



MEMO FROM COUNCIL OFFICE ON:

Ordinance 21-30 - To Amend Title 16 of the Bloomington Municipal Code Entitled “Residential Rental Unit and Lodging Establishment Inspection Program”

Synopsis

The Ordinance amends Title 16, “Residential Rental Unit and Lodging Establishment Inspection Program” by requiring annual submittal of an occupancy affidavit for certain types of residential rental units and providing notices of violation to be deemed properly served if transmitted by email to the Owner email address registered with HAND on the form described in Section 16.03.020.

Relevant Materials

- [Ordinance 21-30](#)
- Memo from staff
- Occupancy Affidavit Form
- Housing Committee Report (forthcoming)

Summary

[Ordinance 21-30](#) proposes to amend three sections of Title 16 (“Residential Rental Unit and Lodging Establishment Inspection Program”) of the Bloomington Municipal Code (“BMC”), accessible online here: [BMC Title 16](#)

Section 1 creates a new section at 16.03.025 setting forth conditions for submitting occupancy affidavits to HAND.

Section II amends the table to include a penalty for (a) failure to timely submit an occupancy or; (b) for the submission of an incorrect occupancy affidavit.

Section III deletes the owner option of a designation for service of notice by email and replaces it with a provision that deems notice of violation as properly served if a copy is, “Sent by mail to the email address designated by the Owner on the registration form provided under Section 16.03.020.”

On May 26, 2021, the Council’s Housing Committee met to discuss this item. The item received a do-pass recommendation of 4-0 from the Committee. A report from the Committee on its deliberations is forthcoming.

Contact

John Zody, HAND Director, (812) 349-3582, john.zody@bloomington.in.gov

Daniel Dixon, Assistant City Attorney, (812) 349-3426, daniel.dixon@bloomington.in.gov

ORDINANCE 21-30

**TO AMEND TITLE 16 OF THE BLOOMINGTON MUNICIPAL CODE
ENTITLED “RESIDENTIAL RENTAL UNIT AND LODGING
ESTABLISHMENT INSPECTION PROGRAM”**

WHEREAS, the City of Bloomington has a demonstrated problem enforcing over-occupancy in residential rental units; and

WHEREAS, over-occupancy in residential rental units presents dangers to the health and safety of the people living in and around said units; and

WHEREAS, creating and requiring completion of occupancy affidavits for residential rental units will provide necessary support to the City of Bloomington Housing and Neighborhood Development (“HAND”) and Planning and Transportation Departments in enforcing occupancy limits in residential rental units; and

WHEREAS, the HAND Department should be responsible for maintaining an occupancy affidavit as part of its residential rental unit safety inspection program under Title 16 of the Bloomington Municipal Code (“BMC”); and

WHEREAS, given the predominant use of electronic mail communication and the existing requirement for property owners and managers to provide and maintain a valid e-mail address with the HAND Department, Title 16 of the BMC should be updated to permit the HAND Department to serve notices of violation of BMC Title 16 to property owners and managers via the e-mail address provided to HAND on the residential rental property registration form.

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA THAT:

SECTION I. Chapter 16.03 of the BMC shall be amended by creating a new Section at 16.03.025 setting forth conditions for submitting occupancy affidavits to HAND as follows:

16.03.025. OCCUPANCY AFFIDAVIT.

- (a) No owner of a residential rental unit containing up to four dwelling units per building shall let for occupancy or let any such dwelling unit without first submitting a fully executed occupancy affidavit for said dwelling unit to the HAND department on the form so provided by the HAND department.
- (b) For each dwelling unit, each occupancy affidavit shall include the name of each occupant and identify the familial relationships, if any, among the occupants. The owner or agent shall execute the occupancy affidavit based upon personal knowledge and only after diligent inquiry with respect to the information contained therein. Each tenant shall also sign the occupancy affidavit and affirm that information contained therein is true and accurate.
- (c) For each dwelling unit, the owner or agent shall submit an updated occupancy affidavit and each tenant shall sign the same, as set forth above, not less than once per calendar year during the month of September, and also within 15 calendar days from the date of any change in the occupancy in the dwelling unit. If there is no change in occupancy since the previously filed occupancy affidavit, the owner may indicate "no change in occupants" in space provided on the form for the occupants' names and need not include occupant signatures.
- (d) For residential rental properties containing more than four dwelling units, the requirement to submit a fully executed occupancy affidavit to the HAND department is waived unless a complaint is made about occupancy concerning the residential rental unit.

- (e) Any residential rental unit that is subject to this section but has received from the Board of Housing Quality Appeals a variance from having to obtain an occupancy permit under this Title must still fully comply with this section of this Title.

SECTION II. Section 16.10.030(b) of the BMC is amended to add the following penalty as the last row of the table:

Failure to timely submit and/or submission of an incorrect occupancy affidavit.	Flat fine not to exceed \$500.00.
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SECTION III. Section 16.10.040(c)(4) shall be amended by deleting the language “If the owner so designates on his registration form as being appropriate, sent by email.” and replacing it with “Sent by email to the email address designated by the Owner on the registration form provided under Section 16.03.020.” so that Section 16.10.040(c) reads as follows:

- (c) The notice shall be deemed properly served if a copy thereof is:
- (1) Delivered personally;
 - (2) Sent by certified or first-class mail addressed to the last known address of the responsible party;
 - (3) If the notice is returned showing that the notice was not delivered, a copy thereof shall be posted in a conspicuous place in or about the residential rental unit or lodging establishment affected by such notice; or
 - (4) Sent by email to the email address designated by the Owner on the registration form provided under Section 16.03.020.

SECTION IV. If any section, sentence, or provision of this ordinance or the application thereof to any person or circumstance shall be declared invalid, such invalidity shall not affect any of the other parts of this ordinance which can be given effect without the invalid part, and to this end the provisions of this ordinance are declared to be severable.

SECTION V. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City and approval of the Mayor.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2021.

JIM SIMS, President
Bloomington Common Council

ATTEST:

NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2021.

NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2021.

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

This ordinance amends Title 16 “Residential Rental Unit and Lodging Establishment Inspection Program” by requiring annual submittal of an occupancy affidavit for certain types of residential rental units and providing for notices of violation to be deemed properly served if transmitted by email to the Owner email address registered with HAND on the form described in BMC Section 16.03.020.



MEMORANDUM

CITY OF BLOOMINGTON LEGAL DEPARTMENT

TO: Common Council
FROM: Daniel Dixon, Assistant City Attorney
RE: Ordinance 21-30 – Amendment to Title 16 related to occupancy affidavits and service of Notices of Violation
DATE: May 10, 2021

The Housing and Neighborhood Development Department (“HAND”), along with staff from the Planning and Transportation Department (“Planning”) have experienced significant difficulty for many years in enforcing occupancy limits in residential rental units throughout the City. The problem in enforcement of occupancy limits primarily arises in smaller residential rental units. These smaller units are typically in residential neighborhoods with stricter zoning limits on the number of occupants who do not share a familial relationship.

HAND staff is typically the first to identify a suspected occupancy violation during routine inspections under Title 16. Unfortunately, without any ability to confirm the identity and familial relationship of the tenants, HAND and Planning are unable to determine whether or not there is actually any violation of a unit’s occupancy limit. As a result, Planning cannot issue or enforce notices of violation for over occupancy and the problem continues to grow.

While the Planning and Transportation Department has responsibility for issuing notices of violation and enforcing occupancy limits, over occupancy in residential rental units also presents life-safety issues for tenants. Additionally, over occupancy in residential rental units is usually first discovered by or reported to HAND staff. Requiring an occupancy affidavit as part of the residential rental unit inspection and registration requirements of Title 16 would further the goals of Title 16. HAND staff would also be able to provide the affidavit to Planning to assist planning in enforcing the occupancy limit for the residential rental unit.

A Title 16 update is necessary to reflect the requirement of an Occupancy Affidavit, to be developed and maintained by HAND, wherein the property owner or manager and tenants attest to the maximum occupancy of the property. The Affidavit must be signed by the property owner or manager and all tenants. This document is necessary to demonstrate a mutual understanding of the maximum occupancy and to provide the City of Bloomington the ability to enforce over-occupancy violations. The update also provides for a fine to be issued by HAND for failure to provide an occupancy affidavit or providing a false affidavit. A draft copy of an occupancy affidavit is attached to this memo.

The second objective of the Title 16 Amendment is to permit notices of violation for Title 16 to be sent to property owners and managers through the email address they register with hand as part of the residential rental unit registration process. This amendment would increase the

efficiency of the administration of Title 16 by reducing lag time from mail. The amendment will also save HAND significant amounts of money in printing, paper, and postage costs. The current version of Title 16 permits property owners to opt-in to email service for notices of violation. The update removes the opt-in option. Providing and maintaining a valid email contact address is already required under BMC 16.03.020(b)(4) and (c).



**CITY OF BLOOMINGTON
RENTAL PROPERTY OCCUPANCY AFFIDAVIT**

**Housing & Neighborhood Development
P.O. Box 100
Bloomington, IN 47401
Phone: (812) 349-3420 Fax: (812) 349-3582
Email: hand@bloomington.in.gov**

As required by Section 16.03.025 of the Bloomington Municipal Code.

Address of Residential Rental Unit (include apt. number): _____

I have made personal and diligent inquiry into the names and familial relationships of all tenants occupying this residential rental unit and I make this affidavit based upon my personal knowledge. The names of each and every occupant residing in this residential rental unit and their familial relationships, if any, to one another (if no relationship, state none) are as follows:

Name:	Familial Relationship to other Tenants:
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

For each familial relationship stated above, please provide (in the space provided below) the names, addresses, telephone numbers, email addresses and the relationships of the persons through whom the familial relationship exists (Example: For sibling relationships, please state the names, addresses, telephone numbers and email addresses of their parents).

The lease for this residential rental unit is from _____ to _____.

Initial one of the following:

_____ I am the owner of this residential rental unit.

_____ I am the agent of this residential rental unit.

As set forth in 16.03.025, the owner or agent of a residential rental unit consisting of not more than 4 dwelling units per building shall submit an updated occupancy affidavit for each dwelling unit, and each tenant occupying the dwelling unit shall sign the same, not less than annually and upon any change in occupants. If there is no change in occupancy since the previously filed occupancy affidavit, the owner may indicate "no change in occupants" in space provided on the form for the occupants' names and need not include occupant signatures.

I affirm under the penalties for perjury that the foregoing representations are true.

Date: _____ Signature: _____ Printed: _____
Owner/Agent Owner/Agent

ALL TENANTS OF THIS RESIDENTIAL RENTAL UNIT ARE REQUIRED TO, AND SHALL, COMPLETE PAGE THREE (3) OF THIS OCCUPANCY AFFIDAVIT (UNLESS UNDER THE AGE OF 18 YEARS OR NO CHANGE IN OCCUPANTS SINCE MOST RECENT RENTAL PROPERTY OCCUPANCY AFFIDAVIT).

Tenant Confirmation: I affirm under the penalties for perjury that the foregoing representations are true. Under Indiana law, perjury is a Level 6 felony. A person who commits a Level 6 felony shall be imprisoned for a fixed term of between six (6) months and two and one-half (2 ½) years, with the advisory sentence being one (1) year. In addition, the person may be fined not more than ten thousand dollars (\$10,000).

Date: _____ Signature: _____ Printed: _____

Phone Number: _____

Email Address: _____

Date: _____ Signature: _____ Printed: _____

Phone Number: _____

Email Address: _____

Date: _____ Signature: _____ Printed: _____

Phone Number: _____

Email Address: _____

Date: _____ Signature: _____ Printed: _____

Phone Number: _____

Email Address: _____

Date: _____ Signature: _____ Printed: _____

Phone Number: _____

Email Address: _____

Owner/Agent Verification of Refusal to Sign: I certify under penalties for perjury that I have demanded that the tenants sign this occupancy affidavit and the following tenants have refused to do so:

Name (please print legibly):
