ORDINANCE 78-56

To Amend Chapter 17.20 of the Bloomington Municipal Code, Entitled, "Housing Quality"

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

SECTION I. Chapter 17.20 of the Bloomington Municipal Code shall be repealed and re-enacted as follows:

Chapter 17.20

HOUSING QUALITY*

Sections:

17.20.010 Definitions.
17.20.020 Purpose - Rules of Construction.
17.20.030 Compliance Required - Application of Chapter.
17.20.040 Inventory and Damage Lists - Security Deposits.
17.20.050 Disclosure.
17.20.060 Registration of Rental Units Required.
17.20.070 Inspections - Right of Entry - Fees.
17.20.080 Occupancy Permits.
17.20.090 Retaliatory Eviction Prohibited.
17.20.100 Penalty.
17.20.110 Severability.

17.20.010 Definitions. As used in this chapter, the following terms mean, unless otherwise designated:

(a) "Dwelling unit" means one or more rooms arranged for the use of one or more individuals living together as a single house-keeping unit, with cooking, living, sanitary and sleeping facilities.

(b) "Housing Code" means the Building Officials Conference of America Basic Housing Code, Second Edition, 1970, and all amendments thereto as adopted in Chapter 17.16 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 one or more persons, jointly or severally, in whom is vested,

(1) All or part of the legal title to the property; and
(2) All or part of the beneficial ownership and a right to present use and enjoyment of the premises; and includes a mortgagee in possession.

* As to the authority of the Common Council to: license, regulate, and prohibit purposes for which real property may be used, see IC 18-1-1.5-10(e); inspect any structure or other improvement, see IC 18-1-1.5-10(a); IC 18-1-1.5-7(a), IC 18-5-5-1, IC 18-5-19-1, IC 16-1-4-9 and 22-11-5-9; request court appointed administrator, see IC 18-5-5-1; regulate health and sanitation, see IC 18-1-1.5-7; enforce compliance with city ordinances by land owners, see IC 18-1-1.5-5(b); prohibit any condition or use of property, or from engaging in an activity without a license, see IC 18-1-1.5-5(c); take action and exercise controls to preserve peace and good order and to regulate, license and prohibit any act which endangers public health, safety, or welfare, see IC 18-1-1.5-6; take action and exercise control to secure and promote the general welfare and public health, see IC 18-1-1.5-7; exercise any power or perform any function necessary in the public interest in the conduct of municipal or internal affairs, see IC 18-1-1.5-16; exercise control relating to improvement, maintenance, and use of real property, see IC 18-1-1.5-10; as to the authority of the inspector of buildings to declare a building unfit for human habitation and order abatement of nuisances, see IC 16-1-25-2,5,6, and 8; as to the authority of the health officer to order abatement of dangerous health practices, see IC 16-1-4-11.

(e) "Person" includes an individual or organization.

(f) "Premises" means a rental unit and the structure of which it is a part and facilities and appurtenances therein and grounds, areas and facilities held out for the use of tenants generally or whose use is promised to the tenant.

(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 and contained in a residential premises covered by a tenancy agreement.

(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.

17.20.020 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 of Bloomington.

17.20.030 Compliance Required - Application of Chapter.

(a) No person shall occupy or maintain a rental unit within the City of Bloomington unless in accordance with the provisions of this chapter.

(b) This chapter applies to rental units located within the City of Bloomington, 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 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.

17.20.040 Inventory and Damage Lists - Security Deposits.

(a) Within fifteen days of the tenant's occupancy of the rental unit, the premises shall be inspected jointly by the tenant and the owner or his agent. 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) At the end of the tenant's occupancy, but prior to the occupancy of the next tenant, the premises will be jointly inspected by the tenant and owner or his agent. 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 thirty (30) days.

17.20.050 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.

17.20.060 Registration of Rental Units Required.

(a) No owner of real estate within the City of Bloomington shall use real estate for the purpose of erecting or maintaining a rental unit thereon without registering such property with the Engineering Department of the City. Such registration shall be effected by furnishing to such department, upon a form furnished by the department, the following information:

(1) name of owner;

(2) address of owner

(3) street address of property;

(4) brief description of type and number of rental unit(s); and

(5) name and address of owner's 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 of Indiana. Any owner who does not reside in Indiana shall be required to designate such an agent.

(b) The registration form shall be signed by the owner.

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

(d) 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.

(e) 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.

17.20.070 Inspections - Right of Entry - Fees.

(a) Each rental unit and premises within the City shall be inspected by the Engineering Department at least once every three years to establish compliance with the housing code. No rental unit shall be inspected in good faith more often than once every three years after compliance has been obtained unless a request for an inspection is made as provided for in section 17.20.070(c) of this chapter.

(b) All inspections, first re-inspections and re-inspections necessary to obtain information for appeals to the Board of Housing Quality Appeals shall be free of charge. The fee for each subsequent re-inspection that requires entry to the rental unit after the first re-inspection shall be ten dollars ($10.00) per rental unit. The fee shall be paid by the owner or his agent.

(c) Off-cycle inspections may be done at the discretion of the City Engineer upon the written, signed request of any resident of the City of Bloomington, any governmental agency, or the rental unit's tenant, owner, or owner's agent.

17.20.080 Occupancy Permits.

(a) All rental units and premises inspected pursuant to Section 17.20.070 and found not to be in violation of the housing code shall be issued an occupancy permit by the Engineering Department. Upon registration of a rental unit not previously used as such, the Engineering Department 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 housing code shall be notified in writing of the reason for disapproval and the reasonable time period during which compliance with the housing 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 housing code shall be re-inspected by the City at the request of the owner or his agent after such owner or agent shall have effected those corrections and additions required by the City as a result of any previous inspection, and upon such re-inspection such rental unit and premises shall be approved or disapproved for an occupancy permit. If re-inspection 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 wihtout an occupancy permit.

17.20.090 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 th purpose of retaliating against a tenant for requesting an inspection as provided for in subsection 17.20.070(d) of this chpater.

17.20.100 Penalty. Any person violating any of the provisions of this chapter shall be subject to a maximum fine of $100 and other penalties provided in Bloomington Municipal Code Section 1.01.130. In addition, the City Engineer may:

(a) declare a rental unit or building to be dangerous or unfit for human habitation and proceed as provided by the housing code in Sections H-130.0 through H-130.5, entitled, "Condemnation"; and

(b) seek any of the additional remedies provided by the housing code in Section H-140.2 which provides for an appropriate action or proceeding at law or in equity against the person responsible for the violation, ordering him to:

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

(2) to restrain or correct the erection, installation or alteration of the building;

(3) require the removal of work in violation; and

(4) prevent the occupation or use of the building, structure, or part thereof erected, constructed, installed or altered in violation of, or not in compliance with the provisions of the housing code, or in violation of a plan or specification under which an approval, permit or certificate was issued.

17.20.110 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.

SECTION II. The enactment of this ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun before the effective date of this ordinance. The rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under prior ordinances as if this ordinance had not been enacted. All offenses committed before the effective date of this ordinance shall be prosecuted and remain punishable under prior ordinances as if this ordinance had not been enacted.

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

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 21 day of September , 1978.

John F. Richardson, President
Bloomington Common Council

ATTEST:

Nora M. Connors, Deputy City Clerk

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 22 day of September, 1978.

Nora M. Connors, Deputy City Clerk

SIGNED and APPROVED by me upon this 23 day of September , 1978.

Francis X. McCloskey, Mayor
City of Bloomington

SYNOPSIS

The Housing Code Committee, composed of Councilmembers and members of the City administration, has recommended a number of changes to Chapter 17.20 of the Municipal Code, dealing with Housing Quality, and these are set out in this ordinance. Some of the changes deal with reorganization of the chapter and others represent policy changes, including a clarification of rental units covered by the ordinance, a new fee structure for inspections, establishment of the right of entry for inspections, and a retaliatory eviction clause.

I HEREBY MOVE THAT ORDINANCE # 78- 56 ,

ENTITLED Amend Sec. re: Housing Quality ,

BE INTRODUCED AND READ FOR FIRST READING BY TITLE

ONLY AT THE COUNCIL MEETING HELD on 7/20/78

Floyd W. Olcott

(Signature)