

ORDINANCE NO. 223

AN ORDINANCE AMENDING ORDINANCE NO. 110
(RENTAL HOUSING CODE)

Part I: FINDINGS

WHEREAS, the City of University Heights, like many cities in Iowa and around the country, previously regulated occupancy based upon its definition of "family" and whether the occupants are or are not related by blood, marriage, or adoption; and

WHEREAS, in April 2017 the Iowa Legislature adopted a law (HF 134) amending Iowa Code Section 414.1 to prohibit municipalities, starting January 1, 2018, from adopting or enforcing any regulation or restriction related to occupancy of residential rental property that is based upon the existence of familial or nonfamilial relationships between the occupants of such rental property; and

WHEREAS, regulation of occupancy based on familial status has been an important tool to promote peaceful habitation in residential areas of University Heights for over 35 years, particularly based upon the City's proximity to The University of Iowa campus, University of Iowa Hospitals and Clinics, and the pressures of the student rental market; and

WHEREAS, since 1982, maximum occupancy in University Heights has been based on the number of unrelated persons residing in a dwelling; and

WHEREAS, many current and former City elected officials and staff members have indicated recently and over the years that the single-largest source of neighbor complaints relate to some but certainly not all rental properties and particular issues involving unkempt premises, including failure to keep grass mowed and sidewalks clear of snow and ice; excessive noise; loud parties; illegal parking; nuisance conditions; calls for service to the Police Department; over-occupancy of dwellings; and other undesirable circumstances; and

WHEREAS, the City Council has consulted with and explored the efforts of other college communities over the years to identify and implement strategies to address the tensions that exist when long-term residents co-exist with significant, short-term rental populations; and

WHEREAS, the City Council adopted a Rental Housing Code in 2000 to require that those property owners desiring to rent dwellings first obtain a certificate of structure compliance and rental permit in an effort to improve and maintain order and stability in the City and provide clearer understandings and expectations of tenants, landlords, other residents, and City officials; and

WHEREAS, the City Council prepared and has updated the "City of University Heights - Rental Housing Guide" brochure and required rental permit applicants to certify that a copy of the brochure has been delivered to the applicant's proposed tenants; and

WHEREAS, the City's rental permit application required applicants to certify that they and their tenants understood and would abide by the occupancy restrictions based upon familial status, until the Iowa Legislature prohibited enforcement of such provisions; and

WHEREAS, the City Council has relied heavily upon the experience, investigation, findings, and ordinances of its larger municipal neighbors, most notably the City of Iowa City and the City of Coralville, in considering improvements and changes to the City's ordinances and rental housing regulations over the years and more particularly in the recent past, based upon the action of the Iowa Legislature in 2017; and

WHEREAS, the City Council desires to enact, implement, and enforce ordinances, regulations, policies, and practices with the goals and objectives of addressing housing and quality of life issues in the City; achieving a healthy balance of rental and owner-occupied housing promoting long-term investment; protecting homes that are suitable for families, single persons, and older persons; providing affordable housing opportunities; and preserving historical homes; and

WHEREAS, the City Council in late 2017 and early 2018 required that a developer acquire and convey to Iowa Valley Habitat for Humanity two homes that had been rental dwellings, with the stipulations that substantial investment and improvements will be made to the homes and that both will hereafter be owner-occupied dwellings, all in an effort to promote community stabilization; and

WHEREAS, in recognition of the fact that over-occupancy of dwelling units is an issue that negatively impacts the quality,

desirability, livability, and property values in the City, the City has vigorously enforced its occupancy restrictions; and

WHEREAS, the loss of this tool - regulating occupancy based upon familial status - significantly threatens the stability of the City; and

WHEREAS, the City Council in response to HF 134 adopted Resolution No. 17-50 on December 12, 2017, enacting a moratorium on the issuance of new rental permits in the R-1 Single-Family Residential Zone until March 1, 2018, and the City Council adopted Resolution No. 18-11 February 12, 2018, extending the moratorium to March 31, 2018, to permit the City Council additional opportunity to study how to mitigate the impacts of rental housing and increases in occupancy levels on neighborhood stability, housing affordability, public and tenant safety, blight, risk to public peace and order, conflicts between rental and owner-occupied housing and users of that housing, and excessive demands upon public safety, infrastructure, and municipal services; and

WHEREAS, the City Council has held numerous public meetings and public hearings, preceded by general notice and specific notice mailed to property owners, rental permit holders, and property managers associated with rental properties in the City, and has considered the written and oral comments of those appearing and presenting at those various public forums and those providing comments in other ways and at other times;

WHEREAS, an ad hoc committee appointed by the City Council, comprising two Council Members, the City Housing Official, and the City Attorney, provided recommendations concerning changes to various City ordinances, regulations, policies, and practices in late 2017 and 2018, and those recommendations have been discussed at various public meetings and forums, some dedicated solely to considering changes to rental housing regulations; and

WHEREAS, the Iowa Supreme Court has been clear that "[t]he power to enforce housing codes relating to health and safety is traditionally among the core responsibilities of municipal government." Lewis v. Jaeger, 818 N.W.2d 165 (Iowa 2012); and

WHEREAS, over the years, many single-family homes in the City have been converted from owner-occupied to rental dwellings; and

WHEREAS, a review of the literature including the 2012 study conducted by Hoisington Koepler Group Inc. for the City of Winona,

Minnesota and the September 2016 City of North Mankato, Minnesota "Rental Density Study" reveals the following:

1. Many university towns face the problem of large numbers of single-family homes being converted to rental housing within single-family neighborhoods; and
2. Owner-occupied homes are generally better maintained than short term rental homes; and
3. Over concentrations of rental housing have negative impacts on surrounding residential properties and neighborhoods in general, including noise, increased traffic, litter, illegal parking, inadequate property maintenance, and a general decrease in the quality of life for permanent residents of the neighborhood. The negative impacts typically fall into three categories (increased nuisance and property maintenance complaints; increased City Code violations and police citations; and decreased property values) and thus are physical, economic and social, ultimately contributing to decreases in the quality and livability of neighborhoods; and
4. Empirical studies in college towns with pressures created by the student-housing market similar to those in University Heights such as Gainesville, Florida (home of the University of Florida); State College, Pennsylvania (home of Penn State University); College Park, Maryland (home of the University of Maryland); Cumberland, Maryland; Chapel Hill, North Carolina (home of the University of North Carolina); Winona, Minnesota (home of Winona State University); and North Mankato, Minnesota (near Minnesota State University, Mankato campus) identify a link between the concentrations of rental housing and increases in nuisance complaints, code violations and police incidents; and
5. Because such violations negatively affect neighborhood quality and livability, a concentration of rental housing results in negative impacts to the quality and livability of residential neighborhoods; and

WHEREAS, the vast majority of the City is zoned R-1 Single-Family Residential; and

WHEREAS, to address the conversions of single-family homes from owner-occupied dwellings to rentals in communities such as University Heights that are proximate to college campuses and the negative impacts resulting from such concentrations of rental housing, the City of Iowa City and several Minnesota cities have adopted rental-density ordinances that limit the percentage of dwellings that may receive rental permits; and

WHEREAS, the City of Winona, Minnesota, for instance, limits the number of rental properties to 30% of lots per residential block in all residential zones but one; and

WHEREAS, the Minnesota Court of Appeals upheld a challenge brought by landlords to the Winona "30% rule" finding, in part, that Winona's ordinance that limited to 30% the number of lots on a block eligible to obtain a new rental permit was a proper exercise of a City's police power and did not run afoul of the constitutional tenets of equal protection and due process. Dean v. City of Winona, 843 N.W.2d 249 (Minn. Ct. App. 2014); and

WHEREAS, the fall 2016 student enrollment at The University of Iowa was 32,011 (undergraduate, graduate, and professional) with The University of Iowa providing housing for approximately 7,942 students by means of dormitories, fraternities/sororities, university-owned units, and university-leased units; and

WHEREAS, in the fall of 2016, The University of Iowa provided housing for approximately 25% of the students, meaning approximately 24,000 students needed to secure housing from others during the 2016-17 academic year; and

WHEREAS, the fall 2017 student enrollment at The University of Iowa was 33,564 (undergraduate, graduate, and professional); and

WHEREAS, although The University of Iowa opened a new dormitory (Catlett Hall) in the fall of 2017, the university also leased fewer units on the private market such that it still provides only approximately 28% of the housing for University of Iowa students, meaning that approximately 24,000 students needed to secure housing from others during the 2017-18 academic year; and

WHEREAS, the City notes that the City of Iowa City has mapped the location of police calls for service for loud parties, noise complaints, nuisance complaints, and fireworks during the time period from January 1, 2013 through September 9, 2016; and

WHEREAS, the City notes that the City of Iowa City's data show that there is a higher concentration of nuisance and noise complaints where rental housing is more prevalent; and

WHEREAS, information and comments from the University Heights Police Department, other City Staff, and former and current elected officials support the same conclusion for the City of University Heights; and

WHEREAS, the City of Iowa City data and University Heights information are consistent with the findings from other university communities that have studied these neighborhood stabilization issues; and

WHEREAS, although not all rental dwellings are characterized by problems, the Iowa Legislature's 2017 action requires that the City adopt a different approach to addressing issues disproportionately associated with rental dwellings; and

WHEREAS, when discussing and debating the proposed change to Iowa Code Section 414.1 in 2017, legislators specifically acknowledged that Cities might take action in response to the change, including enacting stricter regulations on rental properties, including requiring interconnected smoke alarms, separation of duplexes, minimum bedroom size, and greater sanctions against property owners, agents, and tenants who violate relevant code provisions; and

WHEREAS, the City already has enacted Ordinances or amendments to Ordinances implementing some of these suggested changes; and

WHEREAS, although some landlords are better than others when it comes to regulating curtailing unwelcome tenant behavior, the City desires to adopt and implement ordinances, regulations, policies, and practices that will be applied uniformly; and

WHEREAS, during meetings at which possible changes to rental housing ordinances were discussed, certain landlords publicly admitted that they had knowingly violated City rental housing ordinances in the past and others publicly indicated that if the City Council adopted changes ordinance changes, the landlords would simply try to figure out a way to circumvent them; and

WHEREAS, in addition to the R-1 Zone, residential property is also located in these University Heights Zones: R-3 Multiple-

Family Residential; B Business; PUD Planned Unit Development; and Multiple-Family Commercial, and some the dwellings in each of these other Zones presently have or in the past have had rental permits; and

WHEREAS, it is reasonable to measure other important aspects of the City's health and stability using these already established Zones; and

WHEREAS, the City has mapped existing rental permits as of fall 2017 and determined that of 366 property addresses and lots that could be developed in the R-1 Zone, 123 - or 33.61% - have rental permits; and

WHEREAS, based on all of the foregoing, the concentration of rental housing in the R-1 Zone leads to decreased neighborhood quality, desirability, livability, and stability, which will be exacerbated by the loss of an important tool to control occupancy (i.e., the 2017 change by the Iowa Legislature); and

WHEREAS, in light of the above findings, the Council determines that a concentration of rental permits by more than 20% of dwellings in the R-1 Single-Family Residential Zone compromises the health and stability of that Zone and of the City, and accordingly, it is reasonable to place the cap on rental permits in the R-1 Zone to reduce the concentration of rental dwellings to no more than 20% of total dwellings in the R-1 Zone and thereafter prevent the concentration of rental dwellings from exceeding 20%; and

WHEREAS, recognizing that currently the number of dwellings in the R-1 Zone with rental permits exceeds 20%, the City Council desires to protect the interests of those property owners and achieve the 20% cap through attrition; and

WHEREAS, the interests of the City are served by establishing a cap on rental permits in the R-1 Zone but not presently establishing a cap in other Zones, which are more conducive to a larger percentage of rental dwellings;

WHEREAS, to address property owners and tenants who repeatedly fail to abide by the City's nuisance code, noise-related code provisions, and other provisions of local, state, and federal law that impact the safety, peacefulness, public order, and stability of the City, a rental permit sanctions mechanism should be adopted; and

WHEREAS, it is in the City's best interest and a reasonable exercise of its police power to protect the health, safety, morals, general welfare, and overall well-being of its residents to adopt this ordinance; and

WHEREAS, the City Council of the City of University Heights desires to take measures to improve the community and promote peaceful habitation in residential areas of the City,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF UNIVERSITY HEIGHTS, IOWA, AS FOLLOWS:

Part II: AMENDMENTS:

University Heights Ordinance No. 110 is amended as follows (with additions indicated by underline; deletions indicated by ~~strike-through~~; omissions by "*****"):

110.01	General Provisions	110.12	Reinspection Authorized
110.02	Definitions	110.13	Order to Comply
110.03	Conflicts	110.14	Fine for Non Compliance
110.04	Rental Property Restricted	110.15	Reconsideration
<u>110.04A</u>	<u>Limitation Rental Permits</u>	110.16	Appeal to Council
	<u>in the R-1 Zone</u>	110.17	Variancees
<u>110.04B</u>	<u>Rental Permits of Limited</u>	110.18	Judicial Review
	<u>Maximum Duration</u>	110.19	Structure Compliance
110.05	Structure Compliance and		Standards
	Rental Permit Procedures	110.20	Owner Responsibilities
<u>110.05A</u>	<u>Rent Abatement</u>		
110.06	Rubbish and Garbage Disposal	110.21	Tenant Responsibilities
110.07	Inspections Authorized	110.22	Effective Date
110.08	Time for Inspections	110.23	Lease to be Produced
110.09	Court Order Available		Upon Request
110.10	Nature of Evidence	110.24	Enforcement and
110.11	Notice of Violation		Penalties

110.02 DEFINITIONS. For the purpose of this code only, certain words and/or terms used herein shall be defined as follows:

6. [RESERVED.] ~~"Family" means one person or two 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, but no more than two persons, not related by blood, marriage, or adoption.~~

18A. "Owner Occupied" means either: (a) a dwelling occupied by the owner; or (b) a dwelling occupied by the owner and any of the following, but no one else: the owner's spouse; the children of the owner; and/or the children of the owner's spouse. For purposes of this definition of "owner occupied", the word "owner" includes only owners who are natural persons, and not those that are legal entities; provided, however, that for properties owned in trust, the word "owner" means any trust beneficiary who is entitled to occupy the property, but only if such beneficiary is a natural person.

23. "Rent" or "Let" means providing a dwelling, dwelling unit, or habitable room to someone other than the owner, regardless of whether rent or other consideration is paid or services rendered or exchanged.

23A. "Rental Permit Term" means August 1 to the following July 31.

26. "Rooming House" means a dwelling occupied by four (4) or more students enrolled in post-secondary education but does not include a dwelling occupied by a parent or guardian of at least one of the students. "Rooming-house" means any dwelling or that part of any dwelling containing one or more rooming units and/or one or more dormitory rooms.

110.04 RENTAL PROPERTY RESTRICTED. No owner or any other person or entity shall rent or let to another person any dwelling unless it and the premises are clean, sanitary and fit for human occupancy as required by this code and applicable State statutes and City ordinances, and unless a certificate of structure compliance and

a current rental permit have been issued by the City for the dwelling.

110.04A LIMITATION ON THE NUMBER OF RENTAL PERMITS IN THE R-1 ZONE.
The maximum number of rental permits that the City will issue in the R-1 Single-Family Residential Zone, as defined by the City's zoning ordinance, is equal to twenty percent (20%) of all dwellings in the R-1 Zone. For purposes of illustration, if the number of dwellings in the R-1 Zone were 366, then the maximum number of rental permits that the City will issue would be 73. No later than May 1 of each year, the inspector shall determine the number of dwellings and the number of permits that may be issued for the upcoming rental permit term.

1. At the time of enactment of this Section, the number of rental permits that have been issued in the R-1 Zone exceeds twenty percent (20%) of all dwellings in that zone.
2. To balance the interests of owners who presently have rental permits and the intent to limit the maximum number of rental permits in the R-1 Single-Family Residential Zone, the City establishes the following conditions for renewal of permits issued and existing in the R-1 Zone as of March 1, 2018:
 - A. An owner or operator holding a rental permit as of March 1, 2018, has no vested right to have that permit renewed.
 - B. An owner or operator holding a rental permit as of March 1, 2018, or a successor in interest to the ownership of the property that is the subject of such rental permit to whom or to which the certificate of structure compliance and the rental permit has been transferred, will not be denied renewal of the permit for that property based solely upon the limitation on the maximum number of rental permits so long as the permit and the property are in good standing and in compliance with the all other provisions of this code,—; provided, however, that if the property comprises more than one dwelling unit, this exception shall apply only to the dwelling unit or dwelling units for which a rental permit existed as of March 1, 2018. Notwithstanding this exception, the permit

may not be renewed if any of the following circumstances appear:

1. The owner or operator fails to submit a rental permit application on time with all required information and with all required fees and charges;
2. The permit is or has been subject to reduced-term status or has been suspended or revoked during the current rental permit term pursuant to Section 110.05;
3. Payment of rent has been abated during the term of the permit as provided in Section 110.05A of this code.
4. The dwelling that is the subject of the rental permit constitutes a rooming house.
5. The owner or operator fails to comply with this code or other City ordinances.
6. The dwelling that is the subject of the rental permit becomes owner-occupied.
7. Occupancy of the dwelling or property violates the City's zoning ordinance requirement that all persons occupying must do so as an individual housekeeping unit (unless the property continues as a pre-existing nonconforming duplex that has operated continuously since January 20, 1982).
8. The owner or operator rents or lets another dwelling in the City without a valid rental permit.
9. The owner or operator holds a rental permit for another dwelling in the City and the conditions enumerated in subsections 2, 3, 4, or 7 of this subsection apply to the other dwelling.

110.04B RENTAL PERMITS OF LIMITED MAXIMUM DURATION. Notwithstanding the limitations on rental permits in the R-1 Single-Family Residential Zone established by Section 110.04A,

rental permits of limited maximum duration may be issued for dwellings in the R-1 Zone in certain circumstances as set forth in this Section.

1. A rental permit may issue if the following is established to the satisfaction of the inspector:

A. The owner submits a certificate for structure compliance application and a rental permit application as required by this code.

B. The dwelling meets the regulations and requirements of this code.

C. The property has been owner-occupied for at least two (2) years immediately preceding the rental permit application.

D. The owner seeks the rental permit based upon one or more of the following conditions:

1. The owner or the owner's spouse will be leaving the City for a sabbatical or similar professional or administrative leave for at least one (1) year, after which the person on leave expects to return to the property.

2. The owner or the owner's spouse will be leaving the City for military service for at least six (6) months, after which the person serving expects to return to the property.

3. The owner or the owner's spouse will be leaving the City because of a job transfer or relocation for at least one (1) year, after which the person transferred expects to return to the property.

4. One or more of the owners has passed away, and the administration of the deceased owner's estate or winding up of that owner's affairs is or will be delayed such that efficient use and protection of the property warrants a rental permit and the application is made by the executor or administrator of that owner's

estate or other legally authorized representative of that owner.

5. Such other, similar conditions exist that, in the discretion of and approval by the inspector or the City Council, warrant like treatment.
2. An owner seeking a rental permit pursuant to this Section shall submit a letter of explanation describing the circumstances that support the request and demonstrating compliance with this Section, together with a certificate of structure compliance application and a rental permit application. The letter and applications shall contain as much supporting documentation as the owner reasonably has available. The owner shall provide such additional information and/or documentation as the inspector reasonably requests.
3. If the owner is dissatisfied with the inspector's decision not to issue a certificate of structure compliance or a rental permit pursuant to this Section, the owner may appeal the decision to the City Council.
4. Any rental permit issued pursuant to this Section, shall be subject to all requirements, rules, restrictions, and regulations of this code.
5. Any rental permit issued pursuant to this Section may be renewed if the conditions giving rise to the permit continue, but such renewal(s) will not extend past two years from July 31 next succeeding issuance of the permit. For example, if the permit was issued October 1, 2018, it could not be renewed past July 31, 2021.
6. Any rental permit issued or renewed pursuant to this Section will terminate on July 31 next succeeding the sale or transfer of the property. For example, if the property was sold or transferred October 1, 2018, the permit would expire July 31, 2019.
7. Any rental permit issued or renewed pursuant to this Section will not make the holder of the permit or the property eligible for a regular rental permit as an exception to the limitations on rental permits in the R-1 Single-Family Residential Zone established by Section 110.04A.

110.04C RENTAL PERMITS DURING TRANSITION PERIOD. Notwithstanding the limitations on rental permits in the R-1 Single-Family Residential Zone established by Section 110.04A, and to provide for a transition period after those limitations take effect, rental permits of limited maximum duration may be issued for a limited time for dwellings in the R-1 Zone in certain circumstances as set forth in this Section.

1. A rental permit may issue if the following is established to the satisfaction of the inspector:
 - A. The owner submits a certificate for structure compliance application and a rental permit application as required by this code no later than May 1, 2020 (approximately two years after the effective date of the limitations on rental permits).
 - B. The dwelling meets the regulations and requirements of this code.
 - C. The property has been owner-occupied for at least two (2) years immediately preceding the rental permit application.
2. Any rental permit issued pursuant to this Section, shall be subject to all requirements, rules, restrictions, and regulations of this code.
3. Any rental permit issued pursuant to this Section may be renewed, but such renewal(s) will not extend past two years from July 31 next succeeding issuance of the permit. For example, if the permit was issued October 1, 2018, it could not be renewed past July 31, 2021.
4. Any rental permit issued or renewed pursuant to this Section will terminate on July 31 next succeeding the sale or transfer of the property. For example, if the property was sold or transferred October 1, 2018, the permit would expire July 31, 2019.
5. Any rental permit issued or renewed pursuant to this Section will not make the holder of the permit or the property eligible for a regular rental permit as an exception to the limitations on rental permits in the R-

1 Single-Family Residential Zone established by Section 110.04A.

110.05 STRUCTURE COMPLIANCE AND RENTAL PERMIT PROCEDURES.

5. Rental Permit. A rental permit shall be a document indicating compliance with Sections 110.20 and 110.21 of this code ~~at the time of issuance and shall be valid for a specified period of time, the amount of which shall be set by resolution of the Council.~~ The document shall be transferable from one owner or operator to another at any time prior to its expiration, termination or revocation. Fees for such a permit shall not be discounted, adjusted, or prorated regardless of whether a permit is issued before the start or during the course of the rental permit term. Fees for such a permit shall not be rebated or returned, in whole or in part, regardless of whether the permit is surrendered, discontinued, suspended, or revoked during the course of the rental permit term.

6. Application for Rental Permit. The owner or operator shall file, in duplicate, a verified an application for rental permit with the City Clerk ~~Council or its designee~~ on application forms provided by the City Clerk ~~inspector~~. The application shall require the owner to provide the following information:
- A. Name and age of each tenant and whether each such tenant is enrolled in post-secondary education.
 - B. The basis for the owner or operator's verification of each tenant's information.
 - C. A diagram, drawing, or other depiction of how the property that is the subject of the rental permit meets the requirements of Section 110.19(11) concerning parking, including the minimum size of parking spaces, the minimum number of parking spaces, the location and configuration of parking spaces, and the composition/construction of parking spaces (permanent dust-free material).

- D. The square footage of each room occupied or intended to be occupied for sleeping purposes.
- E. The total square footage of all bedrooms in the dwelling that is the subject of the permit and the total square footage of all dwelling floor space.
- F. Unless the owner(s) are natural persons, the identity of all shareholders, unit holders, partners, or other owners equitable interests of the entity constituting the owner.
- G. Whether maintenance and upkeep duties, including mowing grass, raking leaves, picking up after University of Iowa Hawkeye home football game days, and removing snow and ice from sidewalks, interior walkways, and driveways, are the responsibility of the owner or the tenant.

~~list the names of each tenant and whether each tenant is enrolled in post-secondary education.~~—In the event tenants move from or into a dwelling during the course of the rental permit term, the owner shall provide updated tenant identities, ages, and post-secondary enrollment status to the City within 21 days of the new tenant's occupancy. Failure to provide the information required by this subsection, including updated tenant information, tenant identification or updated identification constitutes a violation of this code and a basis for denying or revoking a rental permit.

- 7. Issuance of Rental Permit. When all provisions of Sections 110.20 and 110.21 of this code have been complied with by the owner or operator, the City Council or its designee may ~~shall~~ issue a rental permit upon payment of a permit fees, the amounts of which shall be established by resolution of the City Council. A rental permit may not be issued for property in the R-1 Zone if the number of existing rental permits already issued by the City in that Zone exceeds twenty percent (20%) of all dwellings in that Zone, in accordance with and subject to the limitations in Section 110.04A of this code, unless an exception exists as provided in Section 110.04A or Section 110.04B of this code.
- 8. Duration Extension of a Rental Permits. 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 deadline set by the inspector to remedy any violations cited subsequent to a maintenance inspection, provided a valid rental permit application is on file with fees paid.~~

9. ~~[Reserved.] Revocation of a Rental Permit. The Council shall consider the revocation of a rental permit if petitioned by the inspector or any other individual who believes that there exists grounds for 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 Council's consideration of the petition and may appear and defend. The Council may revoke a rental permit upon a finding of a violation of or failure to comply with any provision of this code.~~

10. Rental Permit Prohibited. No rental permit shall be issued for any property or dwelling in any of the following circumstances:

- A. The property includes a "Rooming House" in the R-1 Single-Family Residential Zone or and in the PUD Planned Unit Development Zone.
- B. The number of existing rental permits already issued by the City in the R-1 Single-Family Residential Zone exceeds twenty percent (20%) of all dwellings in that Zone, in accordance with and subject to the limitations in Section 110.04A of this code, unless an exception exists as provided in Section 110.04A or Section 110.04B of this code.

~~maximum percentage of permitted rental property in a neighborhood, as established by the City of University Heights Zoning Ordinance, has already been met by existing permits.~~

- C. The Board of Adjustment has granted one or more exceptions for the property regarding the minimum area (square footage) requirements for bedrooms as

set forth in the City of University Heights Building Code.

D. The square footage of bedrooms in the dwelling(s) at the property constitute more than thirty-five percent (35%) of floor space for the dwelling and either or both of the following circumstances exist:

1. The rental permit sought is an initial or a new rental permit (not a renewal of an existing rental permit); and/or
2. Bedrooms have been added to the dwelling(s) at the property since the last time a rental permit was issued for the property.

E. The proposed occupancy of the dwelling that is the subject of the rental permit does not constitute the renting or letting of the dwelling. (Rental permits will be issued only for uses that constitute rental uses under this code; an owner may not receive a rental permit unless the proposed occupancy of the property requires one.)

11. Required Procedures Prior To Commencement Of Rental Permit Sanctions:

A. Following a violation that serves as a basis for rental permit sanctions as set forth in this Section, written notice shall be given by the City to the owner of the premises at which the violation occurred or to the owner's designated agent. The notice is to be sent by regular mail to the respective address on the rental permit application.

B. Following a second violation that serves as a basis for rental permit sanctions as set forth in this Section within a twelve (12) month period, the City shall schedule a code compliance settlement meeting involving owners, designated agents, tenants, and others whose corrective action is considered necessary by the City to abate and avoid further code violations. The City shall be represented at the meeting by the inspector and may be represented by other City staff members. Notice of the meeting

is to be sent by regular mail to the respective address on the rental permit application within ten (10) working days of the City providing notice to the owner or owner's agent as required above.

1. The goal of the code compliance settlement meeting will be to obtain a code compliance settlement agreement in which relevant parties, including the owner or owner's designated agent and the tenant(s), agree to take corrective action to abate and avoid further code violations.

2. The owner, owner's designated agent, and/or tenant is in violation of this Section if the owner, agent and/or tenant:

A. Fails to attend a code compliance settlement meeting.

B. Fails or refuses to sign a code compliance settlement agreement within forty-eight (48) hours of receiving the proposed agreement from the City.

C. Subsequently fails or refuses to comply with any conditions or requirements set forth in a code compliance settlement agreement.

3. Violation of this Section authorizes the City to impose rental permit sanctions. The City in its discretion may consider, without limitation, the following factors:

A. Level of cooperation of the parties in attempting to resolve issues.

B. Level of disturbance associated with the violations.

C. Impact of violations upon neighbors or other victims.

D. Degree to which parties have taken reasonable steps to try and resolve problems.

E. History of City and state code violations.

4. Violation of this Section authorizes the City to issue municipal infraction citations to any tenant whose corrective action is considered necessary by the City to abate and avoid further code violations, or who fails to attend, refuses to sign or subsequently fails or refuses to comply with conditions or requirements set forth in a code compliance settlement agreement.

12. Defenses To An Enforcement Action Of The Provisions Of This Section. It shall be a defense to an enforcement action pursuant to the provisions of this Section if an owner or owner's designated agent has done any of the following:

A. Reported the violation to law enforcement;

B. Evicted or attempted to evict by commencing and pursuing with due diligence all legal remedies to evict those tenants charged with one of the specified violations. It is not the intention of this Section to apply to tenants who have not been charged with one of the specified violations;

C. Undertaken and pursued with due diligence, reasonable means to avoid a recurrence of code violations on the premises by the present and future tenants or occupants of the premises; or

D. Executed a property management action plan.

The defenses set forth in this Section shall not be available to any person who fails to attend a code compliance settlement meeting.

13. Rental Permit Sanctions. Sanctions may be applied to an individual dwelling unit, the entire rental dwelling, or the premises containing a dwelling unit or rental dwelling. Each separate violation shall count as a basis for a rental permit sanction unless the owner qualifies

for a defense to enforcement under subsection 12 of this Section. The following sanctions may be imposed upon a rental permit:

- A. Reduced-term rental permit (6-month rental permit); and/or
- B. Suspension of rental permit; and/or
- C. Revocation of rental permit.

14. Reduced-Term Rental Permits: The inspector may issue a reduced-term rental permit with conditions for any of the following reasons:

A. The owner, any occupant, and/or any of their guests on two (2) or more separate occasions within a twelve (12) month period of time have been issued notices and/or complaints for violations of the following provisions of City ordinances, the Iowa Code, or the United States Code (as presently existing or hereafter amended, modified, or renumbered), and the conduct leading to the issuance of the notice or complaint occurred on the premises of a rental property:

1. Iowa Code chapter 124, sections 401 and 403 (controlled substance).

2. Iowa Code chapter 708, sections 708.1 (assault), 708.3 (assault while participating in a felony), 708.4 (willful injury), 708.6 (terrorism), 708.11 (stalking).

3. Iowa Code chapter 724, sections 724.3 (unauthorized possession of offensive weapons), 724.16 (trafficking in stolen weapons), 724.30 (reckless use of a firearm).

4. Iowa Code chapter 123, sections 123.46 (consumption or intoxication in public places), 123.47 (possession of alcohol under legal age).

5. Iowa Code chapter 716, sections 716.3 (criminal mischief in the first degree), 716.4 (criminal mischief in the second degree),

716.5 (criminal mischief in the third degree),
716.6 (criminal mischief in the fourth
degree), 716.6A (criminal mischief in
violation of individual rights), 716.7
(trespass).

6. Iowa Code chapter 719, section 719.1
(interference with official acts).

7. Iowa Code chapter 723, sections 723.1 (riot),
723.4 (disorderly conduct).

8. Title 13, United States Code, sections 841,
842, 843, 844, 846, 856, and 861 (controlled
substances).

9. Ordinance No. 140, Public Intoxication.

10. Ordinance No. 108, Possession Under Legal Age.

11. Ordinance No. 159, Restricting Noise.

12. Ordinance No. 89, Disorderly Conduct.

13. Ordinance No. 109, Disorderly House.

14. Ordinance 81, Unlawful Sales.

15. Any other Section or provision of this code.

B. The owner, any occupant, and/or any of their guests
on three (3) or more separate occasions within a
period of twelve (12) months have been issued
municipal citations or written notices of
violations for the following provisions of City
ordinances (as presently existing or hereafter
amended, modified, or renumbered), and the conduct
leading to the issuance of each citation and/or
notice occurred on the premises of a rental
property:

1. This Rental Housing Code, Ordinance No. 110.

2. The Zoning Ordinance, Ordinance No. 79.

3. Nuisance, Ordinance No. 118.

4. Failure to Remove Snow or Ice, Ordinance No. 82.

5. Any other Section or provision of this code.

C. On two (2) or more separate occasions within a twelve (12) month period of time, there is a founded complaint against a tenant. "Founded complaint" means the issuance of a municipal infraction or simple misdemeanor citation against a tenant or the existence of evidence sufficient to issue a criminal complaint for Disorderly House (Ordinance No. 109) had a police officer been able to identify a tenant who was present.

D. Commercial parking occurs at the property in violation of Section 110.19(11)(B)(3) of this code.

The reduced-term rental permit will be a six-month rental permit required to be renewed semi-annually. This sanction shall be in effect for a period of not less than four (4) years and annual licensing inspections and fees are required for each semi-annual renewal. The inspector may require any of the following with the issuance of a reduced-term rental permit: compliance with Iowa Code and/or City ordinances; submittal of a copy of the current lease agreement; payment of all City fees; payment of all court costs and fines; execution of a property management action plan; provision of a property management performance guarantee; and any other information the City deems necessary for enforcement of any provision of City ordinances or the Iowa Code.

Renewal of a reduced-term rental permit shall be subject to the limitations on rental permits in the R-1 Single-Family Residential Zone established by Section 110.04A.

15. Basis For Suspension Of Rental Permit. The inspector may suspend a rental permit for any of the following reasons:

A. Failure to comply with the conditions of the reduced-term rental permit.

B. Failure to comply with a court decision concerning the violation of any provision of Section 110.20 of this code.

- C. Adjudication by the court that the owner, owner's designated agent, or persons acting on behalf of the owner has: 1) violated the maximum occupancy provisions of this code; 2) illegally used or allowed the illegal use of non-habitable or non-occupiable space; 3) illegally converted space to habitable use; or 4) rented or let a dwelling or property without a rental permit.
- D. Failure to comply with an order to abate a dangerous building.
- E. Failure to comply with any emergency order or placarding of a structure.
- F. Additional violations by the tenants or owner of City ordinances, the Iowa Code, or the United States Code (as presently existing or hereafter amended, modified, or renumbered) occurring within one year of the conditions imposed pursuant to the reduced-term rental permit.
- G. Failure to pay a judgment entered against the owner or to cure a violation as ordered by the court against the owner in a municipal infraction or simple misdemeanor prosecution for an ordinance violation on the property or on any other rental property owned by the owner. The rental permit may be reinstated upon payment of the judgment or abatement of the violation.
- H. Violation of any other Section or provision of this code.

A rental permit shall be suspended for no more than one hundred eighty (180) days beginning from the date of the inspector's decision or a court ruling on a municipal infraction or simple misdemeanor prosecution and no later than at the end of the current lease period unless a property management plan is executed.

16. Bases For Revocation Of Rental Permit. The inspector may revoke a rental permit for any of the following reasons:

- A. Failure to comply with an order to abate a dangerous building.

- B. Failure to comply with an emergency order or placarding of a structure.
- C. Failure to comply with suspension of rental permit.
- D. More than one basis for rental permit suspension within two (2) years of the reinstated permit previously having been suspended.
- E. A conviction of the owner or the owner's designated agent for making false statements on a rental permit application or any other form submitted to the City.
- F. Violation of any other Section or provision of this code.

A rental permit shall be revoked for not less than one year beginning from the date of the inspector's decision or a court ruling on a municipal infraction.

17. Reinstatement Of Rental Permit:

- A. Suspended Permit: A suspended permit may be reinstated upon completion of the suspension period and execution of a property management action plan.
- B. Revoked Permit: An application for a new permit may be made after one year from the date revocation was effective. The application shall be processed in the same manner as an initial rental permit application, and requires execution of a property management action plan.
- C. Transfer Of Ownership: Transfer of ownership does not modify or alter any sanction imposed unless approved by the City or unless the transfer is an arm's length transaction between disinterested parties as determined by the City.
- D. Reinstatement of a rental permit after suspension or revocation shall be subject to the limitations on rental permits in the R-1 Single-Family Residential Zone established by Section 110.04A.

18. Exemption: Notwithstanding any other provision in this Section, the rental permit sanctions are inapplicable to

victims of abuse or crime as provided in Iowa Code section 562A.27B.

19. 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 Board of Adjustment. Application for the appeal hearing must be made within ten (10) calendar days of receipt of the written notice of denial.

~~11. Hearing When a Certificate of Structure Compliance and/or Rental Permit is Denied. 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 Council.~~

110.05A RENT ABATEMENT.

1. The inspector may order rent abated when the inspector determines that the owner or the owner's designated agent has, after issuance of a notice of violation of this code, done any of the following:

A. Failed to provide an essential service (water, sewer, electricity, heat);

B. Failed to remedy a condition that poses a substantial risk to the health or safety of the tenant; or

C. Rented a dwelling unit without a rental permit.

2. Rent abatement means that the owner, the owner's designate agent, and/or anyone else on behalf of the owner may not recover or receive rent from the tenant. Rent shall be abated until the condition for which rent abatement was ordered has, in the judgment of the inspector, been remedied. Rent abated for a particular time may not be collected for that time regardless of whether the condition for which rent abatement was ordered has been remedied.

3. The inspector shall provide a copy of the rent abatement order to the owner at the address on the rental permit application and to the tenant by U.S. mail and by posting

at the entrance door to dwelling unit. Notice of termination of the rent abatement order will be given in the same manner.

110.07 INSPECTIONS AUTHORIZED.

1. Authority. The inspector is hereby authorized to administer and enforce the provisions of this code and to make inspections to determine the condition of all dwellings, dwelling units, rooming units, structures, and premises rented or let in the City, in order that he/she may perform his/her duty of safeguarding the health, safety, and welfare of the occupants of dwellings and of the general public under the provisions of this code. If a property contains more than one dwelling unit, the inspector is authorized to inspect the entire property, even if a rental permit does not apply to all dwelling units.

The inspector shall, upon proper request, enforce the provisions of this code and is hereby authorized and directed to make inspections pursuant to or in response to a proper service request with regard to an alleged violation of the provisions of this code or of applicable rules or regulations pursuant thereto.

110.09 COURT ORDER AVAILABLE. If the owner, occupant or other person in charge of a dwelling, dwelling unit, rooming unit, multiple dwelling or rooming house fails or refuses to permit free access and entry to the structure or premises under the person's control, or any part thereof, when an inspection authorized by this code is sought, the inspector, upon a showing that ~~probable~~ cause a basis exists for the inspection and for the issuance of any order directing compliance with the inspection requirements of this code with respect to such dwelling, dwelling unit, rooming unit, multiple dwelling or rooming house, may petition and obtain such order for inspection from a court of competent jurisdiction.

~~110.10-110.18 [Reserved.] 110.10 NATURE OF EVIDENCE. The inspector shall keep all evidence which may be discovered or obtained in the course of an inspection made pursuant to this code confidential.~~

~~Evidence so obtained shall not be disclosed, except as may be necessary in the judgment of the inspector or the City Council for the proper and effective administration and enforcement of the provisions of this code and rules and regulations issued pursuant thereto, and shall not otherwise be admissible in any judicial proceeding without the consent of the owner or occupant of the dwelling unit or rooming unit inspected.~~

~~NOTICE OF VIOLATION. Whenever the inspector determines that any dwelling, dwelling unit or rooming unit, or the premises surrounding the same, fails to meet the requirements set forth in Sections 110.19, 110.20, and/or 110.21 or in applicable rules and regulations issued pursuant hereto, the inspector may issue a notice setting forth the alleged failures and advising the owner, tenant, occupant, operator or agent thereof that such failures must be corrected. Such notice shall:~~

- ~~1. Be in writing and subsequent to the inspection;~~
- ~~2. Set forth the alleged violations of this code or of the applicable rules and regulations issued pursuant hereto;~~
- ~~3. Describe the dwelling, dwelling unit or rooming unit where the violations are alleged to exist or to have been committed;~~
- ~~4. Provide a reasonable time, considering the nature of the corrective work, in which to accomplish such correction;~~
- ~~5. Be served upon the owner, occupant, operator or agent of the dwelling, dwelling unit or rooming unit personally or by registered mail, return receipt requested, addressed to the last known place of residence of the owner, occupant, operator or agent. If one or more persons to whom such notice is addressed cannot be found after diligent effort to do so, service may be made upon such person or persons by posting a notice in or about the dwelling, dwelling unit or rooming unit described in the notice, or by causing such notice to be published in a newspaper or general circulation once each week for two (2) consecutive weeks.~~
- ~~6. Be served upon the resident agent for the receipt of such service of notice so designated.~~

~~110.12 REINSPECTION AUTHORIZED. At the end of the period of time allowed for the correction of any alleged violation, the inspector~~

~~may reinspect the dwelling, dwelling unit or rooming unit described in the notice.~~

~~110.13 ORDER TO COMPLY. If upon reinspection the inspector determines that the alleged violations have not been corrected, the inspector may issue a second notice of violation, which shall constitute an order, requiring that such violations shall be corrected within thirty (30) days.~~

~~110.14 FINE FOR NON COMPLIANCE. If the alleged violations have not been timely corrected pursuant to Section 110.13, the inspector shall have the authority to impose a fine against the owner, tenant, occupant, operator or agent of the dwelling charged with correcting any such violations. The amount of allowable fines shall be set by resolution of the Council.~~

~~110.15 RECONSIDERATION.~~

- ~~1. Any person aggrieved by a notice, order or fine issued pursuant to this code may apply for a reconsideration of such notice, order or fine within thirty (30) days after it has been issued.~~
- ~~2. The inspector shall set a time and place for an informal conference on the matter within ten (10) days of the receipt of such application, and shall advise the applicant in writing of such time and place.~~
- ~~3. At the informal conference, the applicant shall be permitted to present to the inspector the grounds for believing that the notice, order or fine should be revoked or modified.~~
- ~~4. Within ten (10) days following the close of the informal conference, the inspector shall advise the applicant whether or not the notice, order or fine will be modified or set aside.~~

~~110.16 APPEAL TO COUNCIL.~~

- ~~1. Any person aggrieved by a notice, order or fine issuance pursuant to this code, or after an informal conference on reconsideration as specified in Section 110.15, may file a petition with the Council setting forth the reasons for contesting such notice, order or fine. Such petition shall be filed within thirty (30) days after~~

~~the results of the informal conference on reconsideration.~~

~~2. Upon receipt of such a petition, the Council shall grant the hearing requested and shall advise the petitioner in writing of the date, time and place of the hearing within thirty (30) days of the day on which the petition was received. The hearing shall occur within sixty (60) days of the date of petition therefor, and written notice thereof shall be given to the petitioner not more than thirty (30) days or less than ten (10) days prior thereto. At the hearing, the petitioner shall be given an opportunity to show cause why the notice, order or fine should be modified or withdrawn or why the period of time permitted for compliance therewith should be extended.~~

~~3. The Council shall have the power to affirm, modify or revoke the notice, order or fine and may grant an extension of time for the performance of any act required pursuant thereto.~~

~~110.17 VARIANCES. The Council may grant variances from the provisions of this code or from applicable rules and regulations issued pursuant hereto when it finds that there is practical difficulty or unnecessary hardship connected with the performance of any act required pursuant to this code, that strict adherence to such provisions would be arbitrary in the case at hand, that extension would not provide an appropriate remedy in the case at hand, and that such variance is in harmony with the general purposes of this code.~~

~~110.18 JUDICIAL REVIEW. Any person who has sought and who claims to be aggrieved by the final decision of the Council may obtain judicial review by filing a petition in a court of competent jurisdiction within sixty (60) days of the announcement of such decision praying that the decision be set aside in whole or in part. A copy of each petition so filed shall be forthwith transmitted to the Council, which shall file in court a record of the proceedings upon which it based its decision. Upon the filing of such record, the court shall affirm, modify, or vacate, in whole or in part, the decision. The findings of the Council with respect to questions of fact shall be sustained if supported by substantial evidence in the record, considered as a whole.~~

110.19 STRUCTURE COMPLIANCE STANDARDS.

11. Exterior Requirements.

B. Off Street Parking - R-1 Zone and PUD Planned Unit Development Zone.

(1) One (1) off street parking space shall be required at properties with rental permits for each resident over 18 years of age. No more than two (2) parking spaces (whether required or not) may be configured such that they are "double stacked" (meaning they are located immediately behind another parking space and block access to and from that other space).

(2) The size of all parking spaces at properties with rental permits shall meet the requirements of the Zoning Ordinance in effect at the time of the application for rental permit or renewal of such permit.

(3) After July 1, 2018, no commercial parking is permitted at properties with rental permits. "Commercial Parking" means parking by anyone who is not a resident at the property in exchange for consideration of any sort. Commercial parking is permitted on any day on which The University of Iowa plays football games in Kinnick Stadium.

(34) All parking spaces at properties with rental permits shall be constructed of asphaltic concrete, Portland cement concrete, manufactured paving material such as brick, or similar permanent, dust-free material suitable for off-street parking of motor vehicles.

(45) These requirements and restrictions apply to properties with rental permits in the R-1 Zone and in the PUD Planned Unit Development Zone.

110.20 OWNER RESPONSIBILITIES

11. Off-Street Parking. Every owner of a dwelling unit must comply with the regulations of Section 110.19(11)(B) concerning off-street parking.

A. ~~The spaces shall be well marked.~~

B. ~~Only hard surfaced spaces, drives and aisles shall be used for the parking and maneuvering of vehicles; however, any dwelling with gravel covered off street parking spaces and/or drives on the effective date of this code is hereby exempt from this requirement so long as the parking areas are continuously maintained as gravel covered.~~

110.24 ENFORCEMENT AND PENALTIES. In addition to the sanctions authorized by Section 110.05, Notice of Violation procedure set forth Sections 110.11-110.18, any violation of this code may be cited as a municipal infraction. In addition to the inspector, the University Heights City Clerk is authorized to enforce this code and may issue a civil citation to anyone who violates any Section or provision of this code. A violation of this code is punishable by a civil penalty of \$250.00 for a first offense and a civil penalty of \$500.00 for any a-repeat offense.

PART III: SAVING CLAUSE:

If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

PART IV: EFFECTIVE DATE:

This Ordinance shall become effective upon its passage and publication as provided by law.

STATE OF IOWA)
) SS:
COUNTY OF JOHNSON)

I, Christine M. Anderson, being first duly sworn, certify that the above ordinance was published in the Iowa City Press-Citizen the 27th day of April, 2018.

Christine M. Anderson
Christine M. Anderson, City Clerk

Signed and sworn to before me on the ____ day of _____, 2018, by Christine M. Anderson, Clerk of the City of University Heights.

[Signature]
Notary Public in and for the
State of Iowa

