

**CITY OF NAPERVILLE
MEMORANDUM**

DATE: March 26, 2010

TO: Douglas A. Krieger, City Manager
Marcie Schatz, Director – TED Business Group

FROM: Suzanne Thorsen, AICP, Community Planner – TED Business Group

SUBJECT: **MM Item: Rental Requirements Amendment**

PURPOSE:

To provide the City Council with an update about recommendations for rental units in single-family zoning districts.

BACKGROUND:

On November 17, 2009 the City Council initiated a text amendment to Title 6 (Zoning Ordinance) to address the rental/lease of dwelling units and boarding rooms in the R1, R1A, R1B, R2 and Estate Zoning Districts. At that time, staff recommended development of a rental licensing program and a text amendment to change boarding room requirements, including the number of permitted boarding rooms and requirements for owner occupation. Following the Council's action, staff began to receive feedback from the public regarding the potential negative implications of some of the recommendations on rental units that currently comply with all city laws and codes. Specifically, community members commented that rental licensing requirements would impose a burden on property owners and be overly broad to address the concerns identified to date.

In order to better understand issues surrounding rental housing and potential impacts of regulations on various groups in the community, staff met with an advisory committee including the Naperville Area Homeowners Confederation (NAHC), the National Realtors Association, North Central College, Fair Housing Advisory Committee, Chamber of Commerce, and residents and landlords on February 11, 2010. The purpose of the meeting was to identify issues observable to community stakeholders related to rental housing in single-family districts. The advisory committee identified the following issues:

1. **City processes:** participants noted concerns related to the historic City response and resolution of property concerns in a timely manner.
2. **Education:** participants stressed the need for tenants and landlords, as well as property managers, to be aware of their rights and responsibilities.
3. **General Issues:** common issues associated with occupancy and nuisance problems were identified through discussion.

Prior experience with rental and boarding facilities was also discussed. An overarching theme of the committee's response was that any solutions proposed on this topic should be "right sized" for Naperville and that problems related to rental housing seemed to focus on a small group of properties.

In addition to the priorities identified by the advisory committee, staff conducted an analysis of common code complaints and evaluated “lessons learned” from the past enforcement actions for rental properties. The key issues identified by staff include:

1. **Coordination:** improved coordination is needed between city departments (TED, Police, Fire) to provide comprehensive and timely enforcement of chronic property issues.
2. **Existing Tools:** the city can more effectively utilize code enforcement citations and administrative warrants to obtain compliance with code issues.

DISCUSSION:

Framework Recommendation

Incorporating the feedback from the advisory committee and the need for internal process improvements, the recommendation for rental requirements in single-family districts offers a two-tiered approach (refer to Attachment 1). The first tier is a set of four immediate actions that can be accomplished in the upcoming six-month period to respond to issues including zoning code amendments for boarding facilities, interdepartmental coordination improvements, modifications of code enforcement operating procedures and education and enforcement and public education. The second tier is a set of two policy options for future review, which should be evaluated for need and community impact following implementation of the immediate action steps.

The proposed recommendation takes a holistic approach to immediately maximize use of existing resources and tools to achieve code compliance, while targeting regulatory solutions to address property uses that have presented chronic issues. Recommendations for immediate action include:

1. **Code Amendments for Boarding Facilities:** this approach will eliminate the ability to establish or operate a boarding house in any residential district and amortize all facilities that meet the amended definition of a boarding house. It will allow for continued limited rental of boarding rooms under defined conditions within a principal residential use. Conditions under consideration for boarding rooms include requirements for owner occupation and access to common areas of the home.
2. **Interdepartmental Coordination Improvements:** this approach will improve the internal city processes and facilitate a coordinated approach to enforcement through better communication and information-sharing between the Fire, Police, and TED departments.
3. **Code Enforcement Operating Procedures:** this approach will result in modifications to the code enforcement team’s current operating procedures, including increased use of citations to obtain code compliance in appropriate situations. The initial objective will remain voluntary compliance with all city codes; however in situations where the property owner does not resolve outstanding violations or presents ongoing issues, citations and administrative warrants will be utilized as necessary.
4. **Public Education and Outreach:** this approach will increase resident and property owner information regarding city requirements for property maintenance, particularly with respect to exterior maintenance and life safety, as well as procedures for

compliance. Expanded outlets for Crime-Free Housing information to all landlords will be evaluated.

Access to the Interior of a Structure & Recent Code Enforcement Experience

A key discussion leading to the City Council's consideration of this topic in November was related to the ability to conduct inspections for interior code issues. The staff recommendation will not allow access to the interior of a property without owner consent. However, recent successes related to interior issues—one for boarding facilities and the other associated with interior life safety conditions—have provided new insight into the availability and use of existing tools. The first, a boarding/occupancy complaint, was verified through an interior inspection upon consent of the tenant. The city is currently pursuing compliance with the boarding issue and additional violations observed during inspection. In the second example, interior life safety issues were identified by the police department while addressing a separate issue and are currently being addressed. If a tenant or owner does not allow the city to enter the property, we will seek an administrative search warrant from the DuPage County courts.

Options for Future Review

Staff believes that the recommendations for text amendments, improved internal coordination, code enforcement procedure improvements, and public education will address the majority of issues that led to initial recommendation for rental licensing in November, 2009. However, if additional regulations are necessary two additional options may be proposed in the future for consideration:

1. **Chronic Nuisance Property Abatement:** this approach establishes criteria relative to substantial impacts associated with certain police activity, building and property maintenance violations. Properties that are declared a “nuisance” may be subject to increased enforcement or penalties, cost recovery for services and potential revocation of occupancy. *Abatement programs are typically not limited to rental-occupied properties.*
2. **Rental Registration or Licensing:** this approach establishes a licensing or registration requirement for landlords. Registration would create a record of rental properties in the city and provide contact information for owners. Licensing would achieve the same objectives as registration but also require regular interior inspections for rental properties as well as inspections pursuant to a code complaint. *Rental registration applies to all rental situations in single family districts, not just boarding rooms or properties that have received code complaints.*

Discussions with communities that have implemented both of the approaches outlined above reveal that they may effectively address community concerns regarding nuisance property and the quality of rental housing; however, the community impact can be broad and these approaches present additional administrative resource needs. Prior to initiating any future work on these items, staff would request additional action from City Council.

Advisory Committee Consensus

The proposed framework was presented to the advisory committee on March 12, 2010. The committee expressed general consensus for the proposal, particularly with respect to educational components. On the topic of boarding facilities, the committee expressed concern that allowing

boarding rooms in a residential structure may provide a loophole for continued boarding house operations and recommended that boarding rooms be either: a) associated with an owner-occupied structure; or b) subject to a sub-lease by the primary occupant *only* (i.e., landlord cannot select an unrelated/unknown boarding tenant to occupy the structure with the primary tenant). Staff is incorporating the committee's recommendation for an owner-occupied condition for boarding rooms within the amendment.

On the topic of rental licensing, the majority of the committee expressed concern about overly broad impacts relative to the rental property issues that were observed and articulated to date. All members of the advisory committee were encouraged to share the recommendations with their colleagues or constituents and provide input during the public process moving forward.

Next Steps

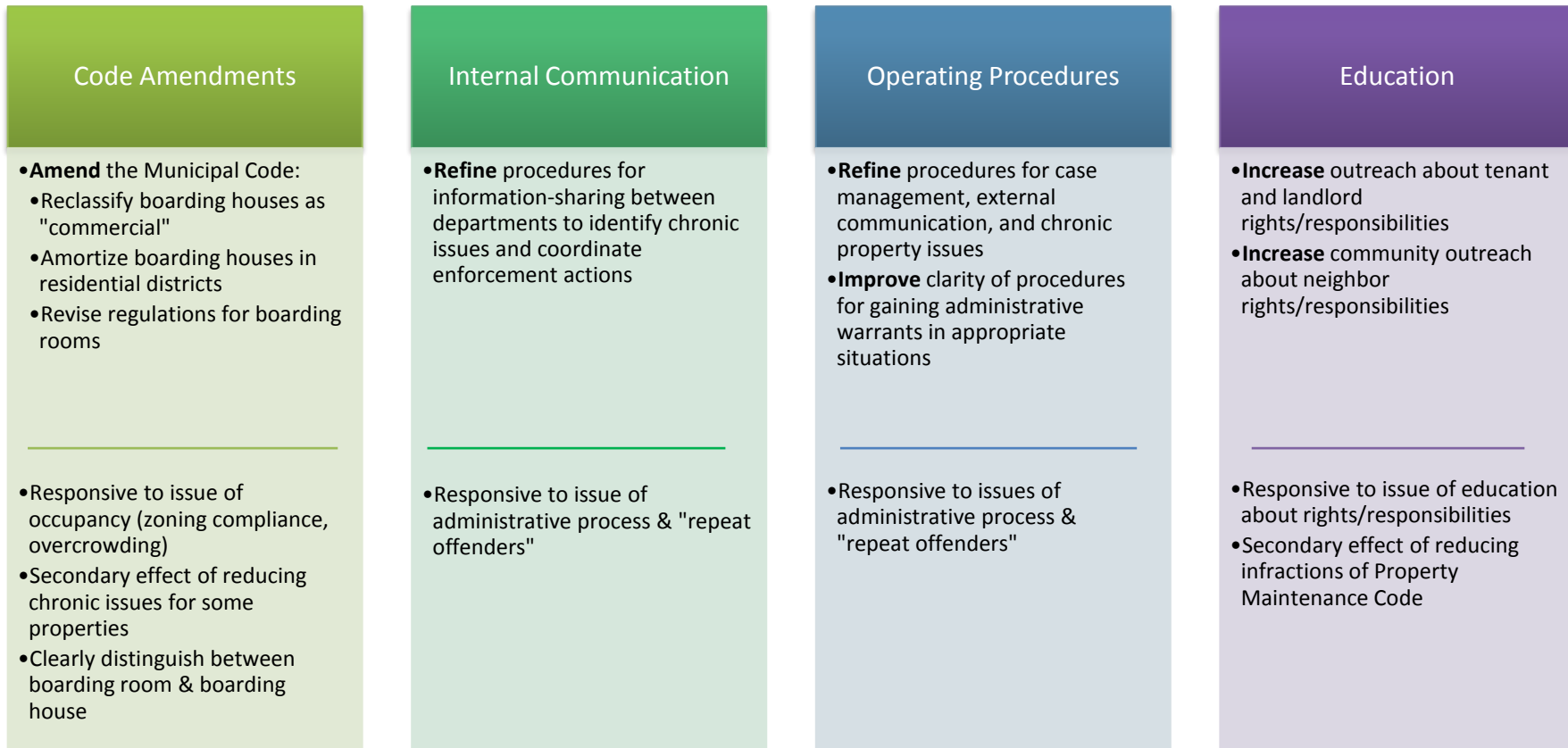
Staff has scheduled a public hearing before the Plan Commission on April 21, 2010 to discuss the draft framework recommendation. All members of the public who have signed up for e-news on this topic will receive notification in advance of the meeting; property owners who are believed to be renting boarding rooms that would be affected by the amendment will receive notification. The project webpage will additionally be updated to reflect the current status of this study.

The Plan Commission will receive a draft ordinance for boarding facilities as well as the framework recommendation. Following the Plan Commission's hearing on this topic, a full report will be forwarded to the City Council for consideration.

RECOMMENDATION:

Include this report in the March 26, 2010 Manager's Memorandum.

DRAFT SOLUTIONS FRAMEWORK: RENTAL REQUIREMENTS IN SINGLE-FAMILY DISTRICTS



If the above framework is ineffective in addressing issues surrounding rental properties in residential districts, and upon Council direction:

