §17-3)

14-5E-13: APPEALS BOARD; VARIANCES AND APPEALS:

A. Jurisdiction of Appeals Board:

1. Any persons affected by any written notice, but not limited to the following notices, or any persons wishing to submit any petition, but not limited to the following petitions, may appeal to the Appeals Board:

- a. Notice of Housing Code violation.
- b. Notice denying a certificate of structure compliance.
- c. Notice denying a rental permit.
- d. Notice revoking a rental permit.
- e. Notice of intent to placard.
- f. Notice of eligibility for rent escrow.
- g. Petition for relief.
- h. Petition for revocation of a certificate of structure compliance.
- i. Petition for variance.

2. If the Appeals Board sustains or modifies a notice, it shall be deemed to be an order, and the owner, operator or occupant, as the case may require, shall comply with all provisions of such order within a reasonable period of time which shall be determined by the Appeals Board.

B. Appeals Board Procedures:

1. The Appeals Board, upon receipt of an appeal request and payment of the filing fee, as established by resolution of the City Council, shall set a time and a place for the hearing.

The applicant shall be advised, in writing, of such time and place at least seven (7) calendar days prior to the date of the hearing.

2. At such a hearing, the applicant shall have an opportunity to be heard and to show cause as to why such notice or order should be modified, extended, revoked or why a variance should be granted.

3. The Appeals Board, by a majority vote, may sustain, modify, extend or revoke a notice to grant or deny a variance.

4. The Appeals Board may grant variances or extensions of time to make repairs. In the event that an extension and/or variance is granted, the Appeals Board shall observe the following conditions:

a. In lieu of or in addition to administrative extensions, the Appeals Board may grant an extension or extensions of time for the compliance of any order or notice, provided the Appeals Board makes specific findings of fact based on evidence relating to the following:

(1) There are practical difficulties or unnecessary hardships in carrying out the strict letter of any notice or order; and

(2) Such an extension is in harmony with the general purpose and intent of this Article in securing the public health, safety and general welfare.

b. Except under extraordinary circumstances, the extension or sum of extensions shall not exceed eighteen (18) months.

c. The Appeals Board may grant a variance in a specific case and from a specific provision of this Article, subject to appropriate conditions, and provided the Appeals Board makes specific findings of fact based on the evidence presented on the record as a whole and relate to the following:

(1) There are practical difficulties or unnecessary hardships in carrying out a strict letter of any notice or order; and

(2) Due to the particular circumstances presented, the effect of the application of the provisions would be arbitrary in the specific case; and

(3) An extension would not constitute an appropriate remedy for these practical difficulties or unnecessary hardships in this arbitrary effect; and

(4) Such variance is in harmony with the general purpose and intent of this Article in securing the public health, safety and general welfare.

d. Upon appeal or by petition, the Appeals Board shall consider the adoption of a general variance. The Appeals Board, by a majority vote, may establish a general variance for existing structures which cannot practicably meet the standards of the Code. Prior to considering any general variance, public notice shall be given. A general variance, if granted, shall:

(1) State in what manner the variance from the specific provision(s) is to be allowed; and

(2) State the conditions under which the variance is to be made; and

(3) Be based upon specific findings of fact based on evidence related to the following:

(A) There are practical difficulties or unnecessary hardships in carrying out the strict letter of the specific provision, common to dwellings, dwelling units or rooming units to which the variance will apply; and

(B) Such variance is in harmony with the general purpose and intent of this Article in securing the public health, safety and general welfare.

e. The effective date of the variance shall be thirty (30) calendar days after notification to the City Council unless vetoed by an extraordinary majority of the City Council during said thirty (30) day period. (1978 Code §17-3; 1994 Code

14-5E-14: NOTICE OF VIOLATION:

Whenever the inspector determines that there has been a violation of any provision of the Housing Code, the inspector shall give notice of such violation and an appeal request form to the person or persons responsible therefor. Such notice shall:

A. Be in writing.

B. Include a sufficiently detailed description of the violation, including the section of the Housing Code violated and the location of the violation on the premises, if applicable.

C. Include a statement of the reason or reasons why it is being issued.

D. Allow a reasonable time for the performance of any act it requires and may contain an outline of remedial action which, if taken, will effect compliance with the provisions of the Housing Code.

E. Be served upon the owner or operator or the occupant, as the case may require, provided such notice shall be deemed to be properly served upon such owner or upon such operator or upon such occupant if a copy thereof is delivered personally or, if not found, by leaving a copy thereof at the usual place of abode, in the presence of someone of the family of suitable age and discretion who shall be informed of the contents thereof, by registered mail

or by certified mail, with return receipt requested, to the last known address, or if the registered or certified letter with the copy is returned with a receipt showing it has not been delivered to him, by posting a copy thereof in a conspicuous place in or about the dwelling affected by the notice.

- F. Be effective notice to anyone having interest in the property, whether recorded or not, at the time of giving such notice and shall be effective against any subsequent owner of the premises as long as the violation exists and there remains an official copy of the notice in a public file maintained by the Department of Housing and Inspection Services. (1978 Code §17-3; 1994 Code)

14-5E-15: DESIGNATION AND REGISTRATION OF DESIGNATED AGENT:

Owners of rental property not residing in the County and/or condominium associations shall designate and register with the City in the office of the Department of Housing and Inspection Services a designated agent located in the County and empowered to represent a property owner(s) in matters concerning compliance with the Iowa City Housing Code and as defined in Section 14-5E-3 of this Article. Failure to designate and register a designated agent is a violation of this Article and may result in revocation of a rental permit. (1978 Code §17-3)

14-5E-16: CERTIFICATE OF STRUCTURE COMPLIANCE AND RENTAL PERMIT:

- A. Certificate and Permit Required for Rental Property: It shall be a violation of this Code for any person to let to another for rent and occupancy any dwelling, dwelling unit, duplex, multiple dwelling, rooming unit (except a rooming unit or units within owner-occupied, single-family dwellings, containing no more roomers than permitted by the Zoning Ordinance 21) or rooming houses unless:

1. The owner or operator holds a valid certificate of structure compliance, issued by the Department of Housing and Inspection Services, applicable to those portions of the specific structure used for residential rental purposes.
2. The owner or operator holds a valid rental permit, issued by the Department of Housing and Inspection Services, in the name of the owner or operator, applicable to those portions of the specific structure used for residential rental purposes.

- B. Certificate of Structure Compliance:

1. Scope of Certificate; Transfers; Contents: The certificate of structure compliance shall be a permanent document, except as noted below, which, when issued, shall satisfy the requirements of Sections 14-5E-17 and 14-5E-18 of this Article. The certificate shall be transferable at the time of a change in ownership and shall remain a part of the Iowa City property file as a matter of public record. The certificate, in and of itself, shall not be interpreted as granting the owner or operator the privilege of letting the structure for residential occupancy but must be accompanied by a valid rental permit. The certificate of structure compliance shall state the date of issuance, type of structure for which the

certificate is being issued and street address of the structure to which it is applicable. All dwelling units and rooming units being let for rent and occupancy without a valid certificate of structure compliance or application for the same on file with the City and fees paid may be ordered vacated.

2. Application for Certificate: The owner or operator shall file, in duplicate, an application for a certificate of structure compliance with the Department of Housing and Inspection Services on application forms provided by the inspector.

3. Issuance of Certificate: When the provisions of Sections 14-5E-17 and 14-5E-18 of this Article have been complied with by the owner or operator, the Department of Housing and Inspection Services shall issue a certificate of structure compliance upon payment of a fee, the amount of which shall be set by resolution of the City Council.

4. Revocation of Certificate: The certificate of structure compliance shall be permanent, except when there has been fraud, collusion or illegality in the inspection process applicable to this certificate of structure compliance or when there exists a material and substantial noncompliance with Section 14-5E-17 or 14-5E-18 of this Article which directly affects the health and/or safety of the occupants therein. The inspector or any other individual who believes that there exists grounds for revocation may petition the Appeals Board to revoke the certificate of structure compliance. The burden of proof shall be upon the party seeking the revocation. The owner or operator of the affected property shall be properly notified of the petition for revocation and shall be notified of the date, place and time of the Appeals Board's consideration of the petition and may appear and defend. Upon final determination by the Appeals Board, a certificate of structure compliance may be modified to reflect the compliance of each dwelling unit and/or rooming unit with Sections 14-5E-17 and/or 14-5E-18 of this Article or may be revoked in whole or in part.

C. Rental Permit:

1. Scope of Permit; Transfers; Contents: A rental permit shall be a document indicating compliance with Section 14-5E-19 of this Article at the time of issuance and shall be valid for a specified period of time. The document shall be transferable from one owner or operator to another at any time prior to its expiration, termination or revocation. The owner or operator shall notify the Department of Housing and Inspection Services of any change of interest or ownership in the property within thirty (30) calendar days of any conveyance or transfer of interest affecting the property and provide the name and address of all persons who have acquired an interest therein. In the event that the Department of Housing and Inspection Services has not been notified of such conveyance or transfer within the designated period of time, the rental permit shall be transferred from one owner or operator to another only upon payment of a fee, the amount of which shall be established by resolution of the City Council which shall be assessed to the new owner or operator. The rental permit shall state the date of issuance, the address of the structure to which it is applicable, the name of the new owner or operator to which it is applicable, and its new expiration date. All dwelling units and rooming units being let for rent and occupancy without a valid rental permit may be ordered vacated.

2. Application for Permit: The owner or operator shall file, in duplicate, an application for rental permit with the Department of Housing and Inspection Services on application forms provided by the inspector.

3. Issuance of Permit: When all provisions of Section 14-5E-19 of this Article have been complied with by the owner or operator, the Department of Housing and Inspection Services shall issue a rental permit upon payment of all permit and reinspection fees, the amounts of which shall be established by resolution of the City Council.

4. Expiration of Permit; Extensions: Rental permits shall be valid through the expiration date contained thereon. However, extensions shall be granted to cover any time period between the stated expiration date and the period of time permitted by the inspector to remedy any violations cited subsequent to a maintenance inspection, provided a rental application is on file with fees paid.

5. Revocation of Permit: The Appeals Board shall consider the revocation of a rental permit upon the expiration of a rent escrow account if petitioned by the inspector for such revocation. The owner or operator of the affected property shall be properly notified of the petition for revocation and shall be notified of the date, place and time of the Appeals Board's consideration of the petition and may appear and defend. The Appeals Board may revoke a rental permit upon a finding of a violation of any provision of Section 14-5E-19 of this Article.

D. Hearing Upon Denial of Certificate or Permit: Any person whose application for a certificate of structure compliance or rental permit has been denied may request, and shall be granted, a hearing on the matter before the Appeals Board. Application for the appeal hearing must be made within ten (10) calendar days of receipt of the written notice of denial. (1978 Code §17-4; 1994 Code)

14-5E-17: MINIMUM STRUCTURE STANDARDS FOR ALL DWELLINGS:

A. Safety of Supplied Facility: Every supplied facility, piece of equipment or required utility shall be constructed and/or installed so that it will function safely.

B. Kitchens: Every dwelling unit shall have a kitchen room or kitchenette equipped with the following:

1. An approved kitchen sink.
2. Space capable of properly accommodating a refrigerator and a stove or range.
3. Proper access terminals to utilities necessary to properly operate a refrigerator and stove or range.
4. Adequate space for the storage and preparation of food.

C. Toilets, Baths and Lavatories:

1. Every dwelling unit shall contain the following:

- a. A toilet.
- b. A bath.
- c. A lavatory basin within or adjacent to the room containing the toilet.

2. Every toilet and every bath shall be contained within a room or within separate rooms which afford privacy for a person within said rooms.

D. Water-Heating Facilities: Every kitchen sink, bath and lavatory basin required in accordance with the provisions of the Housing Code shall be properly connected with supplied water-heating facilities. Every supplied water-heating facility shall be properly connected and shall be capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every kitchen sink and lavatory basin required under the provisions of the Housing Code at a temperature of not less than one hundred twenty degrees (120°) Fahrenheit (48° centigrade). Such supplied water-heating facilities shall be capable of meeting the requirements of this Section when the required space-heating facilities are not in operation.

E. Connection of Sanitary Facilities to Water and Sanitary Sewer Systems: Every kitchen sink, toilet, lavatory basin, bath and clothes washer shall be properly connected to an approved water and sanitary sewer system 22 .

F. Exits:

1. Every structure containing a dwelling unit or dwelling units or structure containing a rooming unit or rooming units or a combination thereof shall comply with the following exit requirements:

- a. Every structure or usable portion thereof shall have at least one exit.
- b. Single-family and duplex structures over three thousand (3,000) square feet in gross floor area shall have access to two (2) exits.
- c. Multiple dwellings and rooming houses with an occupant load of ten (10) or more shall have access to two (2) exits.
- d. Where only one exit is required, it shall be a continuous and unobstructed means of egress which discharges directly or via corridors or stairways to a public way.
- e. Where at least two (2) exits are required, they shall be independent, unobstructed means of egress remote from each other, and both shall discharge directly or via

corridors or stairways or both to a public way or yard. If both means of egress are designated to a common corridor, they shall be in opposite directions immediately upon exiting the dwelling unit or rooming unit, except a common path of travel may be permitted for the first twenty feet (20'). Dead-end corridors shall not exceed twenty feet (20') in length. However, any existing fire escape shall not be deemed a sufficient means of egress unless it is in compliance with the Fire Codes of the State and the City 23 .

f. Basements and floors above the second story shall have not less than two (2) exits, except when such floors or basements are used exclusively for the service of the building. Dwelling units and/or rooming units in a basement may have access to only one common exit when the occupant load served by that exit does not exceed ten (10). Escape and rescue window(s) must be supplied for each sleeping room. Such window(s) shall comply with the Uniform Building Code specifications 24 . Existing third floor and attic areas less than five hundred (500) square feet may be used as habitable rooms if the following conditions are met: 1) one exit fully meets Uniform Building Code requirements to the outside of the building 25 ; 2) the other exit can be an attic fire escape 26 . If access to the attic fire escape 27 is through a window, such window must meet the Uniform Building Code requirements for escape and rescue windows.

g. Every doorway providing ingress or egress from any dwelling unit, rooming unit or habitable room shall be at least six feet, four inches high and two feet, four inches wide (6'4" x 2'4").

2. Every means of egress shall comply with the following requirements:

a. Stairways: All stairways comprised of four (4) or more risers shall be provided with a substantial and safe handrail. New construction or remodeling shall comply with the City Building Code 28 .

b. Guardrails: All unenclosed floor and roof openings, open and glazed sides of landings and ramps, balconies or porches which are more than thirty inches (30") above grade or above the floor below and any roof used for other than service of the building shall be protected by a substantial and safe guardrail. New construction or remodeling shall comply with the City Building Code 29 .

c. Riser and Tread: Every stairway shall have a uniform riser height and uniform tread width which shall be adequate for safe use. (1978 Code §17-5; 1994 Code)

d. Exits: Doors and windows readily accessible from outside the unit shall be lockable from inside the unit. Double cylinder deadbolts may not be used on doors located in habitable areas or on any exit door. Exit doors shall be openable from the inside without the use of a key or any special knowledge or effort. (Ord. 95-3681, 6-27-95)

e. Escape Window: In basement units where one means of egress is a window, such window shall have an unobstructed opening no less in area than that required in the Building and/or Fire Codes 30 .

f. Fire Escapes: No existing fire escape shall be deemed a sufficient means of egress unless it is in compliance with the Fire Codes of the State and the City 31 .

g. Doorways: Every doorway providing ingress or egress from any dwelling unit, rooming unit or habitable room shall be at least six feet, four inches high and twenty four inches wide (6'4" x 24"). (1978 Code §17-5; 1994 Code)

G. Natural Light:

1. Every habitable room, except a kitchen, shall have at least one window or skylight facing directly to the outdoors. The minimum total glazed window or skylight area, for every habitable room, except the kitchen, shall be at least eight percent (8%) of the floor area of such room.

2. For the purpose of determining natural light and natural ventilation requirements, any room may be considered as a portion of an adjoining room when one-half (1/2) of the area of the common wall is open and unobstructed and provides an opening of not less than one-tenth (1/10) of the floor area of the interior room or twenty five (25) square feet, whichever is greater.

H. Ventilation:

1. Interior Air Quality: Every dwelling unit and rooming unit shall be free from dangerous levels of air pollution from carbon monoxide, sanitary sewer gas, fuel gas, dust and other harmful air pollutants.

2. Natural Ventilation:

a. Every window or other device with openings to the outdoor space, used for ventilation, shall be supplied with screens of not less than sixteen (16) mesh per inch. (1978 Code §17-5; 1994 Code)

b. The total openable window area, as measured between stops, in every habitable room shall be equal to at least four percent (4%) of the floor area of such room. (Ord. 95-3681, 6-27-95)

c. Every door opening directly from a dwelling unit or rooming unit to outdoor space, the use of which is necessary to meet the minimum ventilation requirements of this Code, shall have a supplied screen or screens and a self-closing device.

d. Every cellar window, soffit or roof vent used or intended to be used for ventilation and every other opening to a cellar, crawl space or interior roof area which might provide an entry for rodents or birds shall be supplied with a heavy wire screen of not larger than one-fourth inch (1/4") mesh or such device as will effectively prevent entrance.

e. For natural ventilation, every bathroom or toilet compartment shall have at least one openable window facing directly to the outdoors and at least forty five percent (45%) of the window must be openable.

3. Mechanical Ventilation:

a. In lieu of openable windows for natural ventilation, adequate ventilation may be a system of mechanical ventilation which provides not less than two (2) air changes per hour in all habitable rooms and/or bathrooms or toilet compartments.

b. No mechanical exhaust system, exhausting vapors, gases or odors shall be discharged into an attic, crawl space or cellar unless such attic, crawl space or cellar is adequately vented to the outside.

c. Any kitchen or kitchenette lacking natural ventilation shall be equipped with a system of mechanical ventilation which provides at least two (2) air changes per hour in said room. The system shall exhaust and discharge directly to outside air.

I. Heating:

1. Every dwelling shall have heating facilities which are properly installed and are capable of safely and adequately heating all habitable rooms, bathrooms and toilet rooms located therein to a temperature of at least sixty eight degrees (68°) Fahrenheit (20° centigrade) and shall be capable of maintaining in all said locations a minimum temperature of sixty five degrees (65°) Fahrenheit (18° centigrade) at a distance of three feet (3') above the floor level at all times. Such heating facilities shall be so designed and equipped that heat, as herein specified, is available for all dwelling units and rooming units.

2. Every central heating unit, space heater, water heater and cooking appliance shall be located and installed in such a manner so as to afford reasonable protection against involvement of egress facilities or egress routes in the event of uncontrolled fire in the structure.

3. Every fuel burning heating unit or water heater shall be effectively vented in a safe manner to a chimney or duct leading to the exterior of the building. The chimney, duct and vent shall be of such design as to assure proper draft and shall be adequately supported.

4. No fuel burning furnace shall be located within any sleeping room or bathroom unless provided with adequate ducting for air supply from the exterior, and the combustion chamber for such heating unit shall be sealed from the room in an airtight manner. Fuel burning water heaters are prohibited in bathrooms and sleeping rooms.

5. Every steam or hot water boiler and every water heater shall be protected against overheating by appropriate pressure and temperature limit controls. Such controls shall have a properly installed extension pipe on the pressure temperature control valve.

6. Every fuel burning space heating unit and water heater shall be equipped with an electronic ignition or with a pilot light and an automatic control to interrupt the flow of fuel to the unit in the event of a failure of the ignition device. All such heating units shall have a limit control to prevent overheating.

J. Electrical Requirements:

1. Every habitable room shall contain at least two (2) separate floor- or wall-type electric double convenience outlets which shall be situated a distance apart equivalent to at least twenty five percent (25%) of the perimeter of the room. Every such outlet and fixture shall be properly installed.
2. Every habitable room, toilet room, bathroom, laundry room, furnace room, basement and cellar shall contain at least one supplied ceiling- or wall-type electric light fixture or switched outlet. Every such outlet and fixture shall be properly installed.
3. Temporary wiring or extension cords shall not be used as permanent wiring.

K. Minimum Space, Use and Location Requirements:

1. Floor Area Per Occupant:

- a. Every dwelling unit shall contain at least one hundred twenty (120) square feet of habitable floor space for the first occupant thereof and at least one hundred (100) additional square feet of habitable floor space for every additional occupant thereof.
- b. For the purpose of determining the maximum permissible occupancy, the floor area of that part of a room where the ceiling height is less than five feet (5') shall not be considered when computing the total floor area of the room.

2. Maximum Occupancy: Not more than one family, plus that number of roomers permitted in the Zoning Ordinance 32 , except for guests, shall occupy a dwelling unit unless a rental permit for a rooming house has been granted.

3. Sleeping Rooms: In every dwelling unit of two (2) or more rooms and every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least forty (40) square feet of floor space for each additional occupant thereof, except two (2) bedroom manufactured housing shall be required to have only one bedroom in compliance with this Section.

4. Ceiling Height: The ceiling height of every habitable room shall be at least seven feet (7').

- a. In any habitable room where the ceiling is a part of a sloping roof, at least one-half (1/2) of the floor area shall have a ceiling height of at least seven feet (7'). Floor area, as

stated above, shall mean the area of the floor where the vertical measurement from floor to ceiling is five feet (5') or more.

b. Obstructions of space by such items as water and gas pipes and cabinetry shall be permitted when such obstructions are located within two feet (2') of a partition or wall, do not interfere with normal ingress and egress, would not interfere with an emergency ingress or egress and are approved by the inspector. Obstruction of ceiling space shall be permitted when such obstruction is located at a height of not less than six feet four inches (6'4") from the floor and which does not occupy more than twenty five percent (25%) of the cubic area of the space within a room further than six feet four inches (6'4") from the floor.

- L. Fire Protection Equipment: All fire extinguishers and early warning fire protection systems shall be properly installed according to the City Fire Code 33 . (1978 Code §17-5; 1994 Code)

14-5E-18: MINIMUM STRUCTURE STANDARDS FOR ALL RENTAL HOUSING:

A. Direct Access: Access to each dwelling unit or rooming unit shall not require first entering any other dwelling unit or rooming unit, except access to rooming units may be through a living room or kitchen of a unit occupied by the owner-operator of the structure. No dwelling, dwelling unit or rooming unit containing two (2) or more sleeping rooms shall have such room arrangements that access to a bathroom or water closet compartment intended for use by occupants of more than one sleeping room or Type III dwelling unit is available only by going through another sleeping room or Type III dwelling unit, nor shall room arrangements be such that access to a sleeping room or Type III dwelling unit is available only by going through another sleeping room or Type III dwelling unit. A bathroom or water closet compartment shall not be used as the only passageway to any habitable room, hallway, basement, cellar or to the exterior of the dwelling unit or rooming unit.

B. Lighting of Public Halls and Stairways:

1. Public passageways and stairways in dwellings accommodating two (2) to four (4) dwelling units or rooming units shall be provided with a convenient wallmounted light switch(es) which activates an adequate lighting system.

2. Public passageways and stairways in buildings accommodating more than four (4) dwelling units or rooming units shall be lighted at all times with an adequate artificial lighting system, except such artificial lighting may be omitted from sunrise to sunset where an adequate natural lighting system is provided. Whenever the occupancy of a building exceeds one hundred (100) persons, the artificial lighting system as required herein shall be on an emergency circuit.

C. Fire Extinguishers: Fire extinguishers which are approved by the Fire Marshal shall be provided within every single-family dwelling, dwelling unit within a duplex and dwelling

unit within a multiple dwelling. Multiple dwellings shall have fire extinguishers located within each laundry room and central mechanical room; except where these rooms are contiguous, they may be served by one fire extinguisher. Laundry rooms and central mechanical rooms which are equipped with an automatic sprinkler system are exempt. The minimum size fire extinguisher is a 2A 10BC. Fire extinguishers must be properly mounted and in an area of easy access. Fire extinguishers with a classification less than 2A 10BC or lacking an ABC rating shall be replaced with a 2A 10BC or larger unit by July 31, 1994. Rooming houses are required to have a 2A 10BC rated fire extinguisher supplied on each floor level, including habitable basement areas, and in each kitchen. Fire extinguishers supplied in areas of public access shall be contained within an approved tamper-proof cabinet.

D. Early Warning Fire Protection System: All dwelling units and rooming units shall be provided with smoke detectors as approved by the Fire Marshal. Smoke detectors shall be installed in accordance with the manufacturer's instructions. Dwelling units shall have smoke detectors located on each floor level, including basements. Multi-family and rooming houses shall have smoke detectors in each dwelling unit or rooming unit and in common corridors, stairways and stairways constructed prior to 1978. Smoke detectors shall be operable at all times, and when actuated, the detector shall provide an alarm for the dwelling unit(s) or rooming unit(s). An owner or owner's agent of a multiple unit residential building, rooming house, duplex or single-family dwelling shall supply light-emitting smoke detectors, upon request, for a tenant with a hearing impairment. New construction and remodeling shall be in accordance with the Uniform Building Code 34 .

E. Toilets, Lavatory Basins and Baths:

1. At least one toilet and one lavatory basin shall be supplied for each eight (8) persons or fraction thereof residing within a dwelling containing a rooming unit or units and/or Type III dwelling unit or units, including members of the operator's family whenever they share the said facilities, provided in a rooming house or where rooms or Type III dwelling units are let only to males, flush urinals may be substituted for not more than one-half (1/2) of the number of required toilets.

2. At least one bath shall be supplied for each eight (8) persons or fraction thereof residing within a dwelling containing a rooming unit or units and/or Type III dwelling unit or units, including members of the operator's family whenever they share the use of said facilities.

3. Communal toilets and baths shall be located on the same floor or the floor immediately above or below the rooming unit or Type III dwelling unit.

F. Lead-Based Paint: Every owner or operator of a dwelling unit or rooming unit being let for rent and/or occupancy shall, on forms provided by the City, certify that the dwelling is in accordance with HUD lead-based paint regulations, 24 CFR, Part 35, issued pursuant to the *Lead-Based Paint Poisoning Prevention Act* , as amended.

G. Communal Kitchens: If a communal kitchen is supplied, it shall comply with the following requirements:

1. The minimum floor area of a communal kitchen shall be sixty (60) square feet.
2. The minimum floor area of a communal kitchen in which roomers are permitted to prepare and eat meals shall be one hundred (100) square feet.
3. It shall contain a refrigerator with an adequate food storage capacity.
4. It shall contain an approved kitchen sink.
5. It shall contain a stove or range.
6. It shall include at least one cabinet of adequate size suitable for the storage of food and eating and cooking utensils.
7. It shall contain at least six (6) square feet of surface area easily cleanable and suitable for the preparation of food.
8. It shall contain a table and adequate chairs for the normal use of the facilities if a communal dining room is not supplied.
9. Every communal kitchen shall be located within a room accessible to the occupants of each rooming unit sharing the use of such kitchen, without going outside the dwelling and without going through a dwelling unit or rooming unit of another occupant.

H. Communal Dining Rooms: Every dwelling or rooming house, within which the occupant of any rooming unit is permitted to prepare meals or cook within a communal kitchen containing less than one hundred (100) square feet of floor area, as provided in subsection G of this Section, shall contain a communal dining room which complies with all of the following requirements:

1. Every communal dining room shall be located on the same floor of the rooming house as the communal kitchen, and such dining room shall be as nearly adjacent to the communal kitchen as is practicable.
2. Every communal dining room shall be located within a room accessible to the occupants of each rooming unit sharing such dining room, without going outside the dwelling and without going through a dwelling unit or rooming unit of another occupant.
3. It shall contain a table and adequate chairs for the normal use of the facilities.
4. Every communal dining room shall contain not less than seventy (70) square feet of floor area.

I. Shades, Draperies and Window Coverings:

1. Every window in rooms used for sleeping purposes in rooming units and furnished dwelling units shall be supplied with shades, draperies or other devices or materials which, when properly used, will afford privacy to the occupants.
2. Every window in rooms used for sleeping purposes in unfurnished dwelling units shall be supplied with hardware necessary to support shades, draperies or other devices or materials which, when properly used, will afford privacy to the occupants.

J. Kitchen Stoves and Refrigerators: Kitchens or kitchenettes in multiple dwellings, rooming houses and duplexes shall be supplied with a stove or range and a refrigerator by the owner or operator.

K. Tiedowns: In the case of manufactured housing, the housing shall be securely anchored by a tiedown device which distributes and transfers the load posed by the unit to appropriate ground anchors so as to resist wind overturning and sliding. (1978 Code §17-6; 1994 Code)

14-5E-19: RESPONSIBILITIES OF OWNERS RELATING TO THE MAINTENANCE AND OCCUPANCY OF PREMISES:

A. Maintenance of Structure:

1. Structure:

- a. Every foundation, roof, floor, wall, ceiling, stair, step, elevator, handrail, guardrail, porch, sidewalk and appurtenance thereto shall be maintained in a safe and sound condition and shall be capable of supporting the loads that normal use may cause to be placed thereon.
- b. Every structure shall be maintained in compliance with section 661 chapter 5 of the Iowa Administrative Code ("State Fire Code"), as amended, and the building codes in effect at the time the building was constructed. If the use or occupancy is changed compliance with currently adopted codes is required.
- c. The required occupancy separations shall be provided and maintained in all structures having mixed or multiple occupancies. The one-hour occupancy separation between dwellings and garages shall be provided regardless of the date of construction and may be limited to the installation of materials approved for one-hour fire-resistive construction on the garage side and a tight fitting, twenty (20) minute rated door or approved equivalent opening protection. (Ord. 95-3681, 6-27-95)

2. Exterior: Every foundation, floor, exterior wall, exterior door, window and roof shall be maintained in a weathertight, watertight, rodentproof and insectproof condition.

3. Doors: Every door, door hinge, door latch, door lock or any associated door hardware shall be maintained in good and functional condition, and every door, when closed, shall fit well within its frame.
4. Windows: Every window, existing storm window, window latch, window lock, aperture covering and any associated hardware shall be maintained in good and functional condition and shall fit well with its frame.
5. Interior: Every interior partition, wall, floor, ceiling and other interior surface shall be maintained so as to permit it to be kept in a clean and sanitary condition. All building interior public and service areas shall be maintained in a sanitary condition.
- B. Accessory Structure: Every foundation, exterior wall, roof, window, exterior door and appurtenance of every accessory structure shall be so maintained as to prevent the structure from becoming a harborage for vermin and shall be maintained in a good state of repair.
- C. Rain Water Drainage System: All gutters, downspouts and associated or other roof drainage equipment on the premises shall be maintained in a good state of repair and so installed as to direct water away from the structure(s). All cisterns or similar water storage facilities shall be securely covered or protected.
- D. Grading, Drainage and Landscaping of Premises: Every premises shall be graded and maintained so as no stagnant water will accumulate or stand thereon 35 . Every premises shall be graded and drained in a manner to cause the flow of rain water or other surface water away from the structure(s). Every premises shall be continuously maintained by suitable landscaping with grass, trees, shrubs, planted ground cover or other landscaping materials. Landscaping shall be designed and maintained to prevent erosion and control dust. This Article shall not affect the existence of approved storm water detention systems 36 .
- E. Chimneys and Flue Piping: Every chimney and all flue piping shall be adequately supported, maintained clean and in a good state of repair. (1978 Code §17-7; 1994 Code)
- F. Exterior Surfaces: All exterior surfaces of a dwelling and its accessory structures, fences, porches and similar appurtenances which are subject to decay or deterioration shall be protected from the elements and against decay, or deterioration by properly primed and painted nonlead-based paint or other approved protective coating. (Guidelines for the removal of lead-based paint are located in Appendix B 37). (Ord. 95-3681, 6-27-95)
- G. Exits:
1. Every means of egress shall be maintained in good condition and shall be free of obstruction at all times. Fire escapes, exit corridors, exit stairways and escape and rescue windows and any other means of egress shall be maintained in a good state of repair at all times. Exit signs, emergency lighting, early warning systems and sprinkler systems shall be maintained in good condition at all times. Required fire doors shall be maintained self-

closing and self-latching. Fire doors for stairway enclosures may be self-closing as provided for in section 3309(c) of the Uniform Building Code 38 .

2. Fire drills shall be conducted once per academic semester for all fraternities and sororities as approved by the Fire Department 39 .

- H. Screens and Storm Windows: On structures having interchangeable storm windows and screens, the owner or operator of the premises shall be responsible for hanging all screens and storm windows, except when written agreement between the owner and the occupant provides otherwise. Screens shall be provided no later than May 1 of each year, and storm windows shall be provided no later than November 1 of each year. All windows manufactured to be operable for ventilation shall be provided with screens of not less than sixteen (16) mesh per square inch. However, windows in areas not accessible to tenants or areas which are exclusively service areas shall be exempted from screen requirements. All single-pane windows which serve habitable rooms and bathrooms shall be provided with storm windows.
- I. Electrical System: The electrical system of every dwelling or accessory structure shall not, by reason of overloading, dilapidation, lack of insulation, improper fusing or for any other cause, expose the occupants to hazards of electrical shock or fire, and every electrical outlet, switch and fixture shall be complete as manufactured and maintained in a good and safe working condition. Only approved extension cords and multi-plug adapters or other devices approved by the inspector shall be allowed. All electrical wiring newly installed or replaced shall be in compliance with the National Electrical Code 40 .
- J. Plumbing System: Every supplied plumbing fixture, water piping and waste piping shall be maintained in a good and sanitary condition. All plumbing installed or replaced shall be so designed as to prevent contamination of the water supply through backflow, back siphonage or cross connection. All plumbing newly installed or replaced shall be in compliance with the Uniform Plumbing Code 41 . A minimum water pressure of fifteen (15) pounds shall be maintained to all open outlets at all times.
- K. Gas Piping and Appliances: All gas piping shall be properly installed, properly supported and shall be maintained free of leaks, corrosion or obstruction so as to reduce gas pressure or volume. Every gas appliance shall be connected to a gas line with solid metal piping or approved listed metal appliance connector preceded by an approved listed shutoff valve. Gas pressure shall be adequate to permit a proper flow of gas from all open gas valves at all times. All gas piping shall be in compliance with the Uniform Plumbing Code 42 .
- L. Heating and Cooling Equipment: The heating equipment of each dwelling shall be maintained in good and safe working condition and shall be capable of heating all habitable rooms, bathrooms and toilet rooms located therein to the minimum temperature required by this Code. Supplied cooling equipment shall be maintained in a good and safe working condition. However, heating and supplied cooling equipment shall not be required to be maintained in operational condition during that time of the year when said equipment is not

normally used. No combustible material shall be stored within three feet (3') of a fuel burning furnace and/or fuel burning hot water heater.

M. Kitchen and Bathroom Flooring: Every toilet room, bathroom and kitchen floor surface shall be constructed and maintained so as to permit such floor to be easily kept in a clean, dry and sanitary condition.

N. Supplied Facilities:

1. Every facility, utility and piece of equipment required by this Code and/or present in the unit and/or designated for the exclusive use of the occupants of said unit, at the time that either the rental agreement is signed or possession is given, shall function safely and shall be maintained in proper working condition. Maintenance of facilities, utilities and equipment not required by this Code shall be the owner's responsibility unless stated to the contrary in the rental agreement.

2. No supplied facility shall be removed, shut off or disconnected from any occupied dwelling unit or rooming unit except for such temporary interruption(s) as may be necessary while actual repairs, replacements or alterations are being made.

O. Equipment Rooms: Boiler rooms, mechanical rooms and electrical panel rooms shall not be used for the storage of combustible material or equipment. A minimum three feet (3') clearance shall be maintained in front of electrical panels and disconnects.

P. Pest Extermination: Whenever infestation exists in two (2) or more dwelling units or rooming units of any dwelling or in the shared or public parts of any dwelling containing two (2) or more dwelling units or more than one rooming unit, the extermination thereof shall be the responsibility of the owner. (1978 Code §17-7; 1994 Code)

Q. Fire Protection: All fire extinguishing devices and all early warning fire protection systems shall be maintained in good working condition at all times. All fire protection equipment and early warning equipment shall be maintained in compliance with the Uniform Fire Code 43 , the State Fire Code, the Iowa City Fire Code 44 and subsections 14-5E-18C and D of this Article. Buildings which are required to have an automatic fire alarm system shall have that alarm system tested annually by a qualified alarm technician to certify that the alarm system is in compliance with the current standard of N.F.P.A. 72. Buildings which are required to have an automatic sprinkling system shall have that system tested biennially by a qualified sprinkler system technician to certify that the system is in compliance with the current standard of N.F.P.A. chapter 25, as amended.

Approved numbers or addresses shall be placed on all buildings in such a position as to be plainly visible and legible from the public way fronting the property, and from the vehicle access area if vehicle access is from other than the front of the building. Said numbers and letters shall contrast with their background and shall be a minimum of four inches (4") in height. Where access to or within a multi-family structure or any area is unduly difficult because of secured openings or where immediate access is necessary for life saving and

firefighting purposes, a key box shall be installed in an approved location. The key box shall be a type approved by the Fire Chief and shall contain keys and/or access code(s) necessary to gain access. If applicable, a key switch may be installed in an approved location. (Ord. 95-3681, 6-27-95)

- R. Guardrails and Handrails: All guardrails and handrails shall be maintained in a safe and sound condition at all times. Guardrails shall be provided where there is an abrupt elevation change exceeding thirty inches (30") adjacent to pedestrian areas. Guardrails and handrails which are newly installed or replaced shall comply with the Uniform Building Code 45 .
- S. Sealed Passages: All pipe passages, chutes and similar openings through walls, floors or ceilings shall be adequately closed or sealed to prevent the spread of fire or the passage of vermin.
- T. Trees and Plant Materials: All trees and plant materials shall be maintained in a manner which prevents damage or decay to a structure(s). Trees required by the Iowa City Tree Ordinance shall be maintained 46 .
- U. Clean Units: No owner or operator shall permit occupancy of any vacant dwelling unit or rooming unit unless it is clean, safe, sanitary and fit for human occupancy.
- V. Exterior Area Maintenance:
1. Every owner or operator shall be responsible for maintaining the exterior areas in a safe, clean and sanitary condition.
 2. Every fence shall be maintained in a good state of repair and shall comply with the Iowa City Zoning Ordinance 47 .
- W. Solid Waste Facilities: Every owner of a dwelling or rental structure shall supply adequate facilities for the disposal of solid waste which are approved by the inspector and/or are in compliance with the Iowa City Solid Waste Ordinance 48 .
- X. Occupancy Requirements:
1. A dwelling unit shall not be occupied by a number of persons greater than allowed by the Iowa City Zoning Ordinance 49 .
 2. No room shall be used as a habitable room unless certified as a habitable room at the time the certificate of structural compliance is issued or amended.
- Y. Cooking in Rooming Units: No owner or operator shall knowingly allow the use of cooking equipment within any rooming unit. (1978 Code §17-7; 1994 Code)

**14-5E-20: RESPONSIBILITIES OF OCCUPANTS RELATING TO THE
MAINTENANCE AND OCCUPANCY OF PREMISES:**

A. Controlled Area:

1. Every occupant of a dwelling unit or rooming unit shall keep in a clean, safe and sanitary condition that part of the dwelling unit, rooming unit or premises thereof which the occupant occupies and controls.
2. Every floor and floor covering shall be kept reasonably clean and sanitary.
3. Every wall and ceiling shall be kept reasonably clean and free of dirt or greasy film.
4. No dwelling or the premises thereof shall be used for the storage or handling of solid waste.
5. No dwelling or the premises thereof shall be used for the storage or handling of dangerous or hazardous materials.

B. Plumbing Fixtures: The occupants of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care, proper use and proper operation thereof.

C. Extermination of Pests: Every occupant of a single-family dwelling shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; every occupant of a dwelling containing more than one dwelling unit or rooming unit shall be responsible for such extermination within the unit occupied whenever said unit is the only one infested. Notwithstanding the foregoing provisions of this subsection, whenever infestation is caused by failure of the owner to maintain a dwelling in a reasonably rodentproof or reasonably insectproof condition, extermination shall be the responsibility of the owner.

D. Storage and Disposal of Solid Waste: Every occupant of a dwelling shall dispose of solid waste and any other organic waste in a clean and sanitary manner by placing it in the supplied disposal facilities or storage containers required by this Code 50 .

E. Use and Operation of Supplied Heating Facilities: Every occupant of a dwelling unit or rooming unit shall be responsible for the exercise of reasonable care, proper use and proper operation of supplied heating facilities. No combustible material shall be stored within three feet (3') of a fuel burning furnace and/or fuel burning water heater.

F. Electrical Wiring: No temporary wiring shall be used. Approved extension cords may be used but shall not lie beneath floor coverings or extend through doorways, transoms or similar apertures and structural elements or attached thereto. The occupant shall not overload the circuitry of the dwelling unit or rooming unit.

G. Supplied Facilities: Every occupant of a dwelling unit shall keep all supplied fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care, proper use and proper operation thereof.

H. Cooking or Eating in Rooming Units: No occupant of a rooming unit shall prepare or eat meals or store cooking utensils in the rooming unit unless an approved kitchen or dining room is contained within the rooming unit. The cooking and eating of meals may take place in dwellings containing a rooming unit or units if the provisions of subsections 14-5E-18G and H of this Article are complied with.

I. Occupancy Control:

1. A dwelling unit shall not be occupied by a number of persons greater than allowed by the City Zoning Ordinance 51 .

2. No room shall be used as a habitable room unless certified as a habitable room at the time the certificate of structure compliance is issued or amended.

J. Fire Protection Equipment: All fire extinguishers and early warning fire protection systems shall be maintained in good working condition at all times. Fire extinguishers shall be mounted and meet the requirements of the City Fire Code 52 . (1978 Code §17-8; 1994 Code)

Michigan: Ann Arbor
HOUSING CODE
CHAPTER 105

[8:500.01.] Purpose of the Code .

The purpose of this Code is three-fold:

- (A) To protect the health, safety, and welfare of residents;
- (B) To protect a diverse housing stock from deterioration;
- (C) To accomplish (A) and (B) at the lowest cost to owners and renters in order to keep housing costs as low as possible in a manner consistent with compliance with this Code.

Fundamental to achieving this purpose is a regular, ongoing inspection program and a comprehensive, consistent enforcement of the provisions contained within the Code.

(Ord. No. 66-89; 12-21-87)

8:500. Definitions.

The following shall apply in the interpretation and enforcement of this Chapter:

- (1) ABANDONED DWELLING: A vacant dwelling which is not maintained in a safe or secure condition.
- (2) AGENT: Any person who has charge, care, or control, of a building, or part thereof, in which dwelling units or rooming units are let.
- (3) ATTIC: The space between the ceiling beams or joists of the top story and the roof rafters.
- (4) BASEMENT: A portion of a building located partly underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.
- (5) BATHROOM: A room which affords privacy to a person within said room and is equipped with a toilet having an approved anti-syphon ball cock, a lavatory basin, and a bathtub or shower.
- (6) BUILDING OFFICIAL: The Director of the Building Department or his/her authorized representative. The Building Department is the enforcing agency for purposes of applying the provisions of the State Housing Law, Act 167, Public Acts 1917 as amended and this code.

(7) CELLAR: A portion of a building located partly or wholly underground, and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

(8) DATE OF INSPECTION REPORT: The date the inspection report is typed or prepared for mailing.

(9) DWELLING: Any building which is wholly or partly used, or is intended to be used as habitable space by human occupants.

(a) Single-family dwelling is a dwelling unit occupied as a single housekeeping unit by only one family or functional family (as defined in Chapter 55), plus not more than three roomers or boarders.

(b) Two-family dwelling is a dwelling containing two dwelling units, each unit occupied as a single housekeeping unit by one family or functional family (as defined in Chapter 55) plus not more than three roomers or boarders.

(c) Terrace Family (Townhouse) Dwelling is a dwelling in a building containing three or more dwelling units arranged side by side and/or above and below, separated from each other by a fire separation assembly, and having separate means of exit and entrance from the other units.

(d) Multiple-dwelling is a dwelling occupied otherwise than as a single-family, two-family, or terrace family dwelling.

(e) Rooming Dwelling is a multiple dwelling other than a hotel or dormitory, where for compensation and by arrangement for definite periods, lodging is provided for more than three roomers. The term rooming dwelling includes, but is not limited to, rooming houses, tourist homes, sororities and fraternities.

(10) DWELLING UNIT: Any room or contiguous group of rooms located within a building and forming a single habitable unit with eating, living, and sleeping areas, a kitchen, and a bathroom for one family (see Chapter 55).

(11) EFFICIENCY: A dwelling unit where the common living area and sleeping area is combined, (the area may be comprised of two contiguous rooms meeting the minimum habitable room area specified in subsection 8:503(1) (b)) and that has a bathroom and kitchen area. (see 8:503 (2)).

(12) EMERGENCY ESCAPE WINDOW: An exterior window which provides a means of escape or rescue in an emergency.

(13) EXIT: A path to the exterior of the building, separated from other areas of the building as required by this code. This may include doors, stairways and corridors.

(14) **HABITABLE ROOM AREA:** Enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding:

(a) Bathrooms, toilet compartments, laundries, pantries, foyers, or communicating corridors, closets, and storage spaces.

(b) Areas where the room has less than a 7 foot minimum horizontal dimension (except kitchens). However, areas at least 3 feet in horizontal dimension may be included in habitable area if at least 60% of the room is at least 7 feet in horizontal dimension and the required area is increased by 10%. However, if the minimum dimension does not exceed five feet, no more than 15 square feet of that area may be included in floor area computations.

(15) **HEATED ROOM:** A room which is provided with a positive heat supply capable of maintaining an air temperature in accordance with section 8:506.

(16) **HOTEL:** A multiple dwelling in which persons are lodged for a fee and in which there are more than fifty sleeping rooms, a public dining room and a general kitchen.

(17) **HOUSEKEEPING UNIT:** A dwelling unit organized as a single entity, in which the members of the household share common kitchen facilities, and have access to all parts of the unit.

(18) **HOUSING BOARD OF APPEALS:** The Board established under Public Act 167 of 1917 (as amended), and under Section 1:201 of the Ann Arbor City Code.

(19) **INFESTATION:** The presence of insects, rodents, or other pests which constitute a hazard to the health or safety of the public or of the occupants of any dwelling, building, or premises.

(20) **KITCHEN:** A room, or portion of a room, used for the preparation of food.

(21) **OCCUPANT:** Any person with legal possession of a dwelling unit.

(22) **OWNER:** Any person who, alone or with others, has legal or equitable title.

(23) **OWNER-OCCUPIED DWELLING:** A dwelling occupied by its owner, or by members of his or her family, on a non-rental basis, or leased by said owner to a tenant or successive tenants for a period not exceeding, and not intended to exceed, two years, during which period, the owner does not reside in Ann Arbor.

(24) **PLUMBING:** All piping, fixtures, and facilities, including appliances, that carry, use, or discharge water, sewage or waste water.

(25) **PUBLIC HALL:** A hallway, corridor or passageway not within the exclusive control of one family dwelling unit.

(26) ROOMING UNIT: A room or group of rooms other than in a single, two, or terrace family dwelling, forming a single habitable unit used or intended to be used, for living and sleeping, but which does not contain cooking or eating facilities.

(27) STAIRWAY: One or more flights of stairs, and the necessary landings and platforms connecting them, to form a continuous and uninterrupted passage from one floor or level to another. For purposes of this chapter, a flight of stairs shall have at least three risers.

(28) TIME COMPUTATION: All days are calendar days unless otherwise specified.

(29) VACANT DWELLING: A dwelling, which is unoccupied for a period exceeding 180 calendar days.

(30) VARIANCE: A certification of acceptability under the intent of this chapter.

(31) WAIVER (CLEANING): Any waiver of rights concerning cleanliness, or sanitation.

(Ord. No. 66-87, 12-21-87; Ord. No. 25-89, 5/15/89; Ord. No. 28-90; 6/4/90; Ord. No. 54-92, 8/17/92)

8:501. Application of Chapter.

Except as otherwise provided herein, the provisions of this Chapter shall apply to all dwellings, dwelling units, rooming units and premises in the City of Ann Arbor without regard to whether these were constructed before or after the effective date of this chapter. Owner occupied dwellings may be inspected either upon a request of the owner, or upon receipt of a complaint of a health, safety, or welfare violation. The following sections shall not be applicable to owner occupied dwellings: 8:502 (5) (6), 8:503 (8), 8:509 (2) (9c).

There are no waivers for preexisting conditions, except for legally granted variances.

(Ord. No. 66-87, 12-21-87; Ord. No. 28-88, 7-18-88)

8:502. Minimum Standards for Light and Ventilation.

Unless otherwise provided, no person shall occupy as owner-occupant, or let to another for occupancy, any dwelling or dwelling units which do not comply with the following requirements:

(1) WINDOWS: Every habitable room shall have at least one window, sliding glass door, skylight, or other acceptable light transmitting media facing directly to the outdoors. The minimum of total glazed area for every habitable room shall be not less than eight percent of the habitable floor area of such room. In the case of kitchens, the window space requirements may be reduced or waived by the Building Department Official when there is adequate artificial lighting.

(2) VENTILATION: Every habitable room shall have at least one window, sliding glass door, or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total area for ventilation shall be at least 4% of the habitable floor area of the room served. Mechanical ventilation may be provided in lieu of natural ventilation if approved by the Building Official as affording ventilation in accordance with standard ventilation requirements in the Mechanical Code.

(3) BATHROOM LIGHT AND VENTILATION: Every bathroom and toilet room shall comply with the light and ventilation requirements for habitable rooms contained in subsections (1) and (2) above, except that no window or skylight shall be required if such areas are equipped with a mechanical ventilation system which may be kept in continuous or timed operation. The ventilating system must move sufficient air to support a piece of toilet tissue on the fan's grate when the fan is in operation.

(4) LIGHTING AND VENTILATION OF PUBLIC HALLS AND STAIRWAYS: Every public hall and stairway in every multiple dwelling shall be adequately lighted at all times. The lighting shall provide an intensity of .4 foot-candle one foot above the walking surface.

The Building Department will be responsible for approving individualized plans based on the individual needs of a particular dwelling for hallways which have an accumulation of odors, stuffiness, smoke accumulations, concentrations of chemicals and organic compounds, musty conditions, or heat buildup.

(5) SCREENS: The ventilating area, as required by subsection (2) above, of each dwelling shall be adequately screened to permit ventilation, and to prevent insect infestation. Such screens shall be applied no later than May 1st, and removed no sooner than September 30th of each year. Where screen doors are provided, or required on exterior doors, they shall be equipped with self-closing devices. Each basement, or cellar window required for ventilation shall be provided with screens. Other openings into a basement, or cellar, which might provide an entry for vermin, shall be effectively closed, or sealed.

(6) EXTERIOR LIGHTING OF ENTRANCES: Beginning January 1, 1988 the primary entrance of a dwelling shall be lighted as follows:

(a) Entrance lighting serving up to, and including three units shall be manually or automatically operated.

(b) Entrance lighting serving four or more units shall be automatically controlled so that lights will be operating from 1/2 hour after sunset until 1/2 hour before dawn. The light fixtures shall be in good repair, clean, mounted at a height of 5 to 10 feet, and have either a 60 watt incandescent, or a 35 watt high pressure sodium lamp, or an equivalent that can provide a minimum level of 0.4 foot-candles of illumination at any unobstructed point within 13 feet of the doorway. The illumination level shall be measured 3 feet above the surface.

Dwelling units with multiple outside entrances shall have at least two entrances lighted.

(Ord. No. 66-87, 12-21-87; Ord. No. 25-89, 5-15-89; Ord. No. 61-92, 10-5-92)

8:503. Minimum Space and Facilities Requirements.

Unless otherwise provided, no person shall occupy as owner-occupant, or let to another for occupancy, any dwelling or dwelling unit which does not comply with the following requirements:

(1) MINIMUM LIVING SPACE.

(a) Every dwelling unit, except efficiencies, shall have at least 225 square feet of habitable room area. Every dwelling unit shall have at least one common room of 120 square feet for one bedroom apartments, 135 square feet for a two bedroom apartment, and 150 square feet for three or more bedroom apartments. Kitchen and dining areas, if provided as separate areas, shall have a minimum habitable room area of 35 and 50 feet respectively.

(b) Sleeping rooms, except efficiencies, used by one person shall contain at least 70 square feet of habitable room area.

(c) Every sleeping room used by more than one person contains 50 square feet of habitable area for each occupant or 40 square feet for each occupant under 12 years of age.

(d) In a rooming unit, every room occupied for sleeping purposes shall contain the following minimum habitable room area:

One Person: 80 square feet.

More than one person: 80 square feet, plus 50 square feet for each additional person.

(e) If a written lease specifies the number of bedrooms in the units, the furniture or living style of residents shall not affect the approval of a dwelling for occupancy so long as no room is occupied as a sleeping room unless the room complies with the smoke detector and exit requirements of this chapter.

(2) EFFICIENCIES. An efficiency shall have a minimum habitable room area of 150 square feet for one occupant, and 100 square feet for each additional occupant. An efficiency shall have a kitchen area contained within the 150 square feet of habitable room area, or shall have a separate kitchen with a minimum area of 35 square feet and a separate bathroom.

(3) HEIGHT OF CEILINGS AND DOORS; EXISTING BUILDINGS.

(a) BASEMENT ROOMS. At least 80% of the required floor area of every habitable room in a basement unit shall have a ceiling height of at least six feet eight inches. The remainder of the required floor area may be not less than 6 feet in height. Pipes, ducts, and beams closer than three feet to one another, outside to outside, shall be measured at one lowest dimension. A variance may not be granted to allow a ceiling height of less than six feet.

(b) SLOPED CEILING ROOMS. At least 50% of the required floor area of every habitable room with a sloping ceiling shall have a ceiling height of at least seven feet. The floor area of that part of any room where the ceiling height is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room.

(c) OTHER ROOMS. All of the required area of habitable rooms, other than cellar, sloped ceiling and basement rooms, shall have a ceiling height of at least 7 feet.

(d) OPENINGS TO HABITABLE SPACE. Openings to habitable space shall be at least 6'2" high and 22" wide. Height of the opening shall be measured at the midpoint. Openings at least 6'0" high are allowable if the height of the opening is limited by structural components of the building. (i.e. beam, rafter, or joist.)

(4) ROOM ARRANGEMENT. In a dwelling unit that has more than one bedroom, access to any bedroom shall not be through another bedroom or a bathroom. The occupants of each bedroom must have access to a bathroom without going through another bedroom. Access to bedrooms and bathrooms shall be from within the dwelling unit.

(5) KITCHENS. All dwelling units must have a kitchen. All kitchens shall have adequate lighting and ventilation. Except in efficiencies, food shall not be prepared or cooked in any room used for sleeping purposes. A kitchen must have a range or similar device designed for cooking food, and a refrigerator and storage facilities for food and utensils. The range and refrigerator may be provided by the owner or the tenant.

(6) CELLARS. No part of a cellar shall be used as habitable space unless approved by the Housing Board of Appeals based on a City inspection report showing that the following standards have been met:

(a) The space has windows for natural light and ventilation which meets the requirements of section 8:502.

(b) All required light and ventilation openings shall be located entirely above the grade of the adjoining ground, or shall have a window well.

(c) Sleeping areas have an emergency escape window or door which meets the requirements of section 8:504.

(d) In multiple dwelling, there is an approved second exit.

(e) Stairways to the grade floor or grade shall comply with this code.

(f) The space is weatherproof and draft tight.

(g) The space is dry and free of mold.

(h) Insulation is provided on the inside of exterior walls at least equal to R-11. However, if the insulation cannot be measured a temperature of 60 degrees fahrenheit shall be maintained at all locations 3 feet above the floor and 6 inches from the exterior wall.

(i) The space is provided with adequate heat. A return air system is required if the heat is provided by a forced air furnace.

(j) There shall be a continuous finished ceiling.

(k) It has electrical outlets meeting requirements for new units.

(l) There are operable smoke detectors where required.

(m) At least 80% of the required floor area of every habitable room shall have a ceiling height of at least six feet eight inches. The remainder of the required floor area may be not less than 6 feet in height. Pipes, ducts, and beams closer than three feet to one another, outside to outside, shall be measured at one lowest dimension.

(n) Openings to habitable space shall be at least 6'2" high and 22" wide. Height of the opening shall be measured at the midpoint.

(o) There is a one hour fire rated wall between the habitable space and gas or oil fired heating and water heating appliances of other units. Said appliances must have adequate makeup air as defined by the mechanical code. Ducts penetrating the fire suppression wall do not require fire dampers.

(p) The space meets all the standards for habitable basement space specified in subsections (3) and (7).

(q) The building sanitary sewer is cleaned on a regular basis, at least once every three years. Proof of the most recent cleaning shall be maintained by the owner or manager.

(r) There is no evidence of present dampness or flooding within the past 5 years.

(s) A radon test, conducted by an independent accredited contractor, indicates acceptable levels of radon.

If the cellar floods, the drainage shall be corrected immediately and the damage repaired. If the cellar floods more than two times in five years, the Certificate of Occupancy shall be suspended for the cellar until evidence is submitted that the cause of flooding has been corrected. The owner of flooded cellar space must pay reasonable damage and relocation costs including rent increases. This subsection shall not be applicable to flooding caused by City sewer mains or by firefighting.

(7) BASEMENT. No basement space shall be used as a habitable room or dwelling unit unless:

- (a) The floor and exterior walls are dampproofed as necessary to prevent leakage of underground and surface runoff water.
 - (b) Natural light and ventilation is provided to meet the requirements of Section 8:502.
 - (c) All required light and ventilation openings shall be located entirely above grade of the ground adjoining such window area or shall have an approved window well.
 - (d) Inside stairs in multiple dwellings shall have a rated enclosure at the grade floor.
 - (e) There is a one hour fire separation from gas/oil fired heating and hot water appliances which serve other units within the building. Said heating and hot water appliances must have adequate outside makeup air as defined by the Mechanical Code. Ducts penetrating the fire suppression wall do not require fire dampers.
- (8) SECURITY. All individual dwelling units and rooming units other than owner occupied dwelling units shall be equipped with the following minimum security devices:
- (a) All windows and doors to the exterior of a dwelling unit shall have locking devices.
 - (b) All swinging exterior doors which are at grade or otherwise accessible from the exterior of the dwelling unit shall have deadbolt locks meeting the following specifications:
 - (1) A lock shall have a one inch minimum throw. Locks installed before February 24, 1983 may have a 5/8 inch throw, unless they are replaced.
 - (2) A lock shall be so constructed that the bolt shall be retracted by the action of a single inside knob, thumb turn, or lever.
 - (3) A lock must be capable of being deadlocked (not spring loaded) from the interior and by an exterior key or combination device.

EXCEPTION: Fire escape doors do not require an exterior key or combination device.

- (4) The strike plate shall be securely attached to the frame of the doorway. For strike plates installed or replaced after February 24, 1983, the strike plate shall be attached by wood screws a minimum of two inches in length, if the frame is made of wood.
- (c) Exterior doors and dwelling unit doors shall not be equipped with locks which require a key for operation from the side from which exit is to be made.
- (d) All double-hung windows must be equipped with sash locks securely attached to the inner window frame by screws a minimum of 3/4 of an inch in length. Double hung windows which are at ground level or otherwise reasonably accessible from the exterior shall also be equipped with steel pin locks or other window vent locks of sufficient strength and quality to require the window to be broken to permit entry. The pins (one per window) for such locks shall be

secured to the window frame by a chain. The pins shall be insertable into holes drilled at a slight downward angle through the inner frame and halfway into the outer frame. There shall be a second hole drilled approximately six inches higher to permit the window to be secured in an open position. If window vent locks are used, they shall be capable of locking the window in the closed position and/or locking the window so that it may not be opened further than six inches to allow ventilation. These locks shall be affixed to the window so its parts cannot be lost or misplaced. The pins or locks shall not require the use of a tool or key for locking or unlocking. Locks shall be capable of being released from the interior to allow full ventilation.

(e) Sliding windows and doors at ground level or otherwise reasonably accessible from the exterior must be equipped with a rod at least 5/8 inch in width or diameter and of such a length as to prevent the window or door from being opened when the rod is laid in the lower track. An integral slide-type lock with positive stops can be substituted for the dowel bar. Where the sliding portion of the window or door is on the outside, there shall be a pin or other locking device installed such that the door or window may not be opened or removed when in the closed and locked position.

(f) Aluminum framed windows for which pins or metal locks cannot be used may have another type of lock devices as permitted by regulations adopted by the Building Official.

(g) Casement type steel windows at grade or otherwise reasonably accessible from the exterior shall be equipped with a steel latch in good repair. Wood casement windows shall be equipped with a hardened steel slide bolt or a steel latch lock in good repair. Wood casement windows over four feet high shall be provided with two such latching devices spaced at least two feet apart.

(h) Every principal entrance door which does not contain a window or have a side light shall be equipped with a wide angle peephole door viewer.

(i) Beginning January 1, 1991, doors to the exterior of a dwelling or rooming unit (except for sororities, fraternities, ICC co-ops, and state licensed and inspected group homes) must be equipped with a chain lock, slide bolt or similar privacy device which can only be activated or released from the interior of the unit.

(9) RECREATION ROOMS. Attics, cellars and basements which do not meet the size requirements of this section or the additional requirements of subsections (6) and (7) may be used for recreational purposes.

(Ord. No. 66-87, 12-21-87; Ord. No. 28-88, 7-18-88; Ord. No. 25-89, 5-15-89; Ord. No. 28-90; 6/4/90; Ord. No. 36-90, 11/19/90; Ord. No. 54-92, 8/17/92)

8:504. Exits.

All dwellings must have adequate exits.

(1) INADEQUATE EXITS. If a multiple dwelling does not have the exits required for new buildings, it shall be equipped with the additional facilities that the Building Director judges necessary for safety to comply with this chapter.

(2) NEW EXITWAYS. If new or altered exit facilities are installed or constructed, they shall comply with all the requirements of this chapter or of Chapter 98, as ordered by the Building Director.

(3) REQUIRED EXITS.

(a) Every floor and unit in a multiple dwelling, except floors and units at grade, including the basement or cellar, shall have at least two (2) separate approved ways of exit. All required exit stairs shall be one hour rated enclosures. All doors opening into the exitway or exitway access shall have approved self-closing and latching devices. Casement windows may be used as an opening to a second exit if they meet the standards for casement windows leading to fire escapes.

(b) Multiple dwellings with not more than two above grade stories and not more than 4 dwelling units per floor may have one exit if they conform to the following: The length of exit travel shall be less than 50 feet and the exitway shall be one hour rated. Doors opening into the exitway shall have approved self-closing and latching devices.

(c) Emergency Escape Window: Every sleeping area in one-family, two-family, and terrace family dwellings shall have an emergency escape window unless the sleeping area has access on the same floor to two approved ways of exit. Every sleeping area of grade floor units in multiple dwellings shall have an emergency escape window unless the sleeping area has access on the same floor to two approved means of exit.

(d) The emergency escape window shall have a minimum clear opening width of 20" and a clear opening height of 20". The clear opening width may be reduced to a minimum of 14", provided that the net clear opening area is a minimum of 500 square inches or the clear height may be reduced to a minimum of 16" provided the clear opening is a minimum of 500 square inches. Bars, grills or screens placed over emergency escape windows shall be releasable or removable from the inside, without the use of a key, tools or excessive force. The maximum sill height shall be 54" above the floor. If the existing sill height is greater than 54" above the floor, a platform, structure or piece of furniture (not including a shelf) permanently affixed to the structure will be acceptable provided it has a minimum depth of 12", a minimum width of 20", is a maximum of 18" above the floor, is no more than 44" below the sill and is located beneath the openable portion of the window.

(4) FIRE EXITS.

(a) Exit corridors

1. Exit corridors must have a clear width of at least 27".

2. Exit corridors shall have a ceiling height of at least 6'6" .
3. Corridor headroom shall be measured at the midpoint of the required width. For corridors with ceilings which slope from side to side the required width shall begin at the high side.

(b) EXIT STAIRWAYS.

1. Exit stairways must be at least 27" wide.
2. Exit stairways shall have a minimum ceiling height of 6'0". Height measurement shall be from a line tangent to the nosing of the treads to the ceiling measured at the midpoint of the required width. For stairs with ceilings which slope from side to side, the required width shall begin at the high side.
3. The risers shall be no more than 9" high.
4. The treads shall be not less than 9" deep.
5. A handrail shall be located 30 - 38" above the nosing of the treads (existing handrails at least 26 inches above the nosing of the treads may remain provided they are in good repair and meet the remaining requirements). It shall be installed on the side having the greater ceiling height. Where the stairs are open on any side, there shall be an approved handrail and an intermediate guard 12 - 15" above the stairs. Vertical balusters spaced not greater than 6" may be used in place of the intermediate guard.
6. Stairs shall be capable of supporting a live load of 100 pounds per square foot.
7. Stairways of one and two family dwellings may have a height of 5'6" if there is an approved second exit from each upper floor or hardwired interconnected smoke detectors at the top of each flight of stairs.
8. Multiple and terrace family dwellings may have a stairway headroom height of 5'6" at one location covering not more than 3 treads if there is an approved second exit for each upper floor, and if hardwired interconnected smoke detectors are installed at the top of each flight of stairs within a common stairwell. Stairs within a unit which do not meet the height requirement will be permitted if there is an approved second access from each upper floor and if there are hardwired interconnected smoke detectors at the top of each flight of stairs. This subsection applies only to dwellings, dwelling units or rooms built before January 1, 1989.
9. In multiple dwellings, no materials shall be stored and no storage area may be established under an exit corridor or stairway, unless that storage area is enclosed and properly fire rated.

(5) FIRE ESCAPES. An unenclosed fire escape may be used as a second exit in a multiple dwelling or rooming dwelling if it conforms to the following:

- (a) There is an approved exit stairway.

(b) Two exits are directly accessible to all occupants without passing through another dwelling or rooming unit.

(c) The fire escape shall be designed to support a live load of 100 pounds per square foot. It shall be constructed of steel, other approved non-combustible materials, or wood of not less than two inches nominal thickness. Fire escapes, when replaced, shall be 22 inches in width with risers not more, and treads not less, than eight inches. Stairs shall have a handrail 30 to 38 inches above the nosing of the treads and intermediate guards twelve to fifteen inches above the nosing of the treads, placed on all open sides. Landings, platforms, and walkways shall have guardrails 42" high with intermediate rails not more than 15" apart. Vertical balusters spaced not greater than 6" apart may be used in place of the intermediate guards. There shall be a minimum 6' headroom throughout the fire escape.

(d) Access to a fire escape shall be provided by a door or casement window with a width of not less than 27" and a height of not less than 47" or a width of not less than 22" and a height of not less than 53". Access to a fire escape used by only one unit shall be through an opening with a width of not less than 22" and a height of not less than 47". Doors serving more than one unit shall open in the direction of egress.

(Ord. No. 66-87, 12-21-87; Ord. No. 25-89, 4-15-89; Ord. No. 28-90, 6/4/90; Ord. No. 63-90, 10/15/90; Ord. No. 7-91, 3/4/91; Ord. No. 38-91, 7/15/91; Ord. No. 54-92, 8/17/92)

8:505. Electrical Systems.

Every dwelling shall have an electrical system properly installed and maintained in a safe and good working condition.

(1) **HABITABLE ROOMS:** Habitable rooms shall contain at least:

(a) Two separate electrical receptacles, spaced for convenient use, and one ceiling or sidewall lighting fixture or one additional switched outlet.

(b) Wall switches conveniently located for all ceiling fixtures. Where no ceiling fixture is installed, at least one convenience outlet or sidewall fixture shall be controlled by a wall switch.

(c) Additional convenience outlets shall be provided to adequately service the electrical fixtures and appliances provided by the owner or his/her agent, without using unapproved wiring methods. Convenience outlets shall be provided for washers and dryers, when space for these appliances is provided, unless the use of washers and dryers in the unit is specifically excluded in the lease.

(2) **BATHROOMS, WASHROOMS, AND TOILET ROOMS:** Bathroom, washroom, and toilet rooms shall contain at least:

(a) One convenience outlet (except in rooms containing only a toilet).

(b) One ceiling or sidewall lighting fixture.

(c) A wall switch conveniently located to control the lighting fixture.

(3) HALLWAYS AND STAIRWAYS: Hallways and stairways shall be provided with illumination. Switches, if used, shall be located so that it is not necessary to traverse darkened sections for their operation.

(4) ADDITIONAL ROOMS: Laundry rooms, furnace rooms, storage rooms, bathrooms, stairways and basements shall be provided with sufficient lighting for the intended uses of the room and to promote the safety of the user.

(5) ELECTRICAL CORDS: Cords for appliances and other devices shall not be run through doorways, under rugs, through holes in partitions or floors, nor shall they be fastened to baseboards or door casings. An extension cord of up to six feet in length and in good repair shall otherwise be approved if properly sized for the appliances or devices which it serves.

(6) CIRCUIT BREAKERS AND FUSE BOXES: Approved circuit breakers or properly sized "S" type fuses shall be maintained.

(7) ELECTRICAL WIRING: All wiring shall be maintained in a safe condition, free from damage or deterioration.

(8) INADEQUATE ELECTRICAL SYSTEMS: If an inspection reveals that the wiring system is deficient, in reference to the items listed above, additional requirements shall be in accordance with Chapter 98, Section 1001.1 of the Ann Arbor City Code.

(Ord. No. 66-87, 12-21-87; Ord. No. 28-90; 6/4/90)

8:506 Heating Facilities.

Every dwelling shall have heating facilities which are properly installed and are maintained in a safe and good working condition. The facilities shall be capable of, upon the tenant's request or control, supplying heat to a temperature of at least 68°F, but not more than 85°F, for all habitable rooms, bathrooms, and toilet compartments, when the outdoor temperature is as low as -10°F. The temperature shall be measured in the center of the room three feet above floor level. The heating unit shall be separately enclosed in multiple dwellings. If the apartment or dwelling unit is cited by the department because it will not maintain the required temperature, without portable heaters, three times during a heating season, corrective action of a permanent nature shall be implemented (storm windows, additional heating capacity, insulation, etc.). When owners use temporary heating to maintain the required temperature, the owner shall pay a prorated amount of the bill that the tenant pays for the other energy source used for heating.

(Ord. No. 66-87, 12-21-87)

8:507 Plumbing Systems.

Every dwelling shall have a plumbing system properly installed and maintained in good working condition, free from defects, leaks and obstructions. Any part of an existing installation deemed unsafe or dangerous to the public health shall be made to comply with the provision of the City Plumbing Code adopted in Chapter 98, Section 2200 of the Ann Arbor City Code. All dwellings shall have:

(1) KITCHEN SINK: A kitchen sink provided with hot and cold water and connected to an approved sewage system.

(2) A BATHROOM: Each dwelling unit shall have interior access to the required bathroom. A kitchen sink may not be substituted for a lavatory basin. The fixtures shall be properly connected to the water and sewage system. The lavatory basin may be located outside of the bathroom, provided the lavatory basin is located immediately adjacent to the bathroom. The shower or tub may be located outside of the bathroom, provided it is located on the same floor or level and within the dwelling unit.

(3) ROOMING HOUSES: In a rooming dwelling at least one toilet, lavatory, and bathtub or shower shall be provided for each eight (8) persons or fraction thereof who share the use of the facilities. In rooming dwellings let only to males, urinals may be substituted for not more than one-half the required number of toilets. All such facilities shall be located within the dwelling, accessible from a common hall or passageway to all persons sharing such facilities. The fixtures shall be properly connected to water lines and a sewage system.

(4) CELLARS: Bathroom facilities in subsections (2) and (3) shall not be located in a cellar unless they are supplementary to the required fixtures, serve the first floor living area, or have Housing Board of Appeals approval. Access to these facilities shall not be through unfinished areas.

(5) HOT WATER: Water heating facilities, properly connected to the fixtures required above, capable of providing 110°F water in adequate amounts for every kitchen sink, lavatory, bathtub or shower within the dwelling. Such water heating facilities shall meet these requirements even when the heating system required in Section 8:506 is not operating. Water conserving fixtures may be used.

(6) A lavatory basin is required in, or immediately adjacent to, any room containing a toilet. A kitchen sink may not be substituted for the lavatory basin.

(Ord. No. 66-87, 12-21-87; Ord. No. 54-92, 8-17-92)

8:508. Sanitation.

(1) CLEANLINESS.

(a) BEFORE OCCUPANCY:

1. No owner shall permit any vacant dwelling unit or premises to be occupied by new tenants under lease or tenancy contracted for between the owner and tenant unless such dwelling unit, rooming unit, or premises is clean, sanitary, and fit for human occupancy. Cleaning waivers are prohibited. However, this does not prohibit agreements between landlord and tenant that provide for the tenant to clean the unit in return for considerations.

2. Floor surfaces. Every toilet compartment, kitchen and bathroom floor surface shall be constructed of impervious material and maintained so as to permit such floor to be easily kept in a clean and sanitary condition.

3. Rooming dwelling linens. Where bed linens are supplied, they shall be provided prior to the letting of any room to any occupant.

(b) DURING OCCUPANCY:

1. Floor Surfaces. The floor surface shall be properly maintained.

2. Rooming Dwelling Linens. The owner or operator of every rooming dwelling who supplies bed linens and towels therein, shall change the supply of bed linens and towels at least once each week. The owner shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.

3. General Cleanliness. The owner of every dwelling shall be responsible for maintaining in a clean and sanitary condition, the dwelling, premises, and all other structures on the premises except that:

(a) The occupant(s) shall keep that part of the dwelling and premises thereof which they occupy and control in a clean and sanitary condition and,

(b) The occupant(s) shall dispose of all their trash and garbage in the proper containers or incinerator furnished for the cleanliness of the dwelling or rooming unit. The owner of every rental dwelling shall supply garbage disposal facilities or garbage storage containers in accordance with Chapter 26 of the Ann Arbor City Code.

(2) INFESTATION: When treating an infested (see definition, section 8:500) dwelling unit, owners are required to notify residents of treatment three calendar days in advance by the following (unless ordered to apply treatment sooner by the Housing Bureau).

(a) When the resident requests management to treat the dwelling unit for a specific pest, no notification shall be required unless the resident requests notification.

(b) When management or their employees are going to treat for the eradication of a pest, and when the resident has not requested it, management shall notify the residents three (3) calendar days in advance of the treatment. At the time of treatment (or sooner if requested by the resident) the following information will be provided to the resident:

1. Name of the product being used, and its specific detailed chemical composition.
2. Date of application/treatment.
3. Emergency telephone number if provided on the retail purchased chemical.
4. This information is to be kept by the owner/ manager for three calendar days after the treatment.

(c) When an exterminating company is going to be doing the treating, the owner/agent, or whoever authorized the application, in addition to the notification required in (b) above, shall keep the federally required documentation provided by the pest control company on file for distribution to residents upon request. The information shall be kept for three calendar days after treatment.

1. Name of the applicator/company.
2. Telephone of the applicator/company.
3. Name of the product being used and kind of pest being treated.
4. Date of application.
5. How to prepare for treatment.

(d) Managers/owners and maintenance people may apply a product bought over the counter to all areas, except in the following:

- Direct spraying on food preparation surfaces
- In cupboards
- For repeated problems as cited by the inspection

Pesticides requiring a licensed purchase shall be administered only by licensed pesticide operators.

(e) The Housing Bureau shall keep on file the list of prohibitive chemicals provided by the Health Department to be available upon request.

(3) USE OF KITCHEN: Kitchens for common use by occupants of more than one rooming unit shall be permitted provided the following conditions are complied with:

- (a) They shall be inspected annually,

(b) The property owner shall be responsible to see the kitchen is kept clean and in a sanitary condition at all times,

(c) The person designated (if not the owner) for the responsibility in (b) shall be registered with the Housing Bureau.

(4) KITCHEN FACILITIES: All cabinets, shelves, counters and sinks shall be provided and maintained with surfaces that are cleanable and that will not impart toxic or deleterious effects to food or cooking and eating utensils.

(Ord. No. 66-87, 12-21-87; Ord. No. 28-90, 6/4/90)

8:509. General Requirements Relating to the Maintenance of Dwellings, Parts of Dwellings, and Facilities.

No person shall occupy as owner-occupant, or let to another for occupancy, any dwelling unit which does not comply with the following requirements:

(1) STRUCTURAL MAINTENANCE: Every foundation, floor, wall, ceiling and roof shall be reasonably weather tight, watertight, and rodent proof; shall be capable of affording privacy; and shall be kept in good repair. All exterior wood surfaces shall be reasonably protected from the elements and from deteriorating, by paint or other protective treatment, except such wood surfaces composed of wood which is naturally resistant to decay, used primarily for decorative purposes, or where weathering is desired to produce a decorative effect.

(2) OPENINGS: Every window, exterior door, and basement hatchway shall be reasonably weather tight, watertight and rodent proof, and shall be kept in sound working condition and good repair.

All glazing in windows and doors shall be maintained unbroken and uncracked. Windows designed for ventilation shall be easily opened and capable of staying in the open position. Small nonhazardous cracks shall be noted during inspections and shall be repaired prior to the next periodic inspection provided they meet the following conditions:

(a) The cracks do not exceed three inches long.

(b) The crack cannot cut when you run your finger across it.

(c) It has a stable, smooth surface.

(d) There are no more than three such cracks per unit. If there are more than 3 cracks, either in one window or per unit, the window(s) must be repaired.

(3) STAIRS, PORCHES, AND BALCONIES: Every stair, porch, balcony, and appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon. They shall be kept in sound condition and good

repair. All stairways shall be provided with handrails as provided in the Housing Code. In one and two family dwellings every porch or balcony over 30 inches from grade shall be provided with guards a minimum of 36 inches in height on all open sides. There shall also be intermediate guards spaced not more than 15 inches apart. In multiple dwellings every porch or balcony over 30 inches from grade shall be provided with guards on all open sides a minimum of 42 inches in height, and there shall be intermediate guards spaced not more than 15 inches apart on all open sides.

Exception:

(a) Buildings with existing guards in good repair.

(b) Historic buildings may have guards installed/ replaced to a height consistent with the Historic District Commission's recommendations.

(4) SUPPLIED FACILITIES: Every supplied facility, piece of equipment or utility which is required by this Chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition. At the time of leasing, the owner and tenant may enter into an agreement that any non required facility/equipment shall not have to be repaired/replaced if it ceases to function. If its presence presents a dangerous condition, it shall be removed/repaired. Any such agreement shall be in writing.

(5) CONTINUOUS OPERATION OF FACILITIES: No owner, operator, or occupant, shall cause any service facility, equipment, or utility, which is supplied under this Chapter, to be removed from, or shut off from, or discontinued, for any occupied dwelling let or occupied by him/her except for:

(a) Such temporary interruption as may be necessary while actual repairs or alterations are in process.

(b) During temporary emergencies when discontinuance of service is approved by the Building Official.

(c) Where the lease designates that the tenant shall be responsible for a particular utility, the owner may arrange to remove the owner's name from the utility service.

This subsection shall not be construed to abridge the rights of public utilities to interrupt service.

(6) GENERAL REPAIR: Every dwelling and all parts thereof including plumbing, heating, ventilating and electrical wiring shall be kept in good repair by the owner. The roof shall be maintained so as not to leak. Any interpretation of "good repair" not specifically required by Chapter 105 shall be subject to the requirements of Section 8:512 (1) and (2).

(7) FIRE CHASES: Every dwelling or dwelling unit that has openings in the walls, floor, or ceilings, creating a fire chase into concealed spaces shall be sealed with materials to achieve a fire rating equal to the surface penetrated.

(8) STORAGE ROOMS OR STORAGE SPACE:

(a) In multiple unit dwellings: All storage areas located in or adjacent to an exitway must be enclosed (floor, walls, ceilings) with materials to achieve a one hour fire rating. Any door leading to the exitway must be an approved fire door with approved self-closing device and latch. In multiple unit dwellings reasonable, noncombustible storage is allowed in other areas, provided that it is kept at least five feet from any fuel fired heating facility or water heater. (Exception: Combustible storage is allowed if the storage area is protected by an approved sprinkler system.)

(b) In one- and two-family and terrace family dwellings, reasonable tenant storage may be allowed in an unenclosed area, but it must be kept at least five feet from the heating facilities and hot water heater.

(c) Storage of any kind must be maintained at least two feet from the ceiling (or bottom of the joists).

(9) EXTERIOR AREAS: All exterior property areas shall be maintained in a clean and sanitary condition, free from any accumulation of rubbish, garbage, and other offensive and hazardous material.

(a) Accessory Structures: Fences, garages, and sheds shall be maintained in structurally sound condition and in good repair. Garages and sheds shall be maintained free of vermin and rodents. All exterior wood surfaces shall be protected from decay by application of paint or other approved preservative or shall be a naturally durable material.

(b) Sidewalks, driveways and parking areas designated for pedestrian traffic shall be maintained free from holes, depressions or projections that could cause tripping or injury.

(c) All snow and ice which has accumulated prior to 6 AM on a private sidewalk used for entrance or exit, maintenance of the building, or garbage disposal shall be removed by 2:30 of the same day. Immediately after the accumulation of ice on such sidewalks, it shall be treated with sand or other substance to prevent it from being slippery. Parking lots (as defined in Chapter 59) shall have snow removed from the parking areas and designated pedestrian areas within 24 hours of cessation of the snowfall when the snow reaches a depth of 3 inches or greater.

(d) The owner/manager of any dwelling shall maintain the refuse area in a clean, sanitary and litter free condition and provide removal of refuse as needed.

(10) PEELING PAINT. Peeling paint shall be cited under general repair requirements as follows:

(a) Interior: In food preparation areas and/or eating areas. In other areas within the dwelling/unit where the deterioration is continuous and there is evidence of flaking or falling paint. Lead paint is prohibited.

(b) Exterior: Where approximately 15% or more of the exterior painted surfaces are peeling or in need of repainting. Where there is evidence of decay or rotting wood due to lack of or deterioration of the paint, it shall be cited regardless of the area.

(11) WATER DRAINAGE AROUND FOUNDATIONS. The area around the dwelling shall be graded so that water will drain away from the foundations.

(Ord. No. 66-87, 12-21-87; Ord. No. 28-90, 6/4/90; Ord. No. 54-92, 8/17/92)

8:510. Abandoned/Vacant Dwellings or Buildings.

(1) OWNER'S RESPONSIBILITIES: The owner of any abandoned dwelling or her/his authorized agent shall:

(a) Cause all services and utilities to be disconnected from, or discontinued to, said dwelling;

(b) Remove all personal property from the interior of said dwelling and from its grounds;

(c) Lock and/or secure all exterior doors and windows of said dwelling or building, and when requested, provide the Building Department with a key to each such lock;

(d) Maintain such dwelling so that its foundation, floors, windows, walls, ceilings, roof, porches, and stairs shall be reasonably weather tight, waterproof, rodent proof, and in good repair.

(2) SECURING: All vacant dwellings or buildings shall be secured at all times.

(Ord. No. 66-87, 12/21/87)

8:511. Inspections.

(1) PERIODIC INSPECTIONS AND FEES THEREFOR:

(a) The Building Official shall inspect all dwelling units, except owner-occupied single-family attached and detached, and homes for the aged which are licensed by the State of Michigan, on a periodic basis. This includes city-owned public housing. For abandoned dwellings, the period between inspections shall be no longer than 3 months; for all other dwellings, the period between inspections shall be no longer than 2-1/2 years. Copies of the State inspection report and license for homes for the aged shall be submitted to the building official annually. This current information shall be retained as part of the permanent record of each such facility. Failure to submit the copy of the license shall result in the need for inspection/certification by the Housing Inspection Bureau.

Upon determination of the building official that the self-inspection program of a terrace family housing cooperative meets the standards of this section, that cooperative shall be exempt from the periodic inspection provisions of this section and the certificate of occupancy provisions of Section 8:516. A terrace family housing cooperative is dwellings owned by a non-profit corporation and financed pursuant to the National Housing Act, each of which is occupied by a member of the non-profit corporation pursuant to the bylaws and an occupancy agreement providing for exclusive occupancy of the units by members of such corporation. The requests for an exemption shall be accompanied by authorization for the request from the members of the corporation, wherein the membership was informed of its rights under this Chapter. The cooperative shall have its own written self-inspection program, for compliance with this code, that includes:

1. An inspection form comparable to that used by the Building Department for identification of code violations.
2. Annual inspection of no less than twenty-five percent of all units with each unit inspected no less than once every four years.
3. A system for providing copies of all inspection reports, and reinspection reports, including certification of the work completed, following remedial action of any violations of the code identified during the inspection, at least annually to the Building Department.
4. A system for the validation by the department of the reports submitted in paragraph (iii) through the inspection, at the cooperative's expense, of up to twenty-five of the units inspected each year which shall include a method to correct any pattern of deficiencies noted in the validation inspections.
5. A system for the immediate correction of any fire, safety, or health hazards.
6. A system of providing all members at least annually and at the time of move-in with a written statement of procedures to be followed if the member has a problem with his/her unit, including a statement that the member may at any time seek and obtain an inspection by the Building Department of physical problems within the unit.
7. If the Department concludes, after a self-inspection program has been in operation for at least one year, that a cooperative has failed to meet one or more of the requirements of 8:511 (1)(a)(i) through (vi), it shall notify the cooperative in writing stating the reason(s) for each of its conclusions. The cooperative shall respond to the department within thirty days of receipt of the notice by accepting or rejecting each of the conclusions. For each conclusion the cooperative accepts, it shall indicate a time period for corrective action. If the department and the cooperative are unable to resolve the matter, it shall be submitted to the Housing Board of Appeals pursuant to Section 8:515. If the Board finds against the cooperative, it shall allow the cooperative 180 days to complete corrective action before concluding that the cooperative cannot continue a self-inspection program.

8. The decision of a cooperative to have a self inspection program shall not preclude any member of the cooperative from requesting and obtaining an inspection of his/her unit by the department nor preclude the cooperative from requesting such inspections by the department as it deems necessary.

9. A self-inspection program, unless terminated by the City, may continue for a three-year period. The cooperative shall within six months prior to the expiration of any three-year period re-apply, upon approval of the members, for an additional three years. If a cooperative's participation in such a program has been terminated by either party, the cooperative may re-apply at any time after three years from the date of termination.

(b) An inspection shall be conducted in the manner best calculated to secure compliance with the Code and appropriate to the needs of the community. Inspections shall be on, but not be limited to, the following basis:

1. An area basis, such that all the regulated premises in a predetermined geographical area will be inspected simultaneously or within a short period of time.

2. A request basis, such that an owner applying for a Certificate of Compliance may request an inspection, which shall be made within a reasonable time.

(c) An inspection shall be carried out by the Building Official and such representatives of other departments or agencies as may form a team to undertake an inspection under this and other applicable laws.

(d) An inspector or team of inspectors may request permission to enter all premises regulated by this Code at reasonable hours to undertake an inspection. Upon an emergency, the inspector or team of inspectors shall have the right to enter at any time. An emergency shall exist for purposes of this Chapter when the Building Official has reason to believe that a condition hazardous to health or safety exists requiring immediate attention.

(e) When a violation is found, the Building Official shall at the expiration of the time set for correcting the violation, or earlier if notified by the owner, reinspect the premises to determine whether the violation has been corrected. If such reinspection is not made, due to the action or inaction of the owner or agent, an occupant may pay his/her rent to the Building Department to be held in escrow until the reinspection is made.

(f) The Building Official shall charge the owner a fee for each periodic inspection and each reinspection required to correct violations. The fee for these inspections shall be established by resolution of City Council upon the recommendation of the City Administrator. The initial inspection fee shall be paid in advance, reinspections shall be billed per the appropriate rate. Unpaid fees may be assessed against all premises in accordance with the procedures specified in Section 1:292 of Title I of this Code.

(2) COMPLAINTS:

(a) The Building Official shall maintain a written record of each complaint concerning a violation of the Code. This record shall include the date and time the complaint was filed and the name and address of the person making the complaint. An inspection of premises for which complaints have been received will be made within 10 working days. In the course of carrying out the inspection, the inspector shall cite any violations noticed, and any additional complaints made by the resident shall be inspected.

(b) If a complaint is filed with the Building Official concerning an alleged violation in a building, the department shall notify the owner of said complaint. If there are violations, the provisions of Section 8:513 shall be applied.

(c) When an inspection is made upon a complaint, and it is determined that no violation exists, and that the purpose of the complaint was not harassment, no charge will be made for the inspection.

(d) When a violation or violations are found, the person making the inspection shall file a written report of such violation or violations with the department within one week of the inspection.

(e) Any person causing an inspection to be made for the sole purpose of harassing any individual, corporation, or governmental agency when no violation is actually present shall be billed twice the ordinary cost of said inspection, and could be subject to civil liability.

(3) INSPECTION AUTHORIZATION:

(a) In a non-emergency situation, a request for permission shall be made before an inspection to the owner or his/her agent, or to the occupant, and to both owner or agent and occupant, if both are present. If the inspection is based upon a complaint, the inspector shall try to schedule the inspection for a time when the complainant will be present. Where the owner or occupant demands a warrant for inspection of the premises, the Building Official shall obtain a warrant from a court of competent jurisdiction. The Building Official shall prepare the warrant, stating the address of the building to be inspected, the nature of the inspection as defined in this Code or other applicable law, and the reasons for the inspection. It shall be appropriate and sufficient to set forth the basis for inspection (e.g., complaint, area) established in this Section, in other applicable codes or in rules or regulations. The warrant shall also state that it is issued pursuant to this Section, and that it is for the purposes set forth in this and other codes which require that inspections be conducted.

(b) If the court finds that the warrant is in proper form and in accord with this Section, it shall be issued forthwith.

(c) In the event of an emergency, no warrant shall be required.

(4) POLICY REGARDING INSPECTION:

(a) It is the policy of the City that the inspection procedures set forth in this Code are established in the public interest, to secure the health and safety and general welfare of the occupants of dwellings and of the general public.

(b) The Building Official shall keep a record of all inspections and reports of violations, and the records are to be open to the public for review and copying.

(c) The Building Official shall make available to the general public a checklist of commonly recurring violations for use in examining premises offered for occupancy.

(d) The Building Official shall submit monthly reports to the City Council specifying the number of initial inspections, reinspections, and buildings certified for occupancy during the month. In addition, the report shall include the number of complaints, buildings razed, appeals heard, abandoned dwellings inspected, certificates suspended, persons using the city escrow account, and tickets issued during the month. The report shall also include notice of public hearings being held on any administrative rules, and the number of inspection reports that have not been prepared within the 10 working days. These monthly reports shall be available to the public upon request through the Building Department.

(Ord. No. 66-87, 12-21-87; Ord. No. 10-88, 5-2-88; Ord. No. 28-88, 7-18-88; Ord. No. 28-90, 6/4/90; Ord. No. 54-90, 10/15/90; Ord. No. 46-92, 6/15/92; Ord. No. 61-92, 10-5-92)

8:512 Code Administration.

The Building Official shall have the power as may be necessary in the interest of public safety, health and general welfare, to interpret and implement the provisions of the chapter, to secure the intent thereof, and to designate the requirements applicable.

(1) ADMINISTRATIVE DECISIONS: The Building Official may administratively rule on situations where the code does not specifically provide requirements or where two code provisions are in conflict. Administrative decisions shall not conflict with the code provisions and shall be in keeping with the intent of the code. Where there are conflicting provisions, the provision securing the greater degree of public safety, health, and general welfare, shall be applied in that order. Copies of such decisions shall be placed on file and be reported monthly to the Housing Board of Appeals for review.

(2) ADMINISTRATIVE RULES: The Building Official may adopt rules as may be necessary to establish uniform implementation of the intent of the code. The Building Official shall hold a public hearing on proposed rules. All public comments in the hearing must be considered by the hearing official. Advance notice shall be provided in the local newspaper and mailings to appropriate organizations. These rules are intended to supplement the code where needed to properly administer the provisions of the code. Such rules shall be deemed to be as complete and binding a part of the chapter as if the same were herein specifically set forth, and the violation of any such rule so adopted shall be deemed a violation of this chapter. Copies of such rules shall be placed on file in the Building Department for inspection, review, copying, and

shall be approved by the Housing Board of Appeals and submitted to City Council for confirmation.

Before the adoption of a rule, an agency shall give notice of a public hearing and offer a person an opportunity to present data, views, and arguments. The notice shall be given not less than 15 calendar days, nor more than 30 calendar days before the public hearing. The notice shall include all of the following:

- (a) The time and place of the public hearing and a statement of the manner in which data, views, and arguments may be submitted to the agency at other times by a person.
- (b) A statement of the terms or substance of the proposed rule, a description of the subjects and issues involved, and the proposed effective date of the rules.

(Ord. No. 66-87, 12-21-87)

8:513 Notices and Orders.

(1) FORM OF NOTICE: Whenever the Building Official determines that there has been a violation of any provisions of this Chapter or any rule or regulation adopted pursuant thereto, he/she shall give notice of such alleged violation and orders for correction of violation to the person or persons responsible therefor, as hereinafter provided. Such notice shall:

- (a) Be in writing;
- (b) Include a statement of the conditions that constitute violations of this Chapter and what must be done to correct same;
- (c) State the date of the inspection, the name of the inspector, and the address of the dwelling;
- (d) Specify a time limit for the performance of any act it requires. Said time limit shall be a reasonable time, not to exceed 60 calendar days unless:
 - (i) The work is major exterior work including, but not limited to work such as painting, gutters, foundations, or roof work, weather dependent, and, therefore, could not reasonably be completed within 60 calendar days based on the period of the year in which the inspection is done. In such cases, the time limit for the weather dependent work shall be 60 calendar days after a date when favorable weather conditions could be expected. All said time limits shall commence from the date of the inspection report;
 - (ii) The owner or agent intends to make substantial renovations which must be directly linked to the correction of the violation(s), and he/she applies for permits, submits required plans, and a schedule of proposed renovations as per Section 8:518.
- (e) Notify the owner or agent, the occupant, or the complainant as the case may require, of the right to appeal;

(f) Be served within 10 working days upon the owner or his/her agent, or the occupant, as the case may require, provided that such notice shall be deemed to be properly served upon such owner or agent, or upon such occupant if a copy thereof is served upon him/her personally, or if a copy thereof is sent by certified mail to his/her last known address, or if he/she is served with such notice by any other method authorized or required under this Code or the laws of this state;

(g) A duplicate shall be sent to the occupant in cases where the owner or his/her agent are the appropriate parties to be served, and be sent to the owner or his/her agent in cases where the occupant is the appropriate party to be served. If the violation or violations concern a common area rather than an individual dwelling unit or rooming unit, the notice shall be sent to all occupants of the dwelling, or may also be posted in a conspicuous location in said dwelling if, in the judgment of the Building Official, such posting is necessary to provide adequate notice. If the violation is a major one, posting shall be mandatory, whether the violation concerns a common area or an individual dwelling unit or rooming unit. Any person removing such posted notice without authorization of the Building Official shall be fined \$50.00. Notice to occupants by mail or posting shall be given within 10 working days after the date of inspection;

(h) Include a statement that any full Certificate of Compliance has been suspended and that rent may be paid into the escrow fund maintained by the Building Department if the repair of conditions is not made within the time limit set in the notice of violation or lawful extensions thereto, and a statement that civil actions for compelling the repairs and for damages may be available.

(2) APPEAL WHEN NO VIOLATION FOUND: If the inspection is based upon a complaint and it is determined upon inspection that no violation exists, the complainant may appeal said determination to the Housing Board of Appeals, and the complainant shall be notified of this right to appeal.

(3) Failure to complete work within the time limits specified in subsection 8:513(1)(d) shall constitute a separate violation of this chapter.

(Ord. No. 66-87, 12-21-87; Ord. No. 28-90, 6/4/90)

8:514 Extension of Time.

(1) TIME LIMIT: The time limit set for the correction of any violation not prohibited by subsection (3) below may be extended by the department for a reasonable time upon a showing that the person ordered to make the repair has made a good faith effort to comply with said order, and that the repair could not have been accomplished within the time originally set, or, in the case of owner-occupied two-family dwellings upon the showing of unusual hardship. Unusual hardship can only be applied to the owner occupied portion of the building. Each such extension shall be recorded in the file for the affected property and such record shall include a description of good faith effort, inability to accomplish within the original time, and hardship relied upon in granting the extension. No single extension shall exceed 60 calendar days unless weather conditions would prohibit correction of the violation within 60 calendar days.

(2) GOOD FAITH EFFORT: "Good Faith Effort" is defined as a substantial portion of the work completed or:

(a) The owner or agent has a signed and completed contract with a company that is capable of making the repair, and the contract was signed at a time that would have allowed the work to be completed in the time allowed by the department had not weather or natural disaster prevented.

(b) If the owner or agent or his/her staff is capable of making the repair, the owner or agent must present to the department a paid invoice or delivery order for the materials needed to make the repair and the materials must have been ordered at a time that would have allowed the repair to be made in the time allowed by the department, had weather conditions or natural disaster not prevented.

(3) HAZARDOUS CONDITIONS: Time extensions shall not be granted by the Building Official in imminently hazardous conditions, such as, but not limited to, gas leaks, no utilities, no heat in winter, unsafe fire exit, etc.

The department, or the Housing Board of Appeals may grant a time extension due to the owner's inability to gain access to the unit if the owner has requested, by a letter sent by certified mail, reasonable times when the work can be done.

(4) TOTAL TIME: The total time for making repairs of violations not constituting a hazard to health and safety, including the initial time and extensions by the Building Official shall not exceed six months.

(5) ADDITIONAL EXTENSIONS: Additional extensions of reasonable periods, not to exceed three months, may be granted by the Housing Board of Appeals in cases where a person ordered to correct a violation has not been able to do so within the time set by the Building Official, despite all diligent effort. A bond may be required to be posted with the Building Official if the Board determines one necessary to guarantee completion of the repairs. The bond amount shall be determined by the Board based upon the repairs required by the Housing Bureau.

(6) TIME LIMITS FOR EXTENSIONS APPLICATION: Extensions must be sought within one working day after the expiration of the preceding time period, and decisions as to whether extensions will be granted must be made within two working days after the preceding time period. The Building Official shall keep written records of the reasons for granting time extensions.

(Ord. No. 66-87, 12-21-87; Ord. No. 54-92, 8-17-92)

8:515. Housing Board of Appeals.

(1) POWER TO CORRECT ERRORS: A Building Official's order enforcing or interpreting this chapter may be appealed to the Housing Board of Appeals.

(2) **POWER TO GRANT VARIANCES:** If the strict application of this chapter would cause an owner unnecessary hardship or practical difficulties, the Board may grant a variance. A variance may not be granted if it will violate the intent of this chapter or jeopardize public health and safety.

(3) **POWER TO EXTEND LIMITS:** The Board shall have the power to grant extensions of time under Section 8:514(5). Requests for extensions shall be first on the agenda.

(4) **POWER TO ISSUE ENFORCEMENT GUIDELINES:** The Board shall have the power to issue enforcement guidelines which interpret this chapter. The guidelines shall take effect after approval by the City Council. The Board or the Building Official may propose guidelines.

(5) **APPEAL AND VARIANCE PROCEDURE:**

(a) An application to appeal, for a variance or for a time extension shall be made on a form supplied by the City. The fee for appeal shall be established by resolution of the City Council upon the recommendation of the City Administrator. The application shall state in detail the grounds for the application and the relief sought. An application for a variance shall specify the regulation to be varied and the extent of the variance. Filing an application shall not stay any penalty or civil remedy, including the withholding of rent when permitted by law.

(b) The Building Official shall notify tenants of the building of the nature of the application and the time of the hearing. The notice may be mailed or posted in a conspicuous location in the building.

(c) Anyone may appear at the hearing in person or through an agent.

(d) The Board shall base each decision on a record which includes the application, the administrative records, the staff report and any evidence submitted to the Board. The Board shall develop and maintain guidelines which determine when at least one member of the Board must visit the area(s) of the building under consideration for a variance.

(e) Each decision of the Board shall be based on written findings of fact. For variances, the findings must include the grounds for finding:

1. Practical difficulties or unnecessary hardship,
2. The variance does not violate the intent of this chapter
3. The variance does not jeopardize public health and safety.

(f) A decision of the Board shall be signed by the Chair and a copy shall be mailed to the applicant. If the Board grants an appeal from an order of the Building Official the appeal fee shall be refunded.

(6) **QUORUM:** Two-thirds of the seated members of the Board is a quorum.

(7) IN-SERVICE TRAINING: The City shall provide Board members with training on how a variance is an acceptable deviation from the rules of this chapter only if it is consistent with the purposes of the chapter.

(Ord. No. 66-87, 12-21-87; Ord. No. 25-89, 5-15-89; Ord. No. 28-90, 6/4/90; Ord. No. 46-92, 6/15/92; Ord. No. 54-92, 8-17-92)

8:516 Certificate of Compliance.

(1) DEFINITIONS: The following definitions shall apply to this Chapter:

(a) FULL CERTIFICATE: A Certificate of Compliance issued for a dwelling with no violations of this Code, which certificate shall be valid unless suspended by the Building Official upon a subsequent reinspection, disclosing violations, or upon expiration of the certificate.

(b) TEMPORARY CERTIFICATE: A Certificate of Compliance issued for a dwelling displaying on its face any remaining violations to be corrected, prior to the expiration date on the certificate.

(c) PARTIAL CERTIFICATE: The Building Director may issue a partial certificate of compliance for dwelling units without code violations. The certificate shall designate the units certified. It shall only be issued if violations in the remainder of the building do not affect the health and safety of the certified units.

(2) APPLICATION:

(a) An owner or agent shall apply for a Certificate of Compliance. Inspection and issuance of certificates shall comply with this code and regulations of the Building Official. If any owner or agent fails to make such application, any occupant of the dwelling may apply for a certificate.

(3) ISSUANCE:

(a) A certificate shall be issued only upon inspection of the premises by the Building Official, except as provided in subsection (b) below. If a dwelling conforms to this code at the time of the application, a certificate of compliance shall be issued within one week.

(b) The Building Official shall authorize the issuance of temporary certificates, upon application, without inspection for those premises in which:

(i) There are no violations of record, and

(ii) An inspection has been scheduled, and

(iii) The requested inspection cannot be conducted prior to the expiration of the present certificate because of department scheduling.

(c) Temporary certificates shall also be issued for premises with violations of record only when:

(i) The owner has been ordered to make repairs and the time limit, including lawful extensions, has not expired, or

(ii) When the City has been authorized to make repairs, or

(iii) When a receiver has been appointed, or

(iv) When an owner's rehabilitation plan has been accepted by the court, or

(v) When a scheduled reinspection cannot be conducted prior to the expiration of a temporary certificate and if the owner has not delayed the reinspection for more than two days.

(d) A full Certificate of Compliance shall be issued for a dwelling when no violation is found and the dwelling is in compliance with the Code.

(4) No person shall lease or otherwise make a dwelling or rooming unit available for occupancy if a certificate of compliance is not in effect for the unit. Violators of this subsection who the City has notified at least ten days prior to prosecution shall be punished by a fine of not less than \$200.

(5) If a dwelling or rooming unit lacks a current certificate, instead of paying rent to the owner, tenants may pay the rent into the escrow account established by section 8:522. The Building Official shall notify tenants of the lack of a certificate and its effect on rental payments.

(6) The lack of a certificate will not justify the removal of a tenant without court action following notice under MCR 4.201.

(7) If a dwelling is ordered vacated because of violations of this chapter, the landlord must pay relocation costs except in cases where state law shifts the burden to the tenant.

(8) The owner or agent of a dwelling shall permit a tenant or prospective tenant to examine the certificate of compliance. The building official shall permit any person to examine the City copy of every certificate of compliance.

(9) Certificates of compliance shall expire two and a half years after the expiration of the previous full certificate. The date of expiration shall be on the certificate. It is the responsibility of the owner of a dwelling to arrange an inspection prior to the expiration of the certificate of compliance.

(Ord. No. 66-87, 12-21-87; Ord. No. 25-89, 5-15-89)

8:517. Registry of Owners and Premises.

(1) **REGISTRY MAINTAINED BY BUILDING DEPARTMENT:** A registry of owners and premises shall be maintained by the Building Department.

(2) **REGISTRATION OF OWNERS:** The owners of all rental dwelling units and abandoned dwellings, shall register their names, date of birth, both the street address and the mailing address of the business, the location of the dwellings and the number of dwelling units or rooming units to be offered to let prior to leasing. If a dwelling registered as an occupied dwelling becomes abandoned or vacant, it shall be re-registered as abandoned or vacant. Owners of properties which are rented, yet are owner-occupied per the definition in Section 8:500(23) shall also register their properties to be offered for let prior to leasing.

(3) **REGISTRATION OF AGENT:** If the premises are managed or operated by an agent, the agent's name, date of birth and both the street address and mailing address of the business shall be placed with the name of the owner in the registry.

(4) **RESIDENCE REQUIREMENT:** The owner, representative, or the agent who was to receive notices and process under this chapter, shall reside or have an office within 25 miles of Ann Arbor.

(5) **CORPORATION OWNED PROPERTY:** If the owner is a corporation, the name and address of its registered agent shall be listed.

(6) **REGISTRATION OF CHANGES:** Any change in address of owner or agent, and any change in number of units offered, shall be noted in the registry by said owner or agent.

(7) **FAILURE TO REGISTER:** Any person failing to register as required by this section shall be fined not less than \$100.00, nor more than \$500.00, unless that person voluntarily registers the property prior to being identified by the Bureau.

(Ord. No. 66-87, 12-21-87; Ord. No. 28-90, 6/4/90; Ord. No. 54-92, 8-17-92)

8:518 Permits.

Provisions contained elsewhere in the Ann Arbor City Code for obtaining permits and use of licensed contractors shall apply to work undertaken to bring dwellings into compliance with this Chapter. In addition, the following provisions shall apply, and in case of conflict with other Chapters of this Code, shall be controlling;

(1) **SUBMISSION OF PLANS:** Before construction or alteration of a building or structure, or conversion of a building for use as a dwelling is commenced, and before a permit may be issued, the owner, his/her agent, architect or engineer, shall submit plans and an application for permit to the Building Official. The application shall be on forms provided by the department. The application shall be accompanied by two copies of plans and specifications or a detailed statement of the work to be performed. Where applicable a plot plan shall be included. The specifications, plans and statements shall be filed with the Building Official and be public

record, but no specifications, plans, or statements shall be removed from the custody of the Building Official.

(2) EXAMINATION OF PLANS AND CONDITIONS FOR ISSUANCE OF PERMIT: The Building Official shall cause such plans and specifications to be examined. If the plans and specifications conform to the provisions of this Code, the Building Official shall issue a permit therefore. The Building Official may approve changes in plans and specifications previously approved, if the plans and specifications when so changed are in conformity with this code. The construction, alteration, or conversion of a dwelling, building or structure, or any part thereof shall not be commenced until a permit is issued. A permit shall not be issued and no plan approved for any work which does not conform to the provisions of this code or approved variances. The construction, alteration, or conversion of a dwelling, building or structure shall be in accordance with the approved specifications and plans.

(3) TERMINATION OF PERMIT: A permit or approval issued by the Building Official shall become invalid if the authorized work is not commenced within six months after issuance. The Building Official may revoke or cancel a permit or approval in case of neglect or failure to comply with any provisions of this code or in case any false statement or representation is made in the specification, plans or statements submitted for such permit or approval.

(Ord. No. 66-87, 12-21-87)

8:519 Remedies for Correction of Violations.

(1) ACTION BY BUILDING DEPARTMENT ON NONCOMPLIANCE: If the owner or occupant fails to comply with the order contained in the notice of violation, the Building Official may bring an action to enforce the provisions of this Chapter and to abate or enjoin the violation; in the case of an emergency violation, the City may cause the necessary repairs to be made, and the charges may be collected as a special assessment against the property in accordance with Section 1:292 of this Code.

(2) PENALTIES:

(a) Violations of this chapter, for which no penalty is otherwise provided, shall be punishable by a fine of not less than fifty dollars (\$50.00) plus court costs. Legal proceedings shall commence against violators with the issuance of a ticket by the department. The department shall indicate on the ticket, when issued, the amount of the fine, should the violator plead guilty without a court appearance. In the event there is a court appearance and a conviction results, the prosecutor shall recommend, after consultation with the department, a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each ticket.

(b) The department shall issue tickets under this chapter when violations of the chapter are found by any method of discovery, and are not corrected within the time period provided by the department and/or the Housing Board of Appeals.

- (c) When an imminently hazardous situation exists which endangers the health or safety of tenants, the department shall shorten the time given to correct the problem to a reasonable period of time.
- (d) When the imminently hazardous situation involves inadequate heat in the winter, flood, sewage backup, or any situation that requires tenants to vacate the premises, the owner or agent is required to provide alternative housing until the repair is made unless clauses in the lease by operation of the law terminate the tenancy. This subsection does not preclude the tenant from exercising other remedies provided by law or equity.
- (e) In the event the owner or agent does not complete the repair within the time allowed, the department shall issue a ticket each week until the repair is completed, or for eight weeks, whichever ever occurs sooner.
- (f) In the event the repair is not made after eight weeks of tickets, or the time allowed by the department, or a shorter time if it is a hazardous situation, the department shall suspend the owner's Certificate of Compliance and notify the owner's tenants that the obligation to pay rent is suspended.
- (g) In the event the repairs are not made ninety (90) calendar days after the suspension of the Certificate of Compliance, the City Attorney, shall institute receivership proceedings. Any occupant, tenants' group, or any other person may initiate such proceedings.
- (h) Each day of violation of a provision of this chapter relating to the physical condition of any dwelling shall constitute a separate violation.
- (i) A violation proved to exist on a particular day shall be presumed to exist on each subsequent day unless it be proved that the violation no longer exists.
- (j) If a provision of this chapter is found to be violated in more than one dwelling unit or rooming unit in a multiple dwelling or rooming dwelling, each such violation shall constitute a separate violation.
- (k) Abandonment of a dwelling shall not constitute a defense to the imposition of fines under this section.
- (l) In the event any decision to impose penalties under this section is appealed to the Housing Board of Appeals, the penalties imposed after the appeal are held in abeyance until the Housing Board of Appeals has made its decision. Then either the fine will be paid including interest, or not paid depending on its decision.

(3) RECEIVERSHIP:

- (a) When a suit has been brought to enforce this Chapter against the owner, the court may appoint a receiver of the premises.

(b) When the court finds that there are adequate grounds for the appointment of a receiver, it shall appoint the municipality or a proper local agency or officer, or any competent person as receiver. The court shall give first priority to appointment of a qualified non-profit receivership. In the discretion of the court, no bond need be required. The receivership shall terminate at the discretion of the court.

(c) The purpose of a receivership shall be to repair, renovate and rehabilitate the premises as needed to make the building comply with the provisions of this Chapter and, where ordered by the court, to remove a building. The receiver shall promptly comply with the charge upon him/her in his/her official capacity and shall restore the premises to a safe, decent and sanitary condition, or remove the building.

(d) Subject to the control of the court, the receiver shall have full and complete powers necessary to make the building comply with the provisions of this Chapter. The court may collect rents and additional revenue, subject to other legal remedies, hold them against the claim of prior assignees of such rents and other revenue, and apply them to the expenses of making the building comply with the provisions of this Chapter. The court may manage and let rental units, issue receivership certificates, contract for all construction and rehabilitation as needed to make the building comply with the provisions of this Chapter, and exercise other powers the court deems proper to the effective administration of the receivership.

(e) When expenses of the receivership are not otherwise provided for, the court may enter an order approving the expenses and providing that there shall be a lien on the real property for the payment thereof. The provisions of subsection (7) of Section 8:519 as to the contents and filing of an order are applicable to the order herein provided for.

(f) In ordering receivership for a specified premise, the court shall, if necessary to enforce this provision, seek receivership on other units within the building that may currently carry a valid certificate.

(4) ACTIONS FOR DAMAGES:

(a) When the owner of a dwelling regulated by this Chapter permits unsafe, unsanitary, or unhealthful conditions to exist unabated in any portion of the dwelling, whether a portion designated for the exclusive use and occupation of residents or a part of the common areas, where such condition exists in violation of this Chapter, any occupant, after notice to the owner and a failure thereafter to make the necessary corrections, shall have an action against the owner for such damages she or he has actually suffered as a consequence of the occupation of the premises. The occupant shall also have injunctive and other relief appropriate to the abatement of the condition.

(b) Remedies under this section shall be in addition to such other relief as may be obtained by seeking enforcement of the section authorizing suits by the Building Official. The remedies shall be concurrent. When several remedies are available hereunder, the court may order any relief not inconsistent with the objectives of this Chapter, and calculated to achieve compliance with it.

(5) ADDITIONAL LEGAL REMEDIES: Nothing contained herein shall be deemed to abolish or impair existing legal remedies of the City of Ann Arbor or its officers or agencies, or of any individual, even though such remedies may not be specifically enumerated or mentioned herein.

(Ord. No. 66-87, 12-21-87)

8:520 Conflict with Other Ordinances.

In any case where a provision of this Chapter is found to be in conflict with a provision of any ordinance or code of this City applicable to existing buildings, the provisions which establish the higher standard for the protection of the public safety and health shall prevail. Where the provisions of the State Housing Law concerning the physical condition of dwellings provide standards higher than those of any ordinance, the provision of the State Housing Law shall apply.

(Ord. No. 66-87, 12-21-87)

8:521 Severability.

If any section, subsection, sentence, clause, phrase or portion of the Chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

(Ord. No. 66-87, 12-21-87)

8:522 Escrow.

(1) AGENT: The Building Official or authorized agent is hereby authorized to act as escrow agent and to receive all monies deposited as security for damages, or because of a dispute between the owner or agent and occupant due to code violations, or due to suspension of the certificate of compliance for the premises.

(2) AGREEMENT INFORMATION: The standard landlord-tenant escrow agreement, which shall be prepared by the City Attorney and approved as to form by the City Council, shall include the following items of information, authorizations, and instructions for action by the Building Official or authorized agent:

- (a) The date of execution of the agreement;
- (b) The names and addresses of the landlord and the tenant or tenants respectively;
- (c) The location of the leased or rented premises to which the agreement applies;
- (d) The dates of beginning and termination of the tenancy to which the agreement applies;

(e) The amount of money deposited under the agreement;

(f) Instructions for the Building Official or authorized agent to deposit the amount received pursuant to the agreement in a local savings institution, wherein it may be commingled with the amount received pursuant to escrow agreements between other landlords and tenants with respect to other premises.

(3) DISBURSEMENT OF FUNDS: The escrow agreement shall establish the terms and methods of disbursement of monies deposited in the account.

(a) If the agreement jointly instructs the Building Official to pay out some or all of the money to the landlord upon resolution of the matter, this joint instruction shall be obeyed and this agreement may be a defense against suit for nonpayment of rent.

(b) The tenant(s) has three options:

(i) Monies in escrow can be established so that they shall be returned to the tenant upon his/her written request. However, the landlord may maintain a suit for nonpayment of rent.

(ii) Authorize full distribution of the monies to the landlord upon completion of repairs. This shall be a defense for nonpayment of rent.

(iii) Tenant and landlord can jointly authorize any distribution that they want, and it can also be a defense for nonpayment of rent.

(c) Nothing in this section shall be construed as a legal defense in a suit for nonpayment for any or all portions of the escrow monies which are not designated for distribution to the landlord, except as provided by state law. However, an agreement signed by both the landlord and tenant(s) stating this escrow is in lieu of legal action by either or both parties shall be a legal defense to a suit for nonpayment of rent.

(4) ACCOUNTING/NOTIFICATION: The Building Official shall notify both the tenant and landlord of establishment of an escrow account, or of withdrawal of monies from an escrow account, and shall keep a record of all such monies in the accounts.

(Ord. No. 66-87, 12-21-87)

8:523 Defraying Costs of Escrow Services.

The Building Department is hereby authorized to use any interest earned on the landlord-tenant escrow account to defray the cost of providing the escrow service authorized by this Chapter.

(Ord. No. 66-87, 12-21-87)

8:524 Information Regarding Utility Charges.

No owner of rental property shall lease the property without furnishing to the tenant, before the time of entering into the lease, a budget plan. As used in this section, "budget plan" means a projection of monthly utility costs for primary heating fuel prepared by the public utility company. This section shall apply to the rental of all dwelling units for which budget plan information is available from the utility company without charge and in which the tenant is required to pay the owner or the utility company a utility charge for heating fuel in addition to rent. The budget plan statement shall be in writing, included as part of the leasing agreement, but may be prepared by the owner based on information verbally supplied by the utility company.

(Ord. No. 66-87, 12-21-87)

8:525 Information Concerning Tenants' Rights.

The City shall provide the City Clerk with booklets explaining the rights of tenants under City and State law. The City Clerk shall make such booklets available to local landlords and their agents to pick up at the Clerk's Office without charge for distribution by local landlords to tenants and prospective tenants. In the event the Clerk makes available to local landlords sufficient copies of the booklet to permit those landlords to comply with this section, no owner of rental property located in Ann Arbor or agent of such an owner shall lease or contract to lease such property without furnishing to the tenant, before the time of leasing or contracting, a copy of said booklet. In the event a housing unit is being leased to more than one tenant, it shall be sufficient to offer a single booklet for each housing unit. In the event the lease or contract to lease is accomplished by mail, rather than face to face, the booklet shall be furnished the tenant by mail. A landlord shall be deemed to have furnished a tenant a copy of the booklet if the landlord mails it to her/him or proffers a copy of the booklet to the tenant face to face, whether or not the tenant chooses to receive the booklet. For purposes of this section, the renewal of a lease shall be considered the same as the making of a new lease; however, if a landlord has previously furnished the tenant or tenants of a unit with a copy of the booklet, the landlord is not required to furnish another copy upon lease renewal. This section shall only apply to leasing and contract to lease transactions entered into thirty (30) calendar days after the City Clerk has published in a newspaper of general circulation in Ann Arbor a notice to landlords informing them of this section and of the availability of said booklets at the Clerk's Office. The Clerk shall publish such notice promptly upon receipt of such booklets from the City of Ann Arbor. This section shall apply only to residential leases. Violations of this section shall be punishable by a fine up to five hundred (\$500.00) dollars, but may not be punished by jail.

(Ord. No. 66-87, 12-21-87)

8:526 Required Lease Clause.

No person owning or otherwise having authority to lease a residential dwelling unit in a building having more than two (2) dwelling units shall execute a lease for such a dwelling unit to another person unless a statement is contained in the lease in 12-point boldface type, substantially in the following form:

Upon the execution of this lease, a tenant is entitled to receive a copy of the booklet provided by the City Clerk concerning the legal rights of tenants. By executing this lease, the tenant acknowledges receipt of such a booklet prior to execution of the lease.

(Ord. No. 66-87, 12-21-87)

8:527 Smoke and Fire Detection Devices.

No person shall let to another for occupancy any dwelling or dwelling units which are not equipped with smoke or fire detectors, or with an automatic fire alarm system. The type, number and location of the detectors or alarm systems must be approved by the Building Official in accordance with the standards contained in Section 72 And 74 of the National Fire Code. The owner is responsible for assuring that the detectors and devices are maintained in good operating condition, and residents shall be responsible for informing the landlord if and when the device becomes inoperative. Batteries in battery operated detectors shall be replaced so that the device is always operative.

(Ord. No. 66-87, 12-21-87)

8:528 Basic Winterization In Rental Housing.

(1) WEATHERIZATION REQUIREMENTS: In order to help reduce the high cost and ecological harm of excess energy use, it is hereby ordained that no person shall let to another for occupancy any dwelling or dwelling units which are not equipped with weatherization in safe, good order as follows:

(a) All cracks or gaps in or between building materials which are used on exterior building surfaces or on surfaces which interface between heated and unheated spaces within the building, which allow loss of heat from the interior to exterior of the dwelling, or from heated to unheated spaces, including as well, where necessary, cracks or gaps in the interior or exterior walls, shall be sealed with weatherstripping or caulking or other insulation device or system so as to assure reasonable weatherization. Such weatherization shall include but not be limited to the following:

- all cracks at window frames where glass meets frame, and where frame meets wall, shall be applied with a sealant material or weather resistant caulking outside the dwelling as needed;

- Cracks at door frames of doors providing access from unheated to heated space where any glass meets frame and where frame meets wall shall be applied with a sealant material or weather resistant caulking, both inside and outside the dwelling as needed;

- Cracks in windows or doors where sliding or swinging windows or doors meet their frames shall be sealed with spring steel, rubber, foam or other weatherstripping or insulation device, except where such window or door fits so tightly in its frame that such insulation is not useful to prevent heat leakage;

- Cracks at locations where the building structure is penetrated by utility connections, pipes, wires, dryer vents, exhaust fans or other objects, devices or systems, shall be applied with a sealant material or weather resistant caulking as needed;

- Accessible cracks where building foundation and structure meet, and where exterior siding material meets trim, and where exterior siding boards or pieces have separated due to warping, and at all fixed joints on the building, shall be repaired, if needed, and applied with a sealant material or weather resistant caulking.

(b) In every unheated attic or other unheated top story directly under the roof, the floor shall be fitted with insulation of such quality and grade that the insulation material alone, exclusive of the floor material, provides an R insulation value of not less than R-30.

(c) In every heated attic or other heated top story directly under the roof, the roof shall be fitted on its underside with insulation material of such quality and grade that the insulation material alone, exclusive of the roof material provides an R insulation value of not less than R-30.

(d) In the case of an unheated attic or other unheated top story, a variance may be granted in the proper circumstances for insulation under the roof rather than on or in the floor.

(e) If prior to December 1, 1985 the attic floor or roof has been insulated such that the insulation R value of the installed insulation alone, disregarding the insulating value of the structural elements is at least R-19, then the R-19 insulation shall remain sufficient and in compliance with this section.

(2) EXCEPTIONS: This section does not apply in the case of

(a) An owner-occupant landlord,

(b) A bona-fide non-profit cooperative,

(c) A bona-fide tenant subletting his or her residence,

(d) A homemaker on sabbatical or temporary leave or whose personal home is rented up to two years while it is for sale,

(e) A landlord who pays all of the utility heat bills for the dwelling and does not charge the tenant for heat or increases in utility heat bills,

(f) Where due to the unusual structural characteristics of the building or unit, the required weatherization cannot possibly be installed without extraordinary and unusual structural change, or would have no weatherization or insulating value, or is unnecessary because the respective floor or roof is so constructed as to continuously and at all places exceed without insulation the R value of the required insulation.

(g) Buildings constructed later than 1977, with the exterior envelope in compliance with model energy code requirements, shall be exempt from the R-30 insulation provisions provided the exterior envelope and component materials are maintained.

(3) EFFECTIVE DATE: The effective date for this section (8:528) shall be December 1, 1985. Required weatherization shall be kept in good order.

(4) VIOLATIONS: Violations of this section shall be punishable by a fine of one dollar to one hundred dollars at the discretion of the Court, but no more than fifty dollars for a person's first offense, and shall not be punishable by jail.

(Ord. No. 66-87, 12-21-87; Ord. No. 54-92, 8-17-92)

8:529. Privacy.

(1) OWNER'S ENTRY INTO A LEASED DWELLING UNIT.

The owner of a rental, rooming or dwelling unit shall not enter a leased unit unless the following conditions have been met:

- (a) The entry is permitted by the terms of the lease.
- (b) A good faith effort has been made to notify the tenant in advance.
- (c) The owner has knocked on the door and announced the owner's presence at the time of entry, and
- (d) the entry has not been refused by a tenant.

In the alternative, an owner may enter a leased unit if such entry is permitted by the lease and if the owner complies with the requirements of subsection (3).

Before leaving the rental unit, the owner shall clean up any dirt or debris from repairs or other activities of the owner and shall lock the unit.

(2) TENANT'S RIGHT TO INITIATE ENTRY RESTRICTIONS.

- (a) The tenants of any rental, rooming or dwelling unit shall have the right to initiate additional entry restrictions that shall govern entry by the owner into the rented premises.
- (b) These restrictions shall be initiated by written notification to the owner, signed by all tenants, of the tenants' desire that entry to the rental unit be governed by the entry restrictions described in subsection (3). The entry restriction shall govern owner's entry into the rental unit commencing on the third day after the request to initiate these restrictions is mailed or hand delivered to the address of the owner as stated in the lease. However, where the owner occupies

a dwelling unit within a building, the restrictions on entry to units in that building shall take effect immediately upon delivery of the notice.

(c) The following notice shall be included in the lease or if no written lease provided to the tenant at the time of rental. It shall be in capital letters, bold type not smaller than 14 point. If this notice is not provided as required, the entry restrictions described in subsection (3) shall apply from the commencement of the rental agreement:

NOTICE: YOU HAVE THE RIGHT TO PRIVACY IN YOUR RENTAL HOME. CITY LAW ESTABLISHES GUIDELINES THAT THE OWNER AND HER/HIS AGENTS MUST FOLLOW BEFORE ENTERING YOUR HOME. YOU MAY INITIATE ADDITIONAL ENTRY RESTRICTIONS BY GIVING WRITTEN NOTICE TO YOUR LANDLORD. COPIES OF THESE GUIDELINES (HOUSING CODE 8:529) ARE AVAILABLE AT THE BUILDING DEPARTMENT, CITY HALL, 100 N. FIFTH AVE.

(3) ENTRY RESTRICTIONS.

When the entry restriction provisions of this section have been initiated, the owner of a rental, rooming or dwelling unit shall not enter the unit except when one of the following conditions exists:

(a) There is an emergency. "Emergency" means that there is a situation affecting the premises which a reasonable person believes would cause serious damage to property or injury to persons if not repaired or remedied immediately.

(b) The owner desires entry for repairs, maintenance, code inspection, showing the property for sale or lease, appraisals, insurance inspections or such other purposes reasonably related to the operation of the building and the owner complies with the notice requirements of this subsection. An owner entering a unit under this subsection shall mail a notice of the proposed entry at least 5 days prior to the date of entry or hand deliver the notice 3 days prior to the proposed entry. Such a notice may specify more than one date for entry within a ten day period. A tenant may delay the entry specified in the notice by up to 72 hours by notifying the owner/agent in writing or by phone no later than 12 noon on the day prior to the day of the proposed entry.

(c) Any tenant gives the owner written permission to enter the unit for a specific purpose.

When entry is made pursuant to this subsection, the owner shall leave written notice of the date, time and purpose of the entry.

(4) If the tenants of a residential unit request that the exterior locks be changed, the owner shall change the locks so they operate with different keys. The request for lock change must be signed by all of the tenants of the unit and must include a commitment to pay the cost of the lock change as part of the rent. After the receipt of the request, the owner shall modify the lock within 10 days. The modification may permit use of a master key.

(5) ADDITIONAL ENTRY CONDITIONS.

An owner may enter a rental unit without regard to the other restrictions of this section if the following conditions are met:

- (a) The entry is permitted by the terms of the lease; and
- (b) The owner is accompanied by an Ann Arbor Inspector or other City official acting in the course of his or her employment; and
- (c) The sole purpose of the entry is a City inspection of the building to determine compliance with state, federal, or local laws; and
- (d) The owner has provided notice of the entry to each rental unit being inspected at least 10 days prior to the entry date.

(6) OWNERS AGENT.

All of the obligations and restrictions imposed by this section on owners apply with equal force to employees or agents of owners who enter or attempt to enter rental units.

New York: Ithaca

ORDINANCE REGARDING RESPONSIBILITIES OF OCCUPANTS OF RESIDENTIAL UNITS

§ 210-83. Responsibilities of occupants. (any occupant including renters)

Occupants of all dwelling units shall be responsible for compliance with the housing standards in regard to the following:

- A. Limiting occupancy of that part of the premises which they occupy or control to the maximum permitted by the housing standards.
- B. Maintenance of that part of the premises which they occupy or control in a clean, sanitary and safe condition.
- C. Maintenance of all plumbing, cooking and refrigeration fixtures and appliances, as well as other building equipment and storage facilities, in that part of the premises which they occupy or control in a clean and sanitary condition and providing reasonable care in the operation and use thereof. The occupant shall not allow anything but liquid to go down sink, bathtub or shower drains and shall not allow anything to go into toilet bowls or tanks which will clog the drain or hinder normal operation.
- D. Keeping exits from their dwelling unit and fire escapes and stairs clear and unencumbered.
- E. Disposal of garbage and refuse into provided facilities in a clean and sanitary manner.
- F. Extermination of insects, rodents or other pests within their dwelling unit if their unit is the only one infested in the premises.
- G. Hanging any required screens which they have removed.
- H. Keeping their domestic animals and pets in an appropriate manner and under control. (See Chapter 164, Dogs and Other Animals, of the City of Ithaca Municipal Code.)
- I. If a rental dwelling unit, not permitting any person on the premises to willfully or wantonly destroy, deface, damage, impair or remove any part of the structure or dwelling unit or the facilities, equipment or appurtenances thereto nor do any such thing.
- J. If a rental dwelling unit, not removing or damaging safety equipment.
- K. If a rental unit, not permitting grease or other flammable material to accumulate in or on ranges and drains nor permitting any other condition to exist which is conducive to fire. Occupants shall be prohibited from accumulating or storing on residential premises, except in approved locations, any highly flammable or explosive matter, such as paints, volatile oils,

cleaning fluids and similar materials, or any combustible refuse liable to spontaneous combustion, such as wastepaper, boxes, rags or similar materials.

L. If a rental unit, not using or permitting anyone to use fireplaces without the permission of the landlord.

Selected Provisions of Noise Ordinance

§ 240-6. Radios, television sets and similar sound-amplifying devices.

It shall be unlawful for any person anywhere in the city to use or to operate any radio or receiving set, musical instrument, phonograph, television set, any other machine or device for the producing or reproducing of sound or any other sound-amplifying equipment in a loud, annoying or offensive manner such that noise from the device interferes with the comfort, repose, health or safety of members of the public within any building or, outside of a building, at a distance of 25 feet or more from the source of such sound or interferes with the conversation of members of the public who are 25 feet or more from the source of such sound.

§ 240-7. Parties and other social events.

A. It shall be unlawful for any person in charge of a party or other social event that occurs on any private or public property to allow that party or event to produce noise in a loud, annoying or offensive manner such that noise from the party interferes with the comfort, repose, health or safety of members of the public within any building or, outside of a building, at a distance of 25 feet or more from the source of such sound.

B. For the purposes of this section, a "person in charge of a party or other social event":

- (1) That occurs on any public property shall include the person or persons who obtained permission to utilize that property for that event.
- (2) That occurs on private property shall include the person who owns the premises involved and any adult person who lives in or on the premises involved in such party or social event.
- (3) Shall include the person who is listed on a permit granted pursuant to Article III of this chapter with respect to such event.

Ordinance on Property Maintenance [applies to all properties]

§ 325-23. General standards applying to all land uses.

A. [Amended 2-4-1998 by Ord. No. 98-1] All uses shall conform to the current New York State Board of Health requirements and to the standards listed below:

- (1) Noise. Noise levels at any point along the lot line of any land use shall not exceed intensities considered acceptable by the American Standards Association. Sound or noise levels deemed by the ASA standards injurious or detrimental to adjacent land uses must be confined to the emitting land use.

(2) Smoke. No smoke shall be emitted in violation of any provisions of this Code.

(3) Odor. No odor shall be emitted in violation of any provisions of this Code.

(4) Ash, dust and dirt. No amount of soot, cinders, dust or dirt shall be emitted in violation of any provisions of this Code.

(5) Glare and heat. No direct or reflected glare or heat from any source shall be detectable beyond the lot lines of any land use.

(6) Pollution. No connection with any public sewer or appurtenance shall be made or maintained in such a manner that there may be conveyed or created any hot, suffocating, corrosive, flammable, poisonous or explosive liquid, gas, vapor, substance or material of any kind. No wastes conveyed to or allowed to flow in and through the sewer or appurtenance shall contain materials which contain or create deposits obstructing the flow in the sewer.

(7) Vibration. No use shall be operated so that ground vibration is perceptible without instruments at any point along the lot lines of such uses.

B. Yard maintenance. [Added 5-1-1985 by Ord. No. 85-5]

(1) (Reserved)

(2) Exterior property maintenance. [Added 5-8-1996 by Ord. No. 96-8;EN amended 6-4-1997 by Ord. No. 97-8]

(a) Declaration of purpose. The purpose of this subsection is to provide a minimum standard for the maintenance of the exterior grounds and visible facades of all properties within the city. This subsection is intended to help provide stable and inviting neighborhoods and business and commercial districts and to promote public health and safety by prohibiting certain deficiencies in exterior property maintenance which create or contribute to unhealthy or hazardous conditions. This subsection is also intended to ensure that property owners or their delegated agents perform such repair and maintenance of properties as will prevent deficiencies that could become an attractive nuisance with regard to children, trespassers or household pets or that may attract insect or animal pests. The adoption and enforcement of this subsection is intended to serve as a deterrence to substandard exterior property maintenance and as a tool for protecting property investment, the tax base and the health, safety and welfare of all city residents.

(b) Definitions. For the purposes of this subsection, the following definitions shall apply:

COMPOSTING MATERIALS -- Yard trimmings, vegetable wastes and other organic matter managed for the purpose of natural transformation into compost and stored in a container or compact pile that contains no sewage, sludge or septage; contains no inorganic materials, such as metal, plastic or glass; and is maintained in a manner to minimize odors and the attraction of insect and animal pests.

GARBAGE -- Food wastes, food wrappers, containers, nonrecyclables or other materials resulting from the use, consumption and preparation of food or drink, as well as other expended, used or discarded materials, such as paper, plastic, metal, rags or glass, etc., or any other wastes generated from the day-to-day activities of a household, business or public or quasi-public facility. The term "garbage" does not include properly prepared and stored recyclable materials or properly maintained compost areas.

GROUNDS and EXTERIOR PROPERTY -- Any area of a building or lot, excluding porch areas, not enclosed within the walls of a building. These terms include any public rights-of-way which pass through or are adjacent to a property, including the sidewalk and any area between the sidewalk, if there is one, and the street pavement.

PORCH AREA -- Includes any open and/or partially enclosed porches or decks, as well as any entranceways or exitways which are in the public view.

PUBLIC VIEW -- Areas of any property that are visible by pedestrian or vehicular traffic in the public right-of-way or visible from the exterior ground level of adjoining properties or properties within 100 feet of the subject property.

SOLID WASTE -- Includes materials or substances that are discarded or rejected as being spent, worthless, useless or in excess to the owners at the time of such discard or rejection, including but not limited to materials or substances such as garbage, refuse, industrial and commercial wastes, sludge from air or water treatment facilities, rubbish, tires, ashes, incinerator residue, construction and demolition debris, discarded motor vehicles, discarded household and commercial appliances and discarded furniture. An object shall be presumed to be discarded or rejected solid waste when the object is stored, placed or left on the grounds or exterior of the property in the view of neighbors or passersby under circumstances which meet any of the following criteria:

[1] The object produces an offensive smell.

[2] The object is of a type designed for interior use or made of materials which are suitable only for interior use and the object is left outside and exposed to precipitation.

[3] The object has reached a degree of dilapidation or disrepair that can reasonably be presumed to render the material unsuitable for or incapable of being used for its original intended purpose or some other reasonable purpose.

[4] The object is left, placed or stored in a manner which appears likely to cause injuries.

- a. Standards for grounds and exterior property. It shall be the duty and responsibility of all owners of property in the City of Ithaca to ensure:

[1] That all grounds and exterior property are kept clean and free of solid waste.

[2] That all garbage, when stored outside, is completely contained in nonabsorbent, water-tight, durable containers having a tight-fitting lid in place. Plastic bags are not considered durable containers. Strong, waterproof plastic bags may be used to place garbage at the curbside on the evening before scheduled collections or may be taken to an approved refuse disposal site. Composting materials, so long as they are maintained as defined by this section, shall not be considered garbage.

[3] That solid waste, other than garbage stored in proper containers described above, is not stored in the public view, except that construction and demolition debris related to an ongoing construction project with a valid building permit may be stored in the public view for not more than 30 days. Reusable household discards may be placed at curbside on special scavenger days designated by the Department of Public Works, but unclaimed discards must be removed by the property owner by the deadline set by the Department. Residents may place reusable materials on the tree lawn for purposes of informal scavenging, not to be observable for more than two successive days.

[4] That, within all residential zoning districts no more than one unlicensed motor vehicle may be stored in the public view in a side or a rear yard. If there is no side or rear yard, one unlicensed motor vehicle may be stored in the front yard in compliance with § 325-20. However, this section shall not apply to a motor vehicle which constitutes solid waste as defined in § 325-23B(2)(b) above.

[5] That grass, weeds or other vegetation on grounds and exterior property are maintained so that the height of vegetation is limited to nine

inches, except for trees, bushes and other vegetation planted, maintained or kept for some ornamental or other useful purpose. Natural woodlands shall be considered an ornamental or useful purpose.

[6] That the area along public rights-of-way adjacent to or on the property, including but not limited to the area between the front property line or sidewalk and the curb or street pavement, is maintained in a reasonably clean and sanitary condition free of garbage and/or solid waste, with any grass, weeds and brush in said area cut or trimmed in compliance with § 325-23B(2)(c)[5] above. The planting of annuals and perennials in these sidewalk areas shall be allowed, but the planting of trees or shrubs in these areas shall not be permitted without the approval of the Superintendent of Public Works. Premises situated at street intersections or on curved streets shall be kept in such a condition as to give a clear and unobstructed view of the intersection or curve.

[7] That trees, shrubs or other vegetation are pruned such that they will not obstruct the passage of pedestrians on sidewalks. The maintenance of city trees, including trees between the sidewalk and curb, must be left to the Department of Public Works.

[8] That fences and walls are maintained in a safe and structurally sound condition.

[9] That steps, walks, driveways, parking spaces and other similar paved areas are maintained so as to afford safe passage under normal use and weather conditions.

[10] That sidewalks are kept substantially clear of snow, ice and other obstructions, including but not limited to free-flowing water from drains, ditches, and/or downspouts located on the property except during flooding. All sidewalks, ramps and curb cuts shall be cleared of such obstructions within 24 hours of when the obstruction initially occurs. For properties that abut the intersection of two streets, the sidewalks that must be kept substantially clear of snow, ice and other obstructions shall include that portion of the sidewalk which runs to the curblin of any street and shall include any access ramps therein. (See § 285-5.) The obstruction of sidewalks and access ramps is presumed to have commenced concurrently with the beginning of any snow or ice fall or storm.

(d) Standards for porch areas. It shall be the duty and responsibility of all owners of property in the City of Ithaca to ensure:

[1] That porch areas are kept free of garbage, unless stored and completely contained in durable, nonabsorbent, water-tight containers

having a tight-fitting lid in place. Plastic bags are not considered durable containers.

[2] That construction and demolition debris be located on porch areas for no longer than 30 days.

- a. Responsibilities of agents delegated by property owners. The responsibilities outlined in § 325-23B(2)(c) may be delegated to an agent by the property owner, so long as at the time of any violation of this subsection, an agency agreement is on file in the City Building Department which contains the following information: the identity of the owner and the agent, the owner's and agent's addresses and current phone numbers, the property or properties the agent is accepting responsibility for, the beginning and ending date of the agreement, the exact sections of this Code assigned to the agent and the signatures of both the property owner and agent, along with each party's date of birth. The agent must be a resident of or maintain business in Tompkins County. Post office boxes will not be accepted as addresses for agents. The property owner may not designate a residential tenant as the agent pursuant to this section, except where such designation is contained in an employment agreement between the property owner and the tenant. The employment agreement shall not be contained in the lease agreement between the property owner and the tenant, and the tenant's acceptance of designation as the agent shall not be a condition of the lease agreement. [Amended 2-4-1998 by Ord. No. 98-1]

(3) In any case in which the city intends to correct a violation of § 325-23B(1) or (2) and then bill the property owner for the correction of the violation, the Building Commissioner or his/her designee shall notify the owner of the property, and, where relevant, the registered agent who has assumed responsibility as outlined in § 325-23B(2)(e) of this Code, in writing, of any violation of this section. Such notice shall be served in person or by mail to the address appearing on the city tax roll, requiring such person, within a time specified in such notice but in no event less than five days from the service or mailing thereof, to comply with this section and to cause the grass, brush or rubbish to be cut back or removed so as to comply with this section. Such notice shall also state that the property owner may contest the finding of the Building Commissioner by making a written request to have a hearing on the matter held at the next regularly scheduled meeting of the Board of Public Works. This written request must be mailed and postmarked or personally delivered to the Building Commissioner within the five-day compliance period, and any such written request for a hearing shall automatically stay further enforcement concerning the alleged violation pending such hearing. The decision of the Board of Public Works, by majority vote, shall be binding, subject to any further judicial review available to either the city or the property owner. Upon the failure of such owner to comply with such notice or alternatively to request a hearing as aforesaid within the time limit stated therein, or upon a Board of Public Works determination after a hearing that a violation exists, the Building Commissioner shall refer the matter by memorandum to the Superintendent of Public Works, who shall cause such premises to be put in such condition as will comply and shall charge the cost

thereof to the owner of said premises, including a charge of 50% for supervision and administration. The minimum charge to the property owners shall be \$25. Bills rendered for such services shall be handled in the manner prescribed by § 331-3 of the Code. [Amended 10-6-1993 by Ord. No. 93-21; 5-8-1996 by Ord. No. 96-8;EN 6-4-1997 by Ord. No. 97-8]

1. In cases where the Board of Zoning Appeals finds that a property is of such size or of such topographical characteristics as to make compliance with this section impractical or a financial hardship to the owner, the Board may grant an exemption (or a partial exemption to the extent dictated by the special circumstances) from the requirement. Similarly, if the Board finds that there exists a situation involving desirable plant species or animal habitats deemed worthy of preserving, it may grant an exception from the requirements.

C. Property owners shall be liable for any injury or damage resulting from or caused by reason of omission, failure or negligence to maintain the area between the sidewalk and the curb of the street in the manner described in § 325-23B(2)(c)[6]. [Added 2-4-1998 by Ord. No. 98-1]

Pennsylvania: West Chester

RESOLUTION RELATING TO EXPANSION AT UNIVERSITY

Borough of West Chester, Pennsylvania, Resolution No. 18-2000, 18 October 2000.

Whereas, West Chester University has stated the institution's intent to increase its enrollment by up to 1,000 students; and

Whereas, West Chester University has not yet indicated a plan to house this number of students; and

Whereas, 57% of residential units in the Borough of West Chester are rental units, the second highest percentage of rental units of any municipality in the Commonwealth of Pennsylvania with over 15,000 population; and

Whereas, West Chester Borough Council believes a significant increase in the number of rentals in residential neighborhoods will greatly impact the quality of life in the Borough, as well as adversely affect the housing stock and tax base of the Borough; and

Whereas, West Chester Borough Council has proposed an update to the community's Comprehensive Plan in which it is stated, "Since the southeast and southwest planning areas are adversely impacted by the preponderance of student housing, the density of student housing in these areas should be reduced. The Borough should actively oppose any West Chester University actions, inactions or plans that will not reduce or that will increase the problem of student housing and parking in the Borough and, if necessary, the Borough should do so by petitioning, lobbying or otherwise contacting the Pennsylvania legislature and/or Executive Branch of Pennsylvania government, including but not limited to the State System of Higher Education, the Department of Education and the Governor's Office," (page 10, Comprehensive Plan for the Borough of West Chester, October 2000 draft);

Therefore, it resolved that West Chester Borough Council will strongly oppose the possible increase of up to 1,000 students at West Chester University until the University proposes a plan to house these students, and the Borough will state its objections to West Chester University, the State System of Higher Education, the State Department of Education, the Governor's office and the State Legislature. The Borough will consider actions, including legal remedies, and new ordinances, to protect residential neighborhoods from an increase in the number of renters and rental units which might adversely impact quality of life as a result of increased enrollment.

Zoning Provisions

[adopted April 2001, Ord. No. 5-2001]

SELECTED PROVISIONS FROM FINDINGS

WHEREAS, the Council of the Borough of West Chester finds that the proliferation of student homes in the residential zoning districts of the Borough of West Chester has been highly detrimental to the public health, safety and welfare of the Borough and has resulted in numerous public nuisances such as excessive noise; the accumulation of trash and litter; undue concentration of population; traffic congestion; unauthorized and illegal parking; lack of off-

street and on-street parking for non-transient residents; public lewdness and a decline in the aesthetics of residential properties due to lack of continual maintenance and upkeep of the residential dwellings where students reside; and

WHEREAS, the Council of the Borough of West Chester finds that groups of students, compared to other unrelated cohabiting individuals, have different hours, work and social habits and frequently cause noise and disturbances in a residential neighborhood; and

WHEREAS, the Council of the Borough of West Chester desires to preserve the residential character of the neighborhoods in the Borough and to protect the health, safety, welfare and the quality of life of the Borough's residents by avoiding an institutional atmosphere caused by oversaturation of areas with student homes; and

WHEREAS, the Council of the Borough of West Chester has expressed its intention to prevent the undue concentration of population by mandating a minimum separation distance between student homes in any one residential area in the Borough and a minimum separation distance from other multi-tenant residential uses, churches and educational uses; and

WHEREAS, the Council of the Borough of West Chester is fully aware of and fully respects the fundamental constitutional guarantee of equal protection of the law and freedom of association and realizes that restrictions on such freedom must be carefully drafted and enforced so that one's right to associate is not curtailed beyond the point at which it is essential to further the Borough's interest in public health, safety and welfare;

[FINDINGS REGARDING DETAILED LEGAL ANALYSIS OMITTED]

DEFINITIONS (included in Sect. 12-117 of Zoning Ordinance)

DORMITORY – A building owned or managed by West Chester University which contains dwelling rooms that provide sleeping and living accommodations solely for students enrolled at West Chester University.

FAMILY -- One or more individuals living together in a dwelling unit as a single nonprofit housekeeping unit, and doing their cooking on the premises, when said individuals are related by blood, marriage or adoption; or no more than four unrelated individuals living together as a single nonprofit housekeeping unit in a single-family dwelling and no more than two unrelated individuals living together as a single nonprofit housekeeping unit in a two-family or multifamily dwelling; provided, however, that no more than three unrelated individuals living together may be permitted as a special exception. This definition excludes occupants of a club, dormitory, fraternity, sorority house, lodge or rooming house, group quarters and a student home.

STUDENT – An individual who is enrolled or has made application and been accepted at a university, college or trade school and is taking at least six (6) credit hours and whose primary occupation is as a student, or who is on a semester or summer break from studies at a college, university or trade school. The term student shall apply to undergraduate and graduate students alike.

STUDENT HOME-- A living arrangement for at least two students to a maximum of four students (as defined in this chapter) unrelated by blood, marriage or legal adoption. Student homes shall not include dormitories. [Added 4-18-2001 by Ord. No. 5-2001; amended 9-19-2001 by Ord. No. 10-2001]

STUDENT HOUSING -- Housing for students in the form of a dormitory, fraternity house, sorority house or rooming house.

[AMENMENTS TO ZONING DISTRICTS HAVE THE FOLLOWING EFFECT:

- Allow Student Home as a use by special exception in the NC-1 [Neighborhood Conservation 1] and NC-2 zoning districts (Sects. 112-12C and 112-19C);
- Allow Student Home as a use by right in the NC-3 zoning district (Sect. 112-25A);
- Allow Student Home by right in the TC [Town Center] zoning district, “provided that such use does not occupy the ground floor of any building”;
- Allow Student Home and Dormitory by right in the IS [Institutional] zoning district (Sect. 112-46A);
- In the NC-1 and NC-2 zoning districts, require one parking space “for every occupant which would be permitted to reside in the Dwelling..., up to a maximum of four (4) spaces, plus one (1) additional space (Sect. 112-74A);
- In the NC-3 zoning district, require one parking space “for every occupany which would be permitted to reside in the Dwelling...” (Sect. 112-74A);
- In the TC and IS zoning districts, require two parking spaces per Dwelling Unit (Sect. 112-74A).]

[ORDINANCE ALSO ADDED THIS PROVISION]

Sect. 112-100.1 Standards for Granting a Special Exception for a Student Home

The following criteria must be met before the Zoning Hearing Board may authorize a special exception for a student home in the NC-1 or NC-2 Zoning District or in a dwelling unit which is not a multifamily dwelling unit in the NC-3 Zoning District:

- A. The single-family dwelling has a floor area of at least 1,000 square feet exclusive of basements, garages and accessory buildings.
- B. A student home shall not be located within 500 feet of a group home, group quarters institution, church, educational use, housing for the elderly or home for handicapped individuals. The distance between the two uses shall be measured by the shortest distance between the lot on which the proposed student home will be located and the lot or lots which contain the existing uses.
- C. A student home shall not be located closer than the distance equal to 20 times the required street frontage for the Neighborhood Conservation District Block Class where the student home is proposed to be located from another student home. The distance between the two student homes shall be measured by the shortest distance between the two lots where the student homes are located.
- D. A student home shall meet the area and bulk requirements for a single-family dwelling in the applicable zoning district where such use is proposed.
- E. The owner of the student home, or the agent or manager of the student home, shall annually register the student home with the Borough Department of Building and Housing on a

form provided by the borough. If the owner of the student home fails to maintain a current registration of his or her student home, the Zoning Officer shall enforce such condition in accordance with Article XVII of this chapter.

F. If the single-family dwelling where the student home is proposed cannot meet the parking requirements set forth in § 112-74A herein, the Zoning Hearing Board may still authorize the special exception with the condition that the number of occupants which may reside at the student home shall be limited to the number of off-street parking spaces provided at the single-family dwelling.

[THE ORDINANCE ALSO INCLUDED THIS TRANSITIONAL PROVISION, WHICH DOES NOT APPEAR TO HAVE BEEN CODIFIED]

SECT. XII.

All Owners of Student Homes, which are in existence as of the effective date of this Ordinance, shall have forty-five (45) days from the effective date of this Ordinance to register his or her Student Home with the Borough Department of Building and Housing on a form provided by the Borough. Pursuant to Section 613 of the Pennsylvania Municipalities Planning Code, 53 Pa. C.S.A. §10613, the Borough Zoning Officer shall then confirm the list of non-conforming Student Homes and identify any additional Student Homes which are in existence as of the effective date of this Ordinance. Such list shall be available for public inspection and shall be maintained at the Borough Building. Thereafter, the existing Student Homes shall renew such registration annually and obtain a rental permit in accordance with Chapter 66, Article 10 of the Coe. If the Owner of the Student Home fails to register his or her Student Home within forty-five (45) days from the effective date of this Ordinance, or fails to renew such registration on an annual basis, the Borough shall be authorized to exercise the enforcement provisions in Chapter 66, Article 10, Sect. PM-1000.9.

Ordinance Regarding Rental Permits

[Chapter 66, Article 10, Borough of Chester Code]

PM-1000.1 Rental permits: No person shall operate a rooming house unless he or she holds a valid rooming house permit issued by the Code Official in the name of the owner or operator and for the specific dwelling or dwelling unit. No person shall operate a rental dwelling containing one (1) or more dwelling units unless he or she holds a valid dwelling unit permit issued by the Code Official in the name of the owner or operator for such dwelling unit.

PM-1000.2 Permit fees: Every person applying for a permit shall supply information as the Code Official requires and shall pay a yearly fee in accordance with the fee schedule approved and adopted by the Borough Council, which schedule shall be available for public inspection at the Department of Building and Housing. There shall be no proration of yearly fees for any reason whatsoever.

PM-1000.3 Designation of responsible local agent: The owner(s) of any building containing dwelling and/or rooming units, other than single-family owner-occupied buildings, shall register for each parcel of land under his or her ownership on which such building or buildings are contained (hereinafter referred to as the "premises") an adult person, as opposed to a corporation, partnership, firm, joint venture, trust, association, organization or other entity, to

serve as the responsible local agent who shall be legally responsible for operating their rental/rooming house in compliance with all of the provisions of the codes and ordinances of the Borough of West Chester and the laws of the Commonwealth of Pennsylvania and who shall also be responsible for providing access to the premises for the purpose of making inspections necessary to ensure such compliance. The local agent referred to in this section shall reside either on the premises or within a radius of five (5) miles of the Borough of West Chester. Also, the owner of the rental/rooming housing, a tenant, lessee, roomer, occupant or other individual person may serve as the local agent if he or she is a bona fide resident at the premises or resides within a radius of five (5) miles of the Borough of West Chester.

PM-1000.4 Registration of rental units; form and content: Registration of rental units shall be made in writing, signed and sworn to by the owner(s) of record, and in such additional form and manner in accordance with such instructions as may be furnished by the Code Official and shall include at least the following information:

1. The names and addresses of all of the owners of the premises.
2. The name, address and telephone number of the person authorized to collect rents or fees from the premises.
3. The name, local address and telephone numbers, business and home, of the local agent.
4. The address of the premises.
5. The type of premises.
6. The number of dwelling units or rooming units in each building on the premises.

PM-1000.5 Issuance of residential occupancy permit: Upon receipt of the fully completed registration form and the payment of the appropriate license fee, plus any penalties, the Code Official shall, within five (5) business days, issue a residential occupancy permit to the owner or responsible local agent. In the event that the Code Official finds the premises to be in violation of this chapter or any other ordinance or code of the Borough of West Chester, then said Code Official shall issue the necessary notice and order as provided by this code to abate the illegal or unsafe conditions and to ensure compliance with this code. The Code Official, after reinspection to ensure compliance with this code and the other codes and ordinances of the Borough of West Chester, shall then issue a permit to the owner(s) or responsible local agent. This permit shall, at all times, be maintained on the premises and be available for inspection by borough officials.

PM-1000.6 Time for registration; renewal; transfer of ownership:

1. The registration and permitting of all rental residential properties and the designation of a responsible local agent shall occur within ninety (90) days of the enactment of this section and, thereafter, by the first of July of each year. Notwithstanding the foregoing, residential occupancy permits previously issued under the borough's Housing and Property Maintenance Code for the year expiring June 30, 1988, shall remain valid, and persons holding such permits shall not be required to reregister and obtain another permit hereunder until their current permit expires.

2. In the event of a transfer of ownership, the registration and permit shall become invalid. It shall be the responsibility of the owner(s) to notify the Code Official of the transfer not more than five (5) days from the date of the transfer of ownership. The new owner shall register and obtain a permit for the premises and pay the fee therefor, all in accordance with the terms of this code and within ten (10) days of the date of the transfer of ownership.

PM-1000.7 Occupation of premises without registration and permit prohibited: It shall be unlawful for the owner(s) of any premises containing one (1) or more dwelling and/or rooming units, other than an owner-occupied single-family dwelling, or any agent acting for such an owner to allow occupancy for any dwelling or rooming unit on the premises by another or to represent to the general public that such premises or any part thereof is for rent, lease or occupancy unless such rental /rooming housing is currently registered and permitted and said registration and permit has not been revoked, suspended or invalidated.

PM-1000.8 Official notices served on local agent: All official notices of the Borough of West Chester relating to the rental/rooming housing shall be served on the responsible local agent and shall be posted in a conspicuous place either within each dwelling unit/rooming unit or in the common area shared by all occupants of the building. This posting shall identify the responsible local agent as the person to contact in case of an emergency.

PM-1000.9 Suspension of registration; right of appeal: Whenever the Code Official determines that there has been a violation of this code or has reasonable grounds to believe that a violation of this code has occurred, the Code Official may suspend a rental /rooming house permit in accordance with the procedures set forth in Section PM-107.0, Notices and Orders. The suspension shall be in addition to and not in lieu of the remedies set forth in Section PM-106.0, Violations.

Virginia: Blacksburg

SECTION 6-402. APPLICABILITY.

- (a) The provisions of this article shall apply to all rental dwelling units within a neighborhood conservation district designated by town council
- (b) All land within the R-4, "Low Density Residential" zoning district or within the single family areas of the PR, "Planned Residential" zoning district is declared to be a neighborhood conservation district, effective July 1, 1999.
- (c) Town council may designate additional neighborhood conservation districts after notice to all property owners within the proposed district, and after a public hearing thereon. In evaluating areas for neighborhood conservation district status, the town council shall consider the following factors:
 - (1) Ratio of rental dwelling units to owner occupied dwellings
 - (2) Apparent condition of housing stock
 - (3) Present or former predominant single family owner residency
 - (4) Inadequate parking, on or off street
 - (5) History of noise, litter, property maintenance violations and complaints
 - (6) History of occupancy or other zoning violations
 - (7) Presence of abandoned or inoperable vehicles
 - (8) Voluntary efforts to maintain code compliance
 - (9) Other evidence which indicates neighborhood deterioration

(Ord. No. 1219, § 2, 6-8-99)

Section 6-403. Registration required.

- (a) On or before September 1 of each year, and within 60 days of the transfer of ownership or a change in the managing agent of any rental dwelling unit, the owner or managing agent of any rental dwelling unit within a neighborhood conservation district shall register such unit or units with the director of planning and engineering. Such registration shall include the address and a brief description of the rental dwelling unit; the name, street address and telephone number of the owner of the property; the name, street address and telephone number of the managing agent, if any; the number of people who occupy each dwelling unit, and the family status of the occupants. Such registration shall not require the name or social security number of any tenant.
- (b) If the director of planning and engineering has reason to believe that an owner or managing agent has failed to register a rental dwelling unit within a conservation area, he or she shall mail a written notice to the owner or managing agent, via certified mail, setting a seven day deadline for the registration of the property. It is a violation of this article to fail to register a rental dwelling unit before the deadline expires. A

registration fee of \$25.00 per unit shall be paid for any registration which is more than 30 days late.

- (c) For any accessory apartment within a neighborhood conservation district, the registration under this section shall replace the registration required by the zoning ordinance.
- (d) After September 1, 1999, no owner or managing agent shall rent or offer to rent a rental dwelling unit within the neighborhood conservation district, without first registering the rental dwelling unit pursuant to this section.

(Ord. No. 1219, § 2, 6-8-99)

Section 6-404. Permit required.

Effective July 1, 2002, no owner or managing agent shall rent or offer to rent a rental dwelling unit within the neighborhood conservation district without a permit therefore, issued after a satisfactory inspection of the property by the building official or his or her designee.

(Ord. No. 1219, § 2, 6-8-99)

Section 6-405. Inspections.

- (a) The building official shall cause an inspection to be made of each rental dwelling unit located within a neighborhood conservation district, within three years of the designation of the district, and once every three years subsequent to each inspection. After such inspection, the owner and the managing agent, if any, will be provided with a list of any violations found and the date by which such violations must be corrected. The failure to correct such violations within the designated time period shall constitute a violation of this article.
- (b) Upon a determination that a rental dwelling unit is in compliance with the provisions of the existing structures regulations of the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances, a rental permit shall be issued to the owner or managing agent. No permit shall be issued until all inspection fees are paid. The permit shall be valid for a term of three years.
- (c) There shall be no fee for the initial inspection or the first re-inspection. If all violations are not corrected at the time of the first re-inspection, then the fee for the second and any subsequent re-inspection for the original violation shall be \$100.00.
- (d) The building official, or his or her duly authorized agent, shall have the right to inspect any rental dwelling unit within a conservation area at any reasonable time, in order to carry out an inspection required by this section. The owner, managing agent, occupant, or other person in charge of the premises shall permit the building code official, or his or her duly authorized agent, access to any dwelling unit within a

conservation area for the purpose of conducting an inspection authorized by this article. In the event the building official or his or her authorized agent is denied access to a dwelling unit, he or she may apply for an administrative search warrant in order to gain access to the premises.

- (e) Nothing in this article shall prohibit an inspection of any rental dwelling unit for a violation of the Virginia Uniform Statewide Building Code, pursuant to a complaint, as required by section 6-201 of this chapter.
- (f) The owner or managing agent may appeal the building official's determination of a violation of the building code to the Blacksburg Building Code Board of Appeals.

(Ord. No. 1219, § 2, 6-8-99)

Section 6-406. Partial exemption for multi-unit apartments.

- (a) Multi-unit apartment complexes with ten or more dwelling units, within a neighborhood conservation district shall be exempt from the inspection requirements above, but shall be subject to the provisions of this section. Two family dwellings and multi-unit apartment complexes with three to nine dwelling units are not exempt from the inspection requirements of this article.
- (b) One third of all dwelling units within a multi-unit apartment complex of between ten and twenty total units shall be inspected at least once every three years. The inspected units shall be selected by the building official. At the time of inspection, no violations of the Virginia Uniform Statewide Building Code shall exist. If violations do exist at the time of inspection, or if a building code violation is substantiated during the permit term, then the complex shall lose its exempt status.
- (c) At least ten percent of all dwelling units within a multi-unit apartment complex of twenty-one dwelling units or more shall be inspected at least once every three years. The building official may determine that a larger sample is required, based upon the complex size and the condition and similarity of the dwelling units. The inspected units shall be selected by the building official. At the time of inspection, no violations of the Virginia Uniform Statewide Building Code shall exist. If violations do exist at the time of inspection, then the complex shall lose its exempt status.
- (d) In no event shall the exempt status of a multi-unit apartment complex under this section serve to exempt the owner, managing agent, or tenant from compliance with all applicable statutes, laws, and ordinances, including the Virginia Uniform Statewide Building Code.

(Ord. No. 1219, § 2, 6-8-99)

Section 6-407. Revocation of permit; reinstatement.

- (a) The director of planning and engineering may revoke a rental permit upon finding that any one of the following grounds exists:
 - (1) The rental dwelling unit is occupied in violation of the applicable maximum occupancy standard of the zoning ordinance or of the building code;
 - (2) The rental dwelling unit is an unsafe or unlawful structure, or contains unsafe equipment, or is a structure unfit for human occupancy, as those terms are defined by the building code;
 - (3) The rental dwelling unit is in violation of applicable Town Code provisions, and the violation has not been corrected within the time permitted in the notice of violation;
 - (4) The rental dwelling unit is not registered as required by section 6-403 of this article.
- (b) Before revoking a rental permit, the director shall notify the owner, managing agent, and tenant of the violation, in writing, via first class mail, specifying the nature of the violation; establishing a deadline for correction of the violation, which shall be no less than seven and no greater than thirty days; and stating that the rental permit will be revoked on a date certain if the violation is not corrected within the established time period. The notice shall also set forth the appeal process as herein established.

(Ord. No. 1219, § 2, 6-8-99)

Section 6-408. Appeal.

- (a) The owner, managing agent, or tenant may appeal a notice of revocation based upon the maximum occupancy standard of the Blacksburg Zoning Ordinance to the Blacksburg Board of Zoning Appeals, which shall hear such appeal as an appeal from a determination of the Zoning Administrator. Any such appeal shall be filed with the Department of Planning and Engineering within 30 days of the date of the notice. The provisions of the Blacksburg Zoning Ordinance, Article I, Division 14, "Board of Zoning Appeals" shall apply to any such appeal.
- (b) The owner, managing agent or tenant may appeal a notice of revocation based upon the Virginia Statewide Building Code to the Blacksburg Board of Building Code Appeals. Any such appeal shall be filed with the Department of Planning and Engineering within 20 days after the date the notice of violation was served upon the owner or manager, whichever was served first. Section PM-111.0 of the Virginia Statewide Building Code shall apply to any such appeal.
- (c) The owner, managing agent or tenant may appeal a notice of violation based upon subsections (a) (3) and (a)(4) of section 6-407, above, to the town manager by delivering a written notice of appeal, stating the reasons for the appeal, within twenty

days of the date of the notice. The town manager shall meet with the owner or managing agent as soon as practicable after receiving the notice of appeal. The town manager may uphold, modify, or overturn the pending permit revocation. The owner or tenant may appeal the town manager's decision to the Montgomery County Circuit Court within thirty days of the date of the decision for an order restraining the enforcement of the decision.

- (d) The rental permit shall remain in effect pending the resolution of the appeal by the Board of Zoning Appeals, the Blacksburg Building Code Board of Appeals, or the town manager.

(Ord. No. 1219, § 2, 6-8-99)

Section 6-409. Reinstatement of permit.

The director of planning and engineering shall reinstate a revoked rental permit as soon as he or she has verified that the grounds for revocation are corrected. Such reinstatement shall not operate to extend the original term of the permit.

(Ord. No. 1219, § 2, 6-8-99)

Section 6-410. Violations.

- (a) It is a violation of this article for an owner, managing agent, or occupant to fail to comply with the requirements contained in this article.
- (b) Each violation of this article shall constitute a class 1 misdemeanor, punishable by a maximum fine of \$2,500.00 and/or a jail term not to exceed one year.

(Ord. No. 1219, § 2, 6-8-99)

Section 6-411. Denial of water, sewer, and refuse service.

The town shall not provide public water, sewer, or refuse service to any property which is in violation of the terms of this article.