

**COMMUNITY HOUSING ORDINANCE & NARRATIVE**

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**Professor Dernbach's Sustainability Seminar**

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## INTRODUCTION

An individual's desire to own a home and a plot of land has been a part of the American Dream since the founding of our nation.<sup>1</sup> After the end of World War II, the development of suburban communities and homes was on the rise.<sup>2</sup> Today, more Americans live in suburban communities than in cities or rural communities.<sup>3</sup> However, the suburban ideal has contributed to many of the problems associated with affording a home and the environmental consequences of living in these "segregated communities."<sup>4</sup> The principles behind community housing can help bridge the gap between these distant suburban communities by providing affordable homes and a community where "ownership of one part . . . carries with it the obligation to contribute to the support of another part of the land."<sup>5</sup> This narrative will give a general outline of the problems associated with current housing and zoning practices, why new practices are needed, what other communities are doing to solve the problem, how to confront the policy issues associated with the changed communities, and how they may be remedied in the future. A proposed model community ordinance is appended as an attachment. Municipalities that provide for strategically placed, intelligently built, self-governing, affordable cohousing developments will not only improve the lives of the people that live within the walls, but will also improve the larger, nationwide environmental community that exists around them.

### **THE PROBLEM WITH COST, SICKNESS, AND SPRAWL: HOW CAN WE REDUCE THE SPREAD?**

The United States of America is comprised of 2.7 billion acres of land, spread across fifty states, and a population of over three hundred million men, women, and children who need a

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<sup>1</sup> Rusty Russell, Equity in Eden: Can Environmental Protection and Affordable Housing Comfortably Cohabit in Suburbia? 30 B.C. Env'tl. Aff. L. Rev. 437, 450 (2003)

<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> Id. at 450-51.

<sup>5</sup> Peter W. Salsich, Jr., Thinking Regionally About Affordable Housing and Neighborhood Development, 28 Stetson L. Rev. 577, 581-82 (1999)

place to call home that can shelter and protect them. As the nation continues to grow, more homes need to be built to accommodate new families and newcomers to the country. When the development of these new homes is done without due care and thoughtful planning, the result is sprawl. Sprawl is the development of communities in poorly situated areas that results in “chaotic patterns of growth” and is responsible for many of the environmental problems faced by our world. This “out of control development” usually results in inefficient land use as large amounts of undeveloped land, typically green fields, are converted into land space in order to provide for the demands of larger homes with more land space. The development of these sprawl communities fails to take into consideration the zoning of businesses, schools, or other services for the community and excludes them in the creation of the zoning area. Due to lack of available businesses, schools, and employment opportunities, members of these sprawl communities are forced to commute outside their communities to find work, go to school, shop, and participate in recreational activities. <sup>6</sup> The inefficient taking of land and the distance between the communities and the urban areas have resulted in several environmental concerns not only on the local level, but the state and federal levels as well. <sup>7</sup> These environmental problems include: air pollution from the emission of greenhouse gases due to more automobiles being on the road, water pollution “caused by runoff from paved areas,” “the loss of wetlands and open space,” destruction of ecosystems and the displacement of animal species, and ineffective consumption of natural resources. <sup>8</sup>

In addition to sprawl, the costs associated with purchasing, owning, and maintaining a home have been burdened by zoning practices that prevent low-income families from even moving into the neighborhood. In order to keep out these low income families, communities will

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<sup>6</sup> Russell, *supra*, 443-45.

<sup>7</sup> *Id.* at 446-47.

<sup>8</sup> *Id.*

pass ordinances that will increase the price of land in these suburban communities which limits the classes of individuals that can move into the neighborhood.<sup>9</sup> Statistics show that one out of every four households spend over thirty percent of their income on housing. In addition, only 3.3 million housing units are allocated towards public and assisted housing for the low income families in the nation.<sup>10</sup>

The poor construction of some of these low-income residences has exposed millions of Americans to chronic and deadly diseases. Indoor air pollution is seen as one of the “top five environmental risks to public health.” It is estimated that over 20.3 million Americans suffer from asthma and a large portion of the sufferers are from low-income households. Poor choice in building materials has contributed to the indoor air pollution of these homes. A staggering “seventy percent of formaldehyde, a known carcinogen and asthma trigger, is used in building materials” and is used to bind wood products, carpet, and insulation.<sup>11</sup>

However, this proposed ordinance would attempt to address these three problems and provide for smarter, cost-effective, and healthier community housing. The opportunity exists in cohousing communities. Under this system, cohousing communities would compose of private homes with “extensive common facilities” available in a shared facility. These common facilities would include laundry services, a community pool, child care facilities, offices, game rooms, a TV room, and even a gym.<sup>12</sup> These homes and facilities would be constructed with “nontoxic materials, low-chemical-emitting paints and carpet, and PVC-free plumbing pipe.”<sup>13</sup> By creating this type of design, it will cut down on the amount of land that is needed for the project and will

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<sup>9</sup> Id. at 450-51

<sup>10</sup> Gail D.A. Vittori, Greening Affordable Housing, 13 J. Affordable Housing & Community Dev. L. 458, 458-59 (2004)

<sup>11</sup> Id.

<sup>12</sup> Michael N. Widener, Zoning and Land Use Planning, 39 Real Est. L. J. 113, 117-18 (2010)

<sup>13</sup> Vittori *supra* 459-60

provide for safe, healthier homes. In addition, abandoned lots and housing projects within city limits would be the basis for this type of zoning which would allow residents to potentially live closer to shopping districts, schools, and their workplace. Incorporating these types of ordinances within municipalities will provide better social, economic, and environmental development for generations in the future. <sup>14</sup>

### **THE NEED FOR CHANGE: WHY A NEW ORDINANCE CAN MAKE TOMORROW BRIGHTER**

The Cohousing Model originated in Denmark in the 1970s, but cohousing did not make its way to the United States until 1988. It is a relatively new type of living community that is a mix of private property and common property. Most cohousing is financed and designed by a private developer, who then sells new homeowners a piece of property that contains a covenant with respect to cohousing. Currently, most zoning districts define what types of residences can be built in certain residential zoning districts. A big problem is that cohousing is not defined as one of the prescribed types of land uses allowed in residential zoning districts. Because of this, many cohousing districts receive scrutiny during the process of developing the community. <sup>15</sup>

During the development of a cohousing unit in Brunswick, Maine, several neighbors believed that this new cohousing style of community would bring “suspicious type[s] of people” into the neighborhood. While the Brunswick Cohousing Community did receive approvals, over one hundred neighbors organized a petition to block future cohousing communities from being built by creating more restrictive zoning districts. <sup>16</sup>

Another cohousing district, the Synergy Cohousing Group in Delray Beach, Florida, also received scrutiny after many neighborhoods believed that the cohousing community represented

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<sup>14</sup> Widener *supra* 118-20.

<sup>15</sup> Mark Fenster, *Community by Covenant, Process, and Design: Cohousing and the Contemporary Common Interest Community*, 15 *J. Land Use & Envtl. L.* 3, 10-12 (1999).

<sup>16</sup> *Id.* at 15

the establishment of communes. The lack of familiarity with cohousing communities results from the lack of awareness and the lack of laws that provide for cohousing opportunities. In order to create a cohousing unit, cohousing groups persuaded local governments of the new housing community through experts and community screening to ensure that “respectable citizens” would receive the homes in the new community.<sup>17</sup>

In addition, to help combat the unfamiliarity with cohousing units, many are designed as condominiums where the common property is owned by every unit owner.<sup>18</sup>

The cohousing community model will be a big improvement to community housing and will provide various social, economic, and environmental advancements that will benefit future generations.<sup>19</sup> The cohousing community model will foster more cooperation and involvement in the community and allow neighbors to have a direct impact on their own living as well as their neighbors. The cohousing model will allow neighbors to interact with each other more often as they will share the community facilities of the kitchen, game room, and other facilities. In addition, community values can be assessed at the inception of the community. In order for individuals to determine how to make their neighborhood more comfortable and provide for sustainable measures, frequent community meetings would determine various issues of the neighborhood and proposals to fix the problems. The individuals in the community would govern their own sustainability measures aimed at making their community more efficient by allowing individuals to vote on various propositions for the neighborhood. Giving the members of the community a sense of importance and a vote in the decisions for the community will improve the

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<sup>17</sup> *Id.* at 15-16.

<sup>18</sup> *Id.* at 18.

<sup>19</sup> Widener *supra* 118.

social relationships between neighbors and foster a feeling of benefiting not only their own homes, but their neighbors' homes.<sup>20</sup>

Cohousing Communities can also provide economic benefits to the families that live there. The residents will share the multipurpose facilities and cut down on the use electricity, water, sewage, and other expenses associated with maintaining a house. With the families dividing the payments among the whole community, individuals will spend less each year in utilities than they would living in their own isolated homes. Providing for childcare services within the facility would cut down on other costs such as daycare and other childcare costs. In addition, new land ownership schemes would allow the residents to pay "occupancy fees" instead of assessed property taxes and homeowner's insurance.<sup>21</sup>

In addition, these economic benefits will, in turn, provide for several improvements in the local environment, and the expansion of this idea across the nation would help environmental efforts across state lines. The development of common landscaped spaces will cut down on water and fertilizer consumption and contamination.<sup>22</sup> Providing for "cement driveways [that] separately connect[] each garage or dwelling entrance [will] add heat. The use of the multipurpose facilities will cut down on the amount of electricity consumed by the community."<sup>23</sup> In addition, the institution of "smart growth" measures will benefit the community and the surrounding environment.<sup>24</sup> These measures will cut down sprawl and tackle some of the major environmental issues that come with sprawl. Placing these communities closer to urban

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<sup>20</sup> Id. at 127-129

<sup>21</sup> Id. at 131-32.

<sup>22</sup> Id. at 126-27.

<sup>23</sup> Id. at 116-17.

<sup>24</sup> Salsich, Jr., *supra*, 585-86

environments will cut down on the long commutes to work, school, or the shopping districts, promoting walking, bicycling, or public transportation.<sup>25</sup>

The promotion of the cohousing community model can promote many of the above social, economic, and environmental benefits to the residents and the community at large.<sup>26</sup>

### **OTHER COMMUNITIES LEADING THE WAY**

The city of Santa Fe, New Mexico, has become a great example of incorporating the inclusionary strategy. Land costs in Santa Fe average approximately \$33,000 per acre. The Santa Fe Affordable Housing Roundtable established the Santa Fe Community Housing Trust and gave the organization the job of managing and leasing city-owned lots dedicated to affordable housing. The trust makes a ninety-nine year ground lease with the city and then “builds and sells single-family houses subject to the ground lease.” The trust is currently developing forty single-family homes in the Santa Fe area that will be sold based on “soft second mortgages.”<sup>27</sup>

Other states have incorporated “smart growth legislation” in order to curb the devastating effects of suburban sprawl. In Maryland, the Smart Growth Law was passed to restrict state funds for “locally designated growth areas”. After passing the statute, state funds could not be used for any growth-related project unless it was used in a designated priority funding area. The law focuses on properties that will be designed on two units per acre with a community sewer system to support the homes.<sup>28</sup>

The way to measure the effectiveness of the cohousing communities is to look at the mission statement or mission goals of the community and see if the community is meeting those goals. For example, the Eastern Village Cohousing in Maryland is a 56 home community with

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<sup>25</sup> Russell, *supra*, at 443-44.

<sup>26</sup> Russell, *supra*, at 443-44; Salsich, Jr., *supra* at 585-86; Widener *supra* at 116-18, 126-29, 131-32.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 585.

shared game rooms, dining areas, workshops, and guest rooms. The mission statement was to provide for “inclusive decision-making through consensus” and welcomed a diverse group of individuals with an ecological and sustainable goal. The community has worked together to maintain the environmentally green living by creating green roofs and waterproof barriers on the roof. The community instituted a geothermal heating and air-conditioning system to maintain the temperature of the community. The more a cohousing community works together on making decisions that represent the mission statement and provide for the general sustainability and happiness of the community, the more effective the community.<sup>29</sup>

A cohousing community can also benefit special needs groups like the disabled. In Atlanta, Georgia, the East Lake Commons Cohousing Unit was specifically designed to house some individuals with special needs and disabilities. The community had residents that were blind, physically disabled, and even some residents with dementia. The community provided measures for these individuals, as well as disabled individuals who would visit East Lake. East Lake Commons set up each of their units with special bathrooms and no steps entrances to ensure that these individuals could access the units. Several individuals who lived at East Lake Commons would provide assistance and services to these individuals with disabilities and special needs. The community was also established with the intention of providing homes for lower-income families. From 1997-2001, the East Lake Commons Cohousing Unit was constructed for lower-income families and established a mission statement that would also provide for the adaptability of disabled residents and visitors. The original cost of a unit was only \$90,000 and the resale value can range anywhere from \$180,000 to \$350,000.<sup>30</sup>

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<sup>29</sup> Carrie Griffin Basas, *Olmstead’s Promise and Cohousing’s Potential*, 26 Ga. St. U.L. Rev. 663 (2010).

<sup>30</sup> Griffin, *supra*, 682-84.

Examples like the communities described above would provide a great benefit to various different types of special need groups and could institute various environmentally friendly attributes to the community. The way to measure the effectiveness of a cohousing community is based upon their mission statement and the community's ability to work together to maintain that mission statement. If local municipalities work together to reserve some land use for these types of cohousing communities, the progress and benefits will continue to pay off over time.<sup>31</sup>

### **OVERCOMING THE OPPOSITION: HOW CURRENT POLICY TRENDS ON HOUSING CAN CHANGE**

Current policy trends in the United States tend to look at affordable housing and environmental issues as separate, conflicting problems rather than a workable solution. Many communities have called for environmental sustainability in the community, but the remedies tend to favor housing concerns over environmental concerns. The first thing that lawmakers need to do is address these issues together rather than separating them into two distinct issues.<sup>32</sup>

Second, the placement and design of these communities can be viewed as negative by neighboring houses and communities. Particularly in rural areas, many believe that the inclusion of cohousing communities will destroy the look of the rural character of a community. Several communities have already established zoning restrictions that would block future cohousing communities from being established in rural areas. Decision makers are going to have to assess the needs of a community and the proper placement of these communities when deciding if a zoning district should be labeled as a cohousing district. By assessing the preexisting developments that exist around the community and the need for cohousing, decision makers can make more intelligent decisions regarding the placement of these communities.<sup>33</sup>

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<sup>31</sup> Id.

<sup>32</sup> Russell, *supra*, at 439.

<sup>33</sup> Fenster, *supra*. At 15-16

In addition, lawmakers are going to have to tackle the issue of deciding what building materials will be used in the construction of these homes. Prior practices of using formaldehyde based products need to be stopped in order to not only provide better sustainable homes, but also provide for the health of the residents that live in them.<sup>34</sup> The District of Columbia Housing Authority (DCHA) has launched a campaign to provide for green materials in housing.<sup>35</sup> The cost of these efforts can be managed and has been shown in the Green PVC-Free Habitat for Humanity House in New Orleans. In 2004, with a budget of \$50/square foot, Habitat for Humanity and Greenpeace were able to construct a building with nontoxic wood, carpeting and painting that emitted less chemicals into the air, “fiber-cement” siding”, and PVC-free plumbing pipe. When adapting this idea to family homes, policies that allow family units to pay in increments rather than upfront will allow for manageable improvements to the home in a more urgent manner.<sup>36</sup>

One of the major policy considerations consists of how to get individuals to move into these homes and adapt to a new way of living. Individuals in cohousing communities would be giving up a lot of luxuries that they normally enjoy in their private homes.<sup>37</sup> But, the ability of the residents to self-govern their own community issues through community councils will provide a forum for residents to discuss ways of bettering their own living situation as well as their neighbors. The establishment of a “community reserve budget” will encourage the individuals on the land, as well as the owner of the trust, to promote sustainable measures at a cost that is manageable for the entire community. The amount of money that these individuals will save each year by moving into these communities by the use of multipurpose facilities needs

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<sup>34</sup> Vittori, *supra*, at 458-59.

<sup>35</sup> *Id.* at 459-60.

<sup>36</sup> *Id.*

<sup>37</sup> Widener, *supra*, at 116-18.

to be advertised by lawmakers when proposing these new ordinances to influence individuals to move there.<sup>38</sup>

Finally, decision makers will need to overcome stereotypes that many individuals may have about the cooperative style of community housing. Several cohousing communities have often been opposed due to the misbelief that these communities would become stereotypical “hippie communes” that would invite deviant individuals and deviant behaviors at these communities. These types of fears can cause individuals to protest the building of this cooperative style community and create negative impressions of the community. It will be important that local governments and private developers of the cohousing units work together to inform the surrounding communities of the nature and purposes behind cohousing communities. The presentation of facts and statistics behind cohousing communities can provide a more positive outlook from nearby communities. In addition, screening processes can be instituted by these communities to keep out individuals that would cause problems. A cohousing community in Florida, the Synergy Cohousing Group, faced scrutiny from surrounding communities about the potential for these communities to become communes that would promote an inappropriate living environment. Synergy Cohousing met with different citizens at community meetings to assure them that “respectable citizens with worthy intentions” would be living within the community. Cohousing groups will come up against negative labels and will need the support of the decision makers in order to ensure that the community can be developed and that future units can be developed in other areas where individuals are more informed about the intentions of the new cohousing communities.<sup>39</sup>

## **FUNDING**

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<sup>38</sup> *Id.* at 128.

<sup>39</sup> Fenster, *supra*, 15-16.

To fund this project, the municipality could ask for funding under HUD. The U.S. Department of Housing and Urban Development (HUD) is an organization that manages various funding programs that support and promote sustainable development. One of HUD's grant programs, the HOPE VI, provides funding to communities that are committed to "build[ing] affordable housing in older downtown business districts."<sup>40</sup> The program seeks to prevent sprawl and has established criteria under the 2008 Notice of Funding Availability to determine municipalities that meet the sustainability goals. HUD requires sustainable practices throughout the project including "sustainable construction and demolition practices" and "reusing . . . salvage materials in [the] new construction." Applicants must also take advantage of new, cost effective and energy saving technologies throughout the construction and in the finished project. Another possibility is seeking funds through the Community Development Block Grant Program.<sup>41</sup> The Community Development Block Grant provides federal assistance to developing communities that will institute energy efficient practices in the construction of new homes and buildings.<sup>42</sup>

## CONCLUSION

Cohousing Communities give each family the ideals of having their own piece of land while also benefiting their neighbors and the community at large. Individuals working together in the community to provide for community measures and assistance will foster a sense of helping one's neighbor and benefit new generations that will live in the community. Right now, efforts to expand the knowledge and possibilities for establishing cohousing communities need to be proposed with new ordinances that will specifically set cohousing as a permissible land use

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<sup>40</sup> Patricia E. Salkin, Can You Hear Me Up There? Giving Voice to Local Communities Imperative for Achieving Sustainability, 4 *Env't'l & Energy L. & Pol'y J.* 256, 292 (2009)

<sup>41</sup> *Id.* at 293

<sup>42</sup> *Id.* at 294-95.

function. When this is done, the methods for proposing these communities will be more efficient and could provide more families with much-needed homes. The development of these communities will cut down on the negative effects of sprawl and improper usage of land space. The development of cohousing communities in the United States can still provide the American Dream of owning a home, but still provide for social, economic, and environmental developments that will impact future generations to come.

## ATTACHMENT

### COMMUNITY HOUSING ORDINANCE

#### **Section 1: Purposes of the Community Housing Ordinance**

Whereas the municipality deems it necessary to enact this Ordinance in order to protect, encourage, and manage the appropriation of land use in an effective, sustainable fashion in order; to stabilize and conserve the value of land and homes; relieve the effects of overcrowding and sprawl of improper land use; and promote the health, safety, morals, and general welfare of the community.<sup>43</sup>

Whereas the municipality deems it necessary to bring about higher density, smaller residential lot single and multi-family homes on current, designated single or multi-family zoning areas, unused lots, and developing lots.<sup>44</sup>

Whereas the municipality deems it necessary to provide for housing options for single and multi-families for households of all income levels by increasing the amount of affordable houses in the municipality.<sup>45</sup>

And now, therefore, let this ordinance be ordained and enacted by the Board of Supervisors of \_\_\_\_\_ Municipality, Pennsylvania.<sup>46</sup>

#### **Section 2: Definitions**

In accordance with this Ordinance, the following terms and phrases in this ordinance shall comport with the meanings indicated in this section, unless the context clearly states otherwise.<sup>47</sup>

**Affordable Dwelling Unit:** a dwelling unit affordable for eligible households based on pre-calculated affordability levels.<sup>48</sup>

**Affordability Levels:** a sales price on the basis of a fixed-rate thirty (30) year mortgage, a fixed down-payment, property taxes, and, if applicable; home owners insurance.<sup>49</sup>

**AMI (Area Median Income):** the median income calculated by the U.S. Department of Housing and Urban Development, adjusted for household size and median income earned by households in this municipality.<sup>50</sup>

**Environmental Covenant:** a property interest with a holder that is capable of being transferred and may be enforced by multiple parties.<sup>51</sup>

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<sup>43</sup> Pittsburgh Zoning Code, Article 1, § 901.03 (1999)

<sup>44</sup> Susquehanna Zoning Code, Chapter 27, §27-801 (2013)

<sup>45</sup> The Philadelphia Code, Housing Code, §7-101 (2012)

<sup>46</sup> Id.

<sup>47</sup> Susquehanna Zoning Code, Chapter 27, Definitions, §27-201 (2013)

<sup>48</sup> The Philadelphia Code, Housing Code, §7-102 (2013)

<sup>49</sup> Id.

<sup>50</sup> Id.

<sup>51</sup> Administration of the Uniform Environmental Covenants Act, 40 Pa. Bull. 1379, Volume 40, Number 10 (2010)

**Multiple Family:** a building containing three or more dwelling units that is located on a separate lot, which is the sum of the required minimum lot areas of all dwelling units or the minimum tract area, whichever is greater.<sup>52</sup>

**R-3 Residential Multi-Family District:** a district intended to create, preserve, and enhance areas that are primarily residential in character, but built to higher densities than any other residential district, either older developed or new developing areas with medium to high concentrations of population, and accommodating some nonresidential uses to enhance the quality of the neighborhood.<sup>53</sup>

**Single Family Attached Dwelling (Townhouse):** a dwelling unit on a separate lot and attached to two or more dwelling units by common vertical wall.<sup>54</sup>

**Single Family Detached Dwelling:** a dwelling located on a separate lot which is designed for and occupied by not more than one family and surrounded by open space or yards and which is not attached to any other dwelling by any means.<sup>55</sup>

**Site Plan:** documents that will identify the intended use or occupancy of a particular lot.<sup>56</sup>

### **Section 3: Applicability**

This Ordinance shall apply to any development project designated as an R-3 Residential Multi-Family District, consisting of the construction of a new development or the rehabilitation of an abandoned or blighted development that will contain twenty (20) or more dwelling units at any one location.<sup>57</sup>

### **Section 4: Uses Permitted by Right**

(A) Each of the following types of residences are permitted in the R-3 Residential Multi-Family District, provided that the type, property requirements, and all other applicable requirements in this ordinance are satisfied:

- (1) Single-Family Detached Dwelling
- (2) Single-Family Attached Dwelling (Townhouse)
- (3) Multi-Family Detached Dwelling<sup>58</sup>

### **Section 5: Lot Area and Building Requirements**

(A) Dimensional Requirements. Each of the following dimensional requirements shall apply to the respective units allowed in the R-3 District.

(1) Single Family Townhouses- It shall be unlawful for any single-family townhouses to take up more than 2,000 square-feet.

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<sup>52</sup> Susquehanna Zoning Code, Chapter 27, § 27-204 (2013)

<sup>53</sup> Wilkes-Barre, Pennsylvania Code of Ordinances §404 (2015)

<sup>54</sup> Susquehanna Zoning Code Chapter 27 §27-204 (2013)

<sup>55</sup> Susquehanna Zoning Code, Chapter 27, § 27-204 (2013)

<sup>56</sup> Pittsburgh Zoning Code, Article 1, § 922.01 (1999)

<sup>57</sup> Philadelphia Code, Housing Code, §7-103 (2013)

<sup>58</sup> Kennett Square, Pennsylvania Code of Ordinances §23-15(c) (2015)

(2) Single Family Detached Dwellings- It shall be unlawful for any single-family detached dwelling to take up more than 2,000 square-feet.

(3) Multi-Family Dwellings- It shall be unlawful for any multi-family detached dwelling to take up more than 4,000 square-feet.<sup>59</sup>

(B) Front Yard Requirements. Each of the following yard requirements shall apply to the respective units allowed in the R-3 District.

(1) Single Family Townhouses- It shall be unlawful for any single-family townhouses to take up more than 25 square feet of front yard space.

(2) Single Family Detached Dwellings- It shall be unlawful for any single-family detached dwelling to take up more than 25 square feet of front yard space.

(3) Multi-Family Dwellings- It shall be unlawful for any multi-family detached dwelling to take up more than 50 square feet of front yard space.<sup>60</sup>

(C) Rear Yard Requirements. Each of the following yard requirements shall apply to the respective units allowed in the R-3 District.

(1) Single Family Townhouses- It shall be unlawful for any single-family townhouses to take up more than 25 square feet of rear yard space.

(2) Single Family Detached Dwellings- It shall be unlawful for any single-family detached dwelling to take up more than 25 square feet of rear yard space.

(3) Multi-Family Dwellings- It shall be unlawful for any multi-family detached dwelling to take up more than 50 square feet of rear yard space.<sup>61</sup>

### **Section 6: Affordability Requirements**

(A) Any R-3 Multi-Family Residential District developed in accordance with this ordinance must provide affordable dwelling units in the following manner:

(1) Five (5) percent of the dwelling units in each development shall be reserved for single-families with incomes that fall below eighty (80) percent of AMI.

(2) Five (5) percent of the dwelling units in each development shall be reserved for single-families with incomes that fall below one hundred and twenty-five (125) percent of AMI.

(3) Five (5) percent of the dwelling units in each development shall be reserved for multi-family households with incomes that fall below forty (40) percent of AMI.<sup>62</sup>

### **Section 7: Administration Requirements**

(A) Applications and Fees. Any R-3 Multi-Family Residential District being considered under this ordinance shall be required to submit an application, provided by the Housing Department, and pay a non-refundable fee of \$75 to cover the costs of processing applications.<sup>63</sup>

(B) Application Requirements: Every application submitted pursuant to Section 7(a) must contain the following items:

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<sup>59</sup> Id.

<sup>60</sup> Id.

<sup>61</sup> Id.

<sup>62</sup> Philadelphia Code, Housing Code, §7-104 (2013)

<sup>63</sup> Pittsburgh Zoning Code, Article 1, §922.01 (1999)

- (1) Site Plan: A site plan must contain all of the following information;
- (a) Name of the Property Owner
  - (b) Date of Preparation
  - (c) Existing and Proposed Property lines with designated dimensions
  - (d) If one has been decided, the name of the development
  - (e) The dimensions of each lot that will be created in the subdivision
  - (f) The names of all the streets and ways the lot is located on.
  - (g) The Street Address of the Site
  - (h) The location, height, and dimension of existing and proposed structures on the site.
  - (i) The location, height, and dimension of existing and proposed vehicle accommodation areas, including parking areas and loading areas.
  - (j) The location and dimension of existing and proposed driveways
  - (k) The location and dimension of any areas that will be used for landscaping.
  - (l) The location and dimension of any area that will remain as usable open space.
  - (m) The location, height, and dimension of existing and proposed utility lines including: electric, telephone, gas, water, sewer, and cable television.<sup>64</sup>

(2) Other Documentation

Upon request by the Zoning Administrator, the following items must be submitted with the application for an R-3 Multi-Family Residential District under Section 7(a)

- (a) Documents that will show the applicant possesses a legally sufficient interest in the property that will be developed, or is the agent of such interested person.
- (b) Certificates from appropriate agencies that will demonstrate proposed utility systems will be adequate to support the proposed plan.
- (c) Detailed description of any recreational facilities that will be provided in this new district.
- (d) Time Schedules for each stage of the development of the new R-3 Multi-Family Residential District.<sup>65</sup>

**Section 8: Requirement of Certification of Zoning Classification**

(A) A Certificate of Zoning Classification shall be required to qualify that the planned zoning district will be constructed and used as an R-3 Multi-Family Residential District.

(B) Any person obtaining a certificate of zoning classification must advertise, through oral or written representations, that the property will be used in the manner consistent with zoning classification obtained.

(C) A Certificate of Zoning Classification may be filed by the owner of the proposed property or the owner's agent.

(D) A complete application of the Certificate of Zoning Classification must be submitted to the Zoning Administrator, along with a nonrefundable fee used for the cost of processing development applications. A certificate shall be issued upon determination by the Zoning

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<sup>64</sup> Pittsburgh Zoning Code, Article 1 § 922.01(d) (1999)

<sup>65</sup> Id.

Administrator that all of the information in the application has been completed and the nonrefundable fee has been paid.

(E) An application of the Certificate of Zoning Classification must be submitted simultaneously with the application for the creation of the R-3 Multi-Family Residential District and the Certificate of Occupancy.<sup>66</sup>

### **Section 9: Requirement of Certificate of Occupancy**

(A) A Certificate of Occupancy shall be required for the occupancy of all land, structures or premises, in any new R-3 Multi-Family Residential District constructed pursuant to this ordinance.

(B) The application for a Certificate of Occupancy may be filed by the owner of the proposed district or the owner's agent.

(C) A complete application for a Certificate of Occupancy shall be submitted to the Zoning Administrator, along with a nonrefundable fee used for the cost of processing development applications. A certificate shall be issued upon determination by the Zoning Administrator that all of the information in the application has been completed and the nonrefundable fee has been paid.

(D) An application for a Certificate of Occupancy shall be submitted simultaneously with the application for the creation of the R-3 Multi-Family Residential District and the Certificate of Zoning Classification.<sup>67</sup>

### **Section 10: Hearing Requirement**

(A) Hearing Requirement. After successful filing of the application, a hearing shall be held within ninety (90) days of the filing of the application. This hearing shall confirm and clarify that the development will comply with all sections of this ordinance, including:

- (1) The name of the property owner.
- (2) The date of preparation.
- (3) The property lines, existing and proposed, showing the dimensions of every development.
- (4) The addresses of every home and the names of every street.
- (5) The housing requirements, impervious coverage requirements, and the yard requirements will be met under the proposal.
- (6) Other such matters that the Zoning Hearing Board deems essential to the approval of the zoning plan.<sup>68</sup>

### **Section 11: Enforcement and Penalties**

(A) Enforcement Authority. This ordinance shall be enforced by any and all of the following individuals:

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<sup>66</sup> Pittsburgh Zoning Code, Article 1, § 922.03 (1999)

<sup>67</sup> Pittsburgh Zoning Code, Article 1 § 922.02 (1999)

<sup>68</sup> Id.

- (1) Bureau of Building Inspection
- (2) Code Official
- (3) Any other officer designated by the City Council as the council may see fit to designate.<sup>69</sup>

B. Violations. The following actions and activities shall be a violation of this ordinance and shall be subject to penalties provided by this ordinance.

(1) Development or Use without Permits: Any person who engages in the development or rehabilitation of R-3 Residential Multi-Family District without the permits or approvals required by this ordinance shall be in violation of this ordinance.<sup>70</sup>

(2) Anyone found violating this section shall, upon conviction, be fined no more than \$1,500 for each offense. Each day a violation is continued shall constitute a separate offense.<sup>71</sup>

C. Notice Requirements. In cases where a violation does not involve any emergency situation, the City shall give written notice of the nature of the violation to the owner of the land, notifying the owner that they shall have thirty (30) days to correct the violation before further action is taken against the land owner.<sup>72</sup>

### **Section 10: Repeal**

Any ordinance or resolutions, or parts of ordinances or resolutions, are repealed to the extent that they are inconsistent with this ordinance.<sup>73</sup>

### **Section 11: Severability**

If any provision, sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance. It is the intent of the City Council that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid provision, sentence, clause, section, or part thereof not been included herein.<sup>74</sup>

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<sup>69</sup> Id. at 924.01

<sup>70</sup> Id. at 924.04

<sup>71</sup> Id.

<sup>72</sup> Id. at 924.05

<sup>73</sup> Id. at §901.06 (1999)

<sup>74</sup> Philadelphia Code, Housing Code, §7-114 (2013)