



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Administrative Division*

### **m e m o r a n d u m**

**TO:** Laurel Lunt Prussing, Mayor

**FROM:** Elizabeth H. Tyler, FAICP, Director

**DATE:** September 11, 2014

**SUBJECT: AN ORDINANCE AMENDING URBANA CITY CODE CHAPTER 12.5 TO REQUIRE RELOCATION ASSISTANCE FOR TENANTS**

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### **Introduction & Discussion**

At the request of the Mayor and City Council, staff prepared a draft Ordinance requiring landlords to provide tenant relocation assistance in circumstances where a rental unit becomes uninhabitable, unsafe or unlawful to occupy by reason of conditions created by their landlords. At the September 8, 2014 Committee of the Whole meeting, additional comments were provided by a representative of the Illinois Association of Realtors, the Champaign-Urbana Tenant Union and City Councilmembers.

As requested, additional wording changes have been incorporated into the revised Ordinance which is attached to this Memorandum. The additional changes include the following:

1. Limitation of payments for the cost of the physical move to those costs which are “reasonable and necessary” and only for those relocations within Champaign County. This will eliminate the possibility that tenants will overcharge these costs by employing oversized removal services and/or will use these payments to facilitate relocation out of the area (Sec. 12.5-47).
2. Limitation of payments for the costs of hotel and motel stays to those that are “reasonable and necessary” (Sec. 12.5-47).
3. Specification that the average daily rate for Urbana hotels/motels shall be as periodically reported to the City of Urbana, through its hotel/motel licensing program (Sec. 12.5-47).

The following additional changes and clarifications are recommended pursuant to further legal review of the Ordinance:

1. Amend Section 12.5-6, Exclusivity of Remedies, to indicate that exceptions to civil remedies exist in Article IV (in Section 12.5-49 and Sections 12.5-50).

2. Clarify that qualifying conditions pertain not only to those created by the landlord, but also to those violations that were knowingly and willfully left unabated by the landlord (Section 12.5-46).
3. Clarify that utility reconnections include those that are of a normal and initial nature (Section 12.5-47).

There were also questions and concerns expressed at the Committee of the Whole meeting about the due process rights of the landlord to object to the requirement to provide the relocation assistance. The City does have appeal rights associated with building code violations which are clearly spelled out in all violation letters. Therefore, the landlord will have opportunity to object to code violation citations and condemnation proceedings well before the eventuality that the proposed ordinance would come into effect. Incorporating an additional appeal period at such time as relocation becomes necessary could have detrimental effects on the City's ability to maintain the public health, safety, and welfare and is not recommended for the emergency-level situations which this ordinance is intended to address.

There were also questions about whether the landlord would still be able to deduct from damage deposits due to lack of cleaning or other damage that may have been caused by the tenant. The Legal Division advises that the circumstance of a condemnation may make some provisions of a lease null and void. It may also be impractical to expect a tenant to clean and repair damages when they are being forced to move out in the middle of their lease with very little notice. It is further quite possible that in the case of a condemnation or forced relocation there may be claims by both the landlord and the tenant against the other party. It is recommended that the City not try to mediate between these claims through this ordinance, but rather to allow the two parties to exercise their contractual rights through the civil process. For these reasons, staff does not recommend that the draft Ordinance be amended in any way so as to intervene in these concerns.

Attached to this Memorandum are both a revised Ordinance and a mark-up version of this Ordinance. This mark-up highlights both the changes that were included in the Committee of the Whole packet along with the additional changes requested by Council as outlined above.

## **Recommendations**

Staff requests that the Mayor and City Council once again review the attached revised Ordinance for consideration and adoption.

Attachments:

Draft Ordinance Regarding Relocation Assistance for Tenants  
Mark Up version of Draft Ordinance

Cc: Neil Malone, Illinois Association of Realtors  
Esther Patt, C-U Tenants Union  
Tanisha King-Taylor, Community Life and Tenant Services  
CIRPP, Central Illinois Rental Property Professionals

Kevin Jackson, Kerri Spear, City of Champaign  
Darlene Kloeppe, Champaign County RPC  
Daniel Culkin, Mike Loschen, Village of Rantoul  
Ed Bland, Housing Authority of Champaign County  
Michelle Mayol, Cunningham Township  
Beverly Baker/ Sue Grey, United Way

**MARK UP VERSION: September 15, 2014**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING URBANA CITY CODE CHAPTER 12.5 TO ADD A NEW  
ARTICLE FOUR AND TO AMEND SECTION 12.5-6  
(Regarding Relocation Assistance for Tenants)**

**WHEREAS**, the City of Urbana ("City") is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs, including the power to regulate for the protection of the public health, safety, and welfare; and

**WHEREAS**, the City Council did heretofore on the 18th day of January 1994, pursuant to Ordinance No. 9394-58, amend Urbana City Code Chapter 12.5 to establish regulations regarding Landlord-Tenant Relationships for the protection of the public health, safety, and welfare; and

**WHEREAS**, the City Council recognizes that the number of tenants who have been displaced from their dwelling units due to uninhabitable conditions caused or created by landlords in violation of City codes and ordinances have been increasing in recent years; and

**WHEREAS**, the City Council deems it appropriate to require landlords to refund to their tenants security deposits and rents which have been paid in advance as well as providing certain relocation assistance where such tenants become displaced from their rental dwelling units by reason of conditions created by their landlords which render the dwelling units uninhabitable, unsafe or unlawful to occupy; and

**WHEREAS**, the City Council finds that amending Section 12.5-6 and adding Article IV to Chapter 12.5, as provided herein, will protect the health, safety, and welfare of the public.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Urbana, Champaign County, Illinois, as follows:

Section 1.

That Section 12.5-6 of Chapter 5 be amended to read as follows:

Section 12.5-6. Exclusivity of remedies.

Except as otherwise provided in Article IV, the rights, obligations and remedies accorded to both landlords and tenants under this chapter are exclusively civil in nature and in no event shall the violation of any provision of this chapter be deemed to constitute a violation punishable by a fine or penalty under this chapter or section 1-10.

Section 21.

That Article IV of Chapter 12.5 be adopted to read as follows:

**Article IV. Relocation Assistance for Tenants**

**Sec. 12.5-46. Purpose and declaration of policy.**

If the City provides a landlord with written notice that a rental property or any dwelling unit located therein ~~(i)~~ will be designated as unlawful to occupy due to conditions either created, or knowingly and willfully left unabated by the landlord which where the responsibility of the landlord to remedy, that violate one or more applicable codes, statutes or ordinances, ~~or~~ ~~(ii) loss or denial of rental registration,~~ the landlord shall pay relocation assistance to every displaced tenant household as provided for in Sections 12.5-47 and 12.5-48. However, no tenant whose own illegal or negligent conduct caused the conditions which require relocation shall be entitled to relocation assistance and no tenant whose right to possession has been terminated by court order shall be entitled to relocation assistance. For purposes of Sections 12-5-46 through 12-5-51, "tenant household" shall mean an individual tenant who resides in a rental dwelling unit or two or more individuals who lawfully reside in the same rental dwelling unit whether or not such individuals are related to one another by blood or marriage.

**Sec. 12.5-47. Landlord's obligation to provide relocation assistance payment defined.**

Relocation assistance payment from the landlord to the tenant household, as defined in Section 12.5-46, shall include:

- (a) Refund of all prepaid rent; and
- (b) Refund of the unused balance of the current month's rental payment with such refund being computed by the number of days remaining in the month divided by the total days in that month with the result thereof multiplied by the total rent paid for that month; and
- (c) Refund of any security deposit; and
- (d) The reasonable and necessary cost of the physical move, such as moving company or rental of moving van, with such payments limited to those associated with relocations within Champaign County; and
- (e) The tenant household's fee for normal and initial reconnection of ~~to~~ ~~reconnect~~ any utilities in the location to where such tenant household relocates. Said reconnection fee shall not include any arrearage due and owing to any utility company.
- (f) If any tenant household is given less than thirty (30) days' notice in which to vacate the dwelling unit pursuant to Section 12.5-46 and where the tenant, after reasonable efforts, is unable to relocate directly to another habitable dwelling unit, the landlord shall be obligated to reimburse the tenant household for any and all reasonable and necessary costs which the tenant household incurs in relocating to and staying at a local area hotel or motel. The landlord's obligation to each tenant household to reimburse for such hotel or motel stay shall be limited to no more than fourteen (14) days of stay. The amount of such hotel or motel stay for which the landlord shall be obligated to reimburse to the tenant household shall not exceed the average daily rate, including taxes, which hotels and motels located in the City of Urbana customarily charge for comparable accommodations, as periodically reported to the City of Urbana. ~~-. The landlord shall be obligated to reimburse the aforestated hotel/motel costs within one business day of the tenant household's presentment to the landlord of an invoice,~~

~~bill, or paid receipt from the hotel/motel which evidences the tenant household's stay at such hotel/motel.~~

**Sec. 12.5-48. Timing of payment.**

The landlord shall pay to the tenant household (as defined in Section 12.5-46) that portion of the relocation assistance provided for in Sub-sections 12.5-47(a), (b) and (c) in no fewer than three (3) days prior to the date the tenant household is required to vacate the dwelling unit. However, if the City requires any tenant household to vacate a rental property or any unit located on three (3) or less days' notice, the landlord shall pay that portion of the relocation assistance provided for in Sub-sections 12.5-47(a), (b) and (c) within one (1) day of receiving notice that the rental property or any dwelling unit therein must be vacated. The landlord shall pay that portion of the relocation assistance to the tenant household provided for in Sub-sections 12.5-47(d), (e) and (f) in no more than one business day following presentment by the tenant household of invoices, bills or paid receipts for the cost of the physical move, reconnection of utilities, and/or hotel/motel stay, as the case may be. Nothing herein shall be construed as prohibiting the tenant household from presenting to the landlord invoices, bills or paid receipts as they are issued to the tenant household. All payments by the landlord to the tenant household shall be by certified check and tendered to the head of the tenant household.

**Sec. 12.5-49. City action in the event of non-payment.**

If the landlord fails to timely complete the payments identified in Section 12.5-47 within the timeframes provided in Section 12.5-48, the City may assess an Ordinance violation fine of up to \$750 per day, for each day the landlord has failed to make such payments.

**Sec. 12.5-50. Administrative Fees, Penalties, and Fines.**

In the event that the City advances any amount or amounts to one or more tenant households, the City shall have the right to assess the landlord -

(a) An amount equal to all such relocation assistance provided by the City to each tenant household; and

(b) A civil penalty equal to fifty dollars (\$50.00) per day for each displaced tenant household to whom the City advanced financial relocation assistance times the number of days until the landlord reimburses the City for any and all sums to be paid by the landlord pursuant to this Section 12.5-50 with the accrual of such penalty commencing on the calendar day immediately following the date when the City advances such financial relocation assistance.

**Sec. 12.5-51. Other damages.**

Nothing in Sections 12.5-46 through 12.5-50 shall be construed or interpreted as creating any obligation on the City to undertake any court or administrative action on behalf of or in the name of any such displaced tenant household. Further, nothing in Sections 12.5-46 through 12.5-50 shall

be deemed or construed as limiting any tenant household's legal or equitable rights under the lease for the dwelling unit from which the tenant household was displaced or under the statutory, equitable or common law rights.

**Section 32.**

This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

**Section 43.**

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

**PASSED BY THE CITY COUNCIL** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

AYES:

NAYS:

ABSENT:

ABSTAINED:

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

**APPROVED BY THE MAYOR** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Laurel Lunt Prussing, Mayor

**ORDINANCE NO. 2014-08-080**

**AN ORDINANCE AMENDING URBANA CITY CODE CHAPTER 12.5 TO ADD A NEW  
ARTICLE FOUR AND TO AMEND SECTION 12.5-6  
(Regarding Relocation Assistance for Tenants)**

**WHEREAS**, the City of Urbana ("City") is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs, including the power to regulate for the protection of the public health, safety, and welfare; and

**WHEREAS**, the City Council did heretofore on the 18th day of January 1994, pursuant to Ordinance No. 9394-58, amend Urbana City Code Chapter 12.5 to establish regulations regarding Landlord-Tenant Relationships for the protection of the public health, safety, and welfare; and

**WHEREAS**, the City Council recognizes that the number of tenants who have been displaced from their dwelling units due to uninhabitable conditions caused or created by landlords in violation of City codes and ordinances have been increasing in recent years; and

**WHEREAS**, the City Council deems it appropriate to require landlords to refund to their tenants security deposits and rents which have been paid in advance as well as providing certain relocation assistance where such tenants become displaced from their rental dwelling units by reason of conditions created by their landlords which render the dwelling units uninhabitable, unsafe or unlawful to occupy; and

**WHEREAS**, the City Council finds that amending Section 12.5-6 and adding Article IV to Chapter 12.5, as provided herein, will protect the health, safety, and welfare of the public.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Urbana, Champaign County, Illinois, as follows:

**Section 1.**

That Section 12.5-6 of Chapter 5 be amended to read as follows:

**Sec. 12.5-6. Exclusivity of remedies.**

Except as otherwise provided in Article IV, the rights, obligations and remedies accorded to both landlords and tenants under this chapter are exclusively civil in nature and in no event shall the violation of any provision of this chapter be deemed to constitute a violation punishable by a fine or penalty under this chapter or section 1-10.

**Section 2.**

That Article IV of Chapter 12.5 be adopted to read as follows:

**Article IV. Relocation Assistance for Tenants**

**Sec. 12.5-46. Purpose and declaration of policy.**



If the City provides a landlord with written notice that a rental property or any dwelling unit located therein will be designated as unlawful to occupy due to conditions either created, or knowingly and willfully left unabated by the landlord which where the responsibility of the landlord to remedy, that violate one or more applicable codes, statutes or ordinances the landlord shall pay relocation assistance to every displaced tenant household as provided for in Sections 12.5-47 and 12.5-48. However, no tenant whose own illegal or negligent conduct caused the conditions which require relocation shall be entitled to relocation assistance and no tenant whose right to possession has been terminated by court order shall be entitled to relocation assistance. For purposes of Sections 12-5-46 through 12-5-51, "tenant household" shall mean an individual tenant who resides in a rental dwelling unit or two or more individuals who lawfully reside in the same rental dwelling unit whether or not such individuals are related to one another by blood or marriage.

**Sec. 12.5-47. Landlord's obligation to provide relocation assistance payment defined.**

Relocation assistance payment from the landlord to the tenant household, as defined in Section 12.5-46, shall include:

- (a) Refund of all prepaid rent; and
- (b) Refund of the unused balance of the current month's rental payment with such refund being computed by the number of days remaining in the month divided by the total days in that month with the result thereof multiplied by the total rent paid for that month; and
- (c) Refund of any security deposit; and
- (d) The reasonable and necessary cost of the physical move, such as moving company or rental of moving van, with such payments limited to those associated with relocations within Champaign County; and
- (e) The tenant household's fee for normal and initial reconnection of any utilities in the location to where such tenant household relocates. Said reconnection fee shall not include any arrearage due and owing to any utility company.
- (f) If any tenant household is given less than thirty (30) days' notice in which to vacate the dwelling unit pursuant to Section 12.5-46 and where the tenant, after reasonable efforts, is unable to relocate directly to another habitable dwelling unit, the landlord shall be obligated to reimburse the tenant household for any and all reasonable and necessary costs which the tenant household incurs in relocating to and staying at a local area hotel or motel. The landlord's obligation to each tenant household to reimburse for such hotel or motel stay shall be limited to no more than fourteen (14) days of stay. The amount of such hotel or motel stay for which the landlord shall be obligated to reimburse to the tenant household shall not exceed the average daily rate, including taxes, which hotels and motels located in the City of Urbana customarily charge for comparable accommodations, as periodically reported to the City of Urbana.

**Sec. 12.5-48. Timing of payment.**

The landlord shall pay to the tenant household (as defined in Section 12.5-

46) that portion of the relocation assistance provided for in Sub-sections 12.5-47(a), (b) and (c) in no fewer than three (3) days prior to the date the tenant household is required to vacate the dwelling unit. However, if the City requires any tenant household to vacate a rental property or any unit located on three (3) or less days' notice, the landlord shall pay that portion of the relocation assistance provided for in Sub-sections 12.5-47(a), (b) and (c) within one (1) day of receiving notice that the rental property or any dwelling unit therein must be vacated. The landlord shall pay that portion of the relocation assistance to the tenant household provided for in Sub-sections 12.5-47(d), (e) and (f) in no more than one business day following presentment by the tenant household of invoices, bills or paid receipts for the cost of the physical move, reconnection of utilities, and/or hotel/motel stay, as the case may be. Nothing herein shall be construed as prohibiting the tenant household from presenting to the landlord invoices, bills or paid receipts as they are issued to the tenant household. All payments by the landlord to the tenant household shall be by certified check and tendered to the head of the tenant household.

**Sec. 12.5-49. City action in the event of non-payment.**

If the landlord fails to timely complete the payments identified in Section 12.5-47 within the timeframes provided in Section 12.5-48, the City may assess an Ordinance violation fine of up to \$750 per day, for each day the landlord has failed to make such payments.

**Sec. 12.5-50. Administrative Fees, Penalties, and Fines.**

In the event that the City advances any amount or amounts to one or more tenant households, the City shall have the right to assess the landlord -

(a) An amount equal to all such relocation assistance provided by the City to each tenant household; and

(b) A civil penalty equal to fifty dollars (\$50.00) per day for each displaced tenant household to whom the City advanced financial relocation assistance times the number of days until the landlord reimburses the City for any and all sums to be paid by the landlord pursuant to this Section 12.5-50 with the accrual of such penalty commencing on the calendar day immediately following the date when the City advances such financial relocation assistance.

**Sec. 12.5-51. Other damages.**

Nothing in Sections 12.5-46 through 12.5-50 shall be construed or interpreted as creating any obligation on the City to undertake any court or administrative action on behalf of or in the name of any such displaced tenant household. Further, nothing in Sections 12.5-46 through 12.5-50 shall be deemed or construed as limiting any tenant household's legal or equitable rights under the lease for the dwelling unit from which the tenant household was displaced or under the statutory, equitable or common law rights.

**Section 3.**

This Ordinance shall not be construed to affect any suit or proceeding pending

in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

**Section 4.**

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

**PASSED BY THE CITY COUNCIL** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

AYES:

NAYS:

ABSENT:

ABSTAINED:

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

**APPROVED BY THE MAYOR** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Laurel Lunt Prussing, Mayor