

ORDINANCE NO. 2005-01-010

**AN ORDINANCE AMENDING THE ZONING ORDINANCE
OF THE CITY OF URBANA, ILLINOIS**

**(With Respect to Over-Occupancy of Dwelling Units and Overall Enforcement of
the Zoning Ordinance - Plan Case No. 1914-T-04)**

WHEREAS, the City Council of the City of Urbana, Illinois, adopted Ordinance No. 9293-124 on June 21, 1993 consisting of a comprehensive amendment to the 1979 Zoning Ordinance of the City of Urbana, also known as the Urbana Zoning Ordinance; and

WHEREAS, The Zoning Administrator is requesting an amendment to the Zoning Ordinance to improve the City's ability to enforce residential occupancy limits, to clarify and facilitate the authority of the Zoning Administrator and City Attorney in this respect, and to increase the maximum fines for all zoning violations; and

WHEREAS, said petition was presented to the Urbana Plan Commission as Plan Case No. 1914-T-04; and

WHEREAS, after due publication in accordance with Section XI-7 of the Urbana Zoning Ordinance and with Chapter 24, Section 11-13-14 of the Illinois Revised Statutes, the Urbana Plan Commission held a public hearing to consider the proposed amendment on January 6, 2005; and

WHEREAS, the Urbana Plan Commission voted 6 ayes and 0 nays to forward the proposed amendment set forth in Plan Case No. 1914-T-04 to the Urbana City Council with a recommendation for approval; and

WHEREAS, after due and proper consideration, the Urbana City Council has deemed it to be in the best interests of the City of Urbana to amend the text of the Urbana Zoning Ordinance as described herein.

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

Section 1. Section II-3, Definitions, is hereby amended to read as follows:

Dwelling, Duplex: A building containing two dwelling units, each of which is occupied at any given time by a group of persons, consisting of one or more persons related by blood, adoption, or marriage, living and cooking together as a single housekeeping unit, together with not more than three additional persons not related by blood, adoption or marriage.

Dwelling, Duplex (extended group occupancy): A building containing two dwelling units, each of which is occupied at any given time by:

1. A basic group of persons consisting of one or more persons related by blood, adoption, or marriage, living and cooking together as a single housekeeping unit, together with not more than three additional persons not related by blood, adoption or marriage; and

2. Such additional persons who are permanent members of the housekeeping unit, ordinarily in a *loco parentis* relationship with one or more members of the basic group such as foster children or persons in a group home licensed by the State of Illinois. (Ord. No. 8889-44, § 2, 1-3-89)

Dwelling, Single-family: A building containing one dwelling unit and occupied at any given time by a group of persons consisting of one or more persons related by blood, adoption, or marriage, living and cooking together as a single housekeeping unit, together with not more than three additional persons not related by blood, adoption, or marriage.

Dwelling, Single-family (extended group occupancy): A building containing only one dwelling unit and occupied at any given time by a group consisting of only:

1. A basic group of one or more persons related by blood, adoption or marriage. Living and cooking together as a single housekeeping unit, together with not more than three additional persons not related by blood, adoption or marriage; and

2. Such additional persons who are permanent members of a housekeeping unit, and in a *loco parentis* relationship with one or more members of the basic group such as foster children or persons in a home licensed by the State of Illinois. (Ord. No. 8889-44, § 2, 1-3-89)

[Definition of **Household Servant** is hereby struck].

Section 2. Section III-2, Evasion of Development Regulations, is hereby amended to read as follows:

Except as provided in Article X of this Ordinance, it shall be unlawful to offer to lease, lease, sell, convey, use, or build upon a lot or any part of a structure, if the effect of such action is:

A. To reduce the area of the lot below the minimum required by this Ordinance;

B. To exceed the maximum floor area ratio or building height permitted by this Ordinance;

C. To provide less than the usable open space ratio required by this Ordinance;

D. To reduce any dimension of a lot below the minimum or average required by this Ordinance;

E. To provide less than the minimum yards required by this Ordinance;

F. To provide less than the minimum number of parking spaces required by this Ordinance; or

G. To occupy or permit occupancy or use beyond the limits of this Ordinance, or, in the case of an offer to lease, if the offer, if accepted, would have permitted or caused occupancy or use beyond the limits of this Ordinance.

Section 3. Section XI-1, Zoning Administrator, is hereby amended to read as follows:

A. Enforcement of this Ordinance. This Ordinance shall be administered and enforced by the Zoning Administrator, appointed by the Mayor, by and with the advice and consent of the City Council. The Zoning Administrator may be provided with the assistance of such persons as the City Council may direct.

B. Duties of the Zoning Administrator: The Zoning Administrator shall have the authority and duty to administer and enforce this Ordinance, and shall:

1. Issue all building permits and Creekway permits where authorized by this Ordinance, and keep permanent and accurate records thereof;

2. Issue all Certificates of Occupancy where authorized by this Ordinance, and keep permanent and accurate records thereof;

3. Issue all special use permits, where authorized by the City Council according to the provisions of Article VII of this Ordinance, and keep permanent and accurate records of such permits and of any conditions or standards specified therein;

4. Issue all conditional use permits, where authorized by the Board of Zoning Appeals, according to the provisions of Article VII of this Ordinance, and keep permanent and accurate records of such permits and of any conditions and standards specified therein;

5. Issue all sign permits where authorized by this Ordinance, and keep permanent and accurate records thereof;

6. Conduct such inspections of principal and accessory structures and uses as may be necessary to determine compliance with this Ordinance;

7. Maintain permanent and accurate records pertaining to variances granted, modified, or denied by the Board of Zoning Appeals, and of their other decisions and actions;

8. Carry out such other responsibilities as may be specifically delegated to the Zoning Administrator by this Ordinance, or by the City Council;

9. In the event that any regulations and standards of this Ordinance are being violated, notify in writing, the perpetrator of such violation, indicating the nature of the violation, and the action necessary to correct it. The Zoning Administrator shall order the discontinuance of any illegal use of any land or structure, or any additional change or alteration thereto, except as permitted by this Ordinance, or the discontinuance of any illegal work being done; or shall take other action authorized by this Ordinance to ensure compliance with or to prevent violation of its regulations and standards. The notice requirements of this subparagraph are not a prerequisite for any such administrative or court actions by the Zoning Administrator and the City Attorney with respect to any violation. The notice requirements of this subparagraph B.9 do not apply to parking tickets issued pursuant to Section VIII-3.

10. The Zoning Administrator, after investigation and recommendation, may refer the matter to the City Attorney, who shall, in turn, institute any appropriate action or proceeding in

law or equity to restrain, correct, or abate such violation, or to recover an appropriate fine for violation of this Ordinance.

11. In the event that the provisions of Section VIII-3 are being violated, the Zoning Administrator shall cause a parking citation to be issued.

Section 4. Section XI-9, Fines, is hereby amended to read as follows:

A. General Penalty; Continuing Violations; Persons Responsible.

1. In all cases where the same offense is made punishable or is created by different clauses or sections of the Urbana Zoning Ordinance, the prosecuting officer may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense; provided that the revocation of a permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

2. Except as expressly stated elsewhere in this Ordinance, any person violating any of the provisions of this Ordinance, shall upon conviction thereof be fined not less than fifty dollars (\$50.00) per day per violation, nor more than one thousand dollars (\$1,000.00) per day per violation. No total fine in any individual case except a parking violation under Section VIII-3 shall be less than five hundred dollars (\$500.00) for a first conviction of any provision of the Zoning Ordinance, seven hundred fifty dollars (\$750.00) for a second conviction, and one thousand dollars (\$1,000.00) for a third or subsequent conviction, irrespective of the number of days of the violation, unless the court finds that the violator is an indigent person.

3. Whenever in the Urbana Zoning Ordinance the doing of any act or omission to do any act constitutes a violation, and

the section violated is listed in XI-9(C), any person who shall be convicted of any such violation shall be fined not less than the minimum fine set forth in XI-9(C) nor more than \$500.00 for each offense.

4. In case of an amendment of any section of the Urbana Zoning Ordinance containing provisions for which a penalty is provided in another section, the penalty so provided in such other section shall relate to the section so amended or the amending section, whether re-enacted in the amendatory ordinance or not unless such penalty is specifically repealed therein.

5. A separate offense shall be deemed committed on each day during or on which a violation of the Urbana Zoning Ordinance occurs or continues.

6. No provision of the Urbana Zoning Ordinance designating the duties of any officer or employees shall be construed as to make such officer or employee liable for any fine or penalty provided in the Urbana Zoning Ordinance for a failure to perform such duty, unless the intention of the Council to impose such a fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty.

7. Except for Section VIII-3, the owners of the land or structure upon which a violation of this Ordinance has occurred or is occurring shall be prima-facie responsible for such violations of this Ordinance which occur on property owned by such person; provided, however, the foregoing shall not be construed to relieve the occupants, or any of them, of the land upon which the zoning violation has occurred or is occurring of the responsibility for such violation under this Ordinance.

8. Pursuant to Section VIII-3, the owners of the vehicle, as determined by the records of the Secretary of State, which is parked in violation of that section shall be prima-facie responsible for such violations; provided, however, the foregoing shall not be construed to relieve the owner or occupant of the land upon which the violation occurred of responsibility for such violation under this Ordinance.

B. Settlement of Violation Prior to Suit Being Filed; Minimum Fines

1. A person accused of violating a section of the Urbana Zoning Ordinance set forth in paragraph C of this section may be permitted to pay the minimum fine which is set forth in paragraph C of this section as settlement of such violation if payment is made in the following manner:

Payment shall be made within 14 days after the date that the Notice to Appear was issued to the person accused of such violation. A payment shall be considered made within said 14 days if the payment is actually received by the City's Finance Department by 5:00 P.M. on the 14th day following the date the Notice to Appear was issued.

2. If a person pays the minimum fine pursuant to this section, then the City Attorney shall file no Complaint charging the person with the particular violation.

3. The minimum fine for those violations listed in paragraph C of this Section shall be as set forth in paragraph C

of this section in lieu of the minimum fine set forth in other provisions of the Urbana Zoning Ordinance.

C. Minimum Fine Schedule for Certain Violations

1. The minimum fine for parking in violation of Article VIII is \$25.00.

2. The minimum fine for displaying a temporary sign in violation of Section IX-7 is \$25.00.

Section 5. Section XII-9, Penalties (Historic Preservation Ordinance), is hereby amended to read as follows:

A. Any person, firm or corporation who alters, demolishes, repairs or relocates any landmark or any building, structure, site or object within a historic district without complying with the provisions of this Article shall be required to restore the building, structure, site or object to its appearance prior to the violation. Any action to enforce this section shall be brought by the City Attorney, his designee or by designated representatives of the Department of Community Development Services. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

B. Any person, firm or corporation knowingly violating this article of this ordinance, upon conviction, shall be fined not less than \$50.00 nor more than \$500.00. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

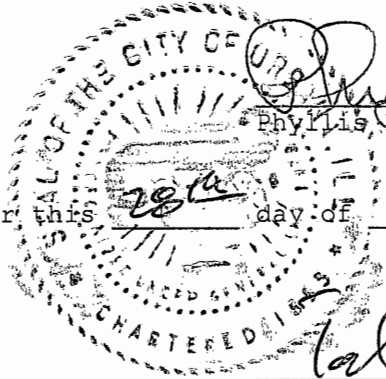
Section 6. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

PASSED by the City Council this 18th day of January,
2005 .

AYES: Alix, Chynoweth, Hayes, Patt, Roberts, Wyman

NAYS:

ABSTAINS:



Phyllis D. Clark
Phyllis D. Clark, City Clerk

APPROVED by the Mayor, this 18th day of January,
2005 .

Tod Satterthwaite
Tod Satterthwaite, Mayor