



City of Bloomington Common Council

Legislative Packet – Addendum

(Issued on Wednesday, 26 May 2021)

Wednesday, 26 May 2021

Housing Committee - 5:45 pm

Special Session - 7:00 pm

For a schedule of upcoming meetings of the Council and the City's boards and commissions, please consult the City's [Calendar](#).



Questions and Answers on the Rental Unit Occupancy Affidavit
May 25, 2021

Q. What is the occupancy affidavit the City Council is considering?

A. Largely modeled after what is done in West Lafayette, IN, the occupancy affidavit is a document that the City of Bloomington will require from landlords who own/manage residential rental units that have four or fewer dwelling units per building. This would include single family dwellings. The affidavit requires the landlord to attest as to the occupancy of the unit and requires a listing of current tenants.

Q. When would this go into effect?

A. The affidavit is under consideration by the Bloomington Common Council in May and June 2021. If approved, the goal would be to operationalize it by August, 2021.

Q. What is the benefit of requiring an occupancy affidavit?

A. Over-occupancy can present challenges for neighborhoods and threaten the personal welfare and safety of tenants. Since over-occupancy can be difficult to track, requiring an occupancy affidavit is intended to increase compliance with occupancy limits and provide a baseline to better make data-driven decisions when reports of over-occupancy come in via inspections or through a resident concern.

Q. Why is this affidavit being considered for Bloomington now?

A. Recently passed SEA 148 will be impacting our rental inspection program by limiting the landlord-tenant relationship in certain ways. In order to continue to protect our residents' safety and welfare and maintain the quality of our rental housing stock and neighborhoods, the City is proposing that we incorporate this best practice from another Indiana city, which is not affected by the passage of SEA 148.

Q. Why only four or fewer dwelling units per building?

A. This number of units is an existing threshold for City services such as trash pick-up, recycling and yard waste under Title Six of the Bloomington Municipal Code. As there is a concentration of units of this size in neighborhoods where over-occupancy concerns tend to be more prevalent, the added oversight an occupancy affidavit provides could help alleviate related issues such as parking congestion, noise violations, and more critically, safety.

Q. How is it processed?

A. A landlord would complete the affidavit annually as part of their compliance with the rental occupancy permit process and provide updates to the Housing and Neighborhood Development Department (HAND) when new leases are signed (only if tenants or occupancy limits change). Inspectors would have the affidavit on file for reference during the regular cycle inspection (every 3, 4 or 5 years). Notices of Violation of occupancy would be issued by the Planning and Transportation Department (P&T).

Q. How will this be enforced?

A. The process would include the following:

- As stated before, a current occupancy affidavit should be on file with the Housing and Neighborhood Development (HAND) Department. Not providing the document, or providing false information, would be a violation under Title 16 of the Bloomington Municipal Code (BMC). Appeals for not providing the affidavit or filing false information would be heard by the Board of Housing Quality Appeals (BHQA).
- If an issue arises related to over-occupancy, it will typically come up during a cycle inspection, or HAND would get a complaint through uReport or elsewhere.
- If it relates to over-occupancy, the inspection report or complaint would get sent to Planning and Transportation (P&T), who would issue a Notice of Violation (NOV) under Title 20 of the BMC.
- Upon receiving the NOV, the landlord would have two weeks to provide a copy of the lease and a signed notarized affidavit that the property meets occupancy limits to P&T to address the over-occupancy issue. They must also pass the 60-day HAND visual inspection if it is an eligible property. If the over-occupancy is not corrected, P&T would start enforcement procedures which would include accruing fines until the issue is resolved. Also, the rental occupancy permit could be revoked by HAND.
- If the landlord wished to appeal the issuance of the NOV, these would go to the Board of Zoning Appeals (BZA)

Q. How will landlords be reminded to keep the document updated, and what if they're behind on it?

A. The ordinance updates being proposed allow for an expansion of allowable communication to be used (so that the City can contact landlords by email as well as regular mail) and would impose a fine if the landlord does not keep the affidavit current with the HAND Department.

Q. Is this allowed under Indiana's new law, SEA 148?

A. Yes. SEA 148 restricts local governments' authority to require landlords to interact with their tenants in particular ways. This affidavit does not regulate the landlord-tenant relationship, but instead requires a sworn attestation to the City regarding the number of occupants of a particular rental unit. This policy does not implicate SEA 148.

Q. More generally speaking, what are the City's plans to reach out to tenants and landlords following the impacts of SEA 148 as it relates to the landlord-tenant relationship, tenant rights and responsibilities, etc.?

A. Though this affidavit does not implicate SEA 148, more generally the Housing and Neighborhood Development (HAND) Department has been working on ideas for how to address the impacts of SEA 148 from both an operations standpoint and for future planning. For example, the City is no longer permitted to require the "rights and responsibilities" document to be issued to tenants, so HAND is exploring how to increase awareness and considering working with partners at IU to develop tenant outreach plans. This could include additional budget requests for the 2022 fiscal year and creating a marketing plan for HAND programming.

Q. When would we ask landlords to submit the affidavit to HAND each year?

A. The ordinance requires it to be submitted prior to the end of September each year.

Q. Is there a provision for review of all of these documents?

A. There is not currently a provision about when HAND would review these documents. We envision they would be submitted and maintained in department files and be reviewed upon a cycle inspection or complaint indicating an occupancy violation. We believe this measure will improve the efficiency of our operations and our working relationships with tenants, landlords and property managers.

Q. Will we need to keep this information for longer than a year, or do we just keep it until we receive a new document?

A. As with many processes, HAND will follow public record retention policies.