

~~ITEM # 24a&b
Date 05-28-13~~

COUNCIL ACTION FORM

SUBJECT: EXTENSION OF DEADLINE FOR VERIFICATION OF RENTAL HOUSING APPROVED NON-COMPLIANT CONDITIONS

BACKGROUND:

In the past, the City of Ames has provided property owners with the ability to continue to utilize their rental units without bringing the entire structure into compliance with current codes. To accomplish this objective, the City of Ames has utilized Retroactive Conversion Permits, Board Variances, and Administrative Approvals.

Rental inspections provide the opportunity 1) for the property owner to substantiate these previous approvals for the Inspections staff and 2) for the Inspections staff to document those approvals for future records. Per the City's Municipal Code, a deadline of June 30, 2013 was given for the Retroactive Conversion Approval process. However, due to several factors (e.g., staff turnover, two inspection moratoriums, more time needed to complete inspections for new code, etc.), City staff will have not completed an inspection cycle for all rental units by the established timeframe.

Hence, the Property Maintenance Appeals Board (PMAB) Chair, Al Warren expressed concern at the May 2nd PMAB meeting, regarding the specific date identified in Ames *Municipal Code* Section 13.402(3.f) which states the following:

- (f) *Retroactive Conversion Permits, Board Variances, or Administrative Approvals authorizing specific noncompliant conditions will be reviewed by the Building Official in accord with this procedure at or about the date of the regular periodic inspection performed in conjunction with expiration of the current Letter of Compliance. Retroactive Conversion Permits, Board Variances, or Administrative Approvals meeting the criteria of this Code shall be recorded henceforth as Approved Pre-existing Conditions. This process will occur during the four (4) year period commencing July 1, 2009 and ending **June 30, 2013**. Those conditions not specifically approved by Retroactive Conversion Permits, Board Variances, or Administrative Approvals, and which have not been updated in the Inspection Division records as Approved Pre-existing Conditions must be brought into compliance with this Code by the dates specified in the relevant sections of this Code.*

This Section of the Ames *Municipal Code* was discussed during a City Council meeting on June 2, 2009. The following is an excerpt from the June 2, 2009, City Council meeting minutes:

Chief Petersen explained that Retroactive Conversion Permits were used in the 1980's to address the issue of "grandfathering" rental units that were built during periods of no code enforcement or differing codes. He said that those Permits were not well-documented and have caused considerable problems for rental owners as well as City staff. Building Official David Brown further explained that the proposed Rental Code will allow for holders of Retroactive Conversion Permits, Board Variances, and Administrative Approvals to continue non-compliant conditions. They must reapply to the Building Official for permanent exceptions; those will be approved as long as the procedures called for in Section 13.402 are followed and the Building Official verifies that the non-compliant condition has been maintained in a safe and otherwise Code-compliant manner. Staff will then document the approved pre-existing conditions. Mr. Brown named several non-compliant conditions that will be allowed to continue: off-street parking, building numbering, stairway rise and run, handrails, guardrails, minimum ceiling height, natural light and ventilation, minimum room area, minimum site requirements, single furnace servicing multiple units, and egress windows above grade.

It appears that the June 30, 2013 date was included in Ames *Municipal Code* Section 13.402(3.f) to allow time for the City of Ames to provide a complete rental cycle on all of the rental units in Ames after the adoption of the updated Rental Housing Code on July 1, 2009. Rental inspectors have steadily increased the number of inspections that they provide. As of May 14, 2013, the Rental Inspectors have inspected 659 units as compared to 878 units for the entire year in 2012. On May 14, 2013, 7,716 rental units had been inspected under this Code with 4,637 units remaining.

The discussion at the Property Maintenance Appeals Board was primarily supportive of removing the June 30, 2013 date altogether and providing a description that ties the Code section to the initial rental cycle rather than a date certain. Legal staff was present at that meeting and recommended changing the code in that manner. Inspections staff had an opportunity to discuss this item with the Ames Rental Association at their May 15th Board meeting. The consensus was again to remove the specific date in favor of the initial rental inspection cycle. Pat Brown was also contacted on May 21, 2013 to discuss this item. Ms. Brown is a Property Maintenance Appeals Board member, representing Neighborhood Resident – Owner-Occupants. Ms. Brown did not express any concerns with a Code revision or with the removal of the date.

Consensus amongst stakeholders regarding Ames *Municipal Code* Section 13.402(3.f) recognizes that the June 30, 2013 date, as currently written in the Code, is not attainable and that rather than arbitrarily choosing another date in the future, that it would be understandable to tie the ability to provide documentation to the first rental inspection cycle from the July 1, 2009 date.

ALTERNATIVES:

1. Direct staff to draft an ordinance to modify Ames *Municipal Code* Section 13.402(3.f) by removing the June 30, 2013 date and allowing Retroactive Conversion Permits,

Board Variances or Administrative Approvals to continue to be accepted through the first rental inspection cycle.

2. Retain Ames *Municipal Code* Section 13.402(3.f) as it is currently written and direct staff to not accept Retroactive Conversion Permits, Board Variances or Administrative Approvals after June 30, 2013.

MANAGER'S RECOMMENDED ACTION:

Due to the consensus reached through staff's discussions with the stakeholders and the apparent intent of Ames *Municipal Code* Section 13.402(3.f) to allow property owners the ability to provide documentation of previously approved Retroactive Conversion Permits, Board Variances or Administrative Approvals, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1.

This alternative will direct the City Attorney to draft a modification to the existing Municipal Code section 13.402(3.f), thereby allowing Retroactive Conversion Permits, Board Variances, or Administrative Approvals to continue to be accepted through the first rental inspection cycle from the Code adoption on July 1, 2009.

ORDINANCE NO.

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY REPEALING SECTION 13.402(3)(f) THEREOF, AND ENACTING A NEW SECTION 13.402(3)(f) FOR THE PURPOSE OF REVISING THE TIME PERIOD FOR SEEKING CONTINUED APPROVAL OF RETROACTIVE CONVERSION PERMITS, BOARD VARIANCES OR ADMINISTRATIVE APPROVALS; REPEALING ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; PROVIDING A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ENACTED, by the City Council for the City of Ames, Iowa, that:

Section One. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by amending Section 13.402(3)(f) as follows:

Sec. 13.402 PRIOR APPROVALS SHALL CONTINUE – CONDITIONS

...

“(3) Board Variances.

(f) Retroactive Conversion Permits, Board Variances, or Administrative Approvals authorizing specific noncompliant conditions will be reviewed by the Building Official in accord with this procedure at or about the date of the regular periodic inspection performed in conjunction with expiration of the current Letter of Compliance. Retroactive Conversion Permits, Board Variances, or Administrative Approvals meeting the criteria of this Code shall be recorded henceforth as Approved Pre-existing Conditions. **This process will occur during the period following adoption of this ordinance commencing July 1, 2009, and ending for each rental unit when it has been subject to a regular periodic inspection in conjunction with expiration of its Letter of Compliance.** Those conditions not specifically approved by Retroactive Conversion Permits, Board Variances, or Administrative Approvals, and which have not been updated in the Inspection Division records as Approved Pre-existing Conditions must be brought into compliance with this Code by the dates specified in the relevant sections of this Code.”

...

Section Two. Violation of the provisions of this ordinance shall constitute a municipal infraction punishable as set out by law.

Section Three. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent of such conflict, if any.

Section Four. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

Passed this _____ day of _____, _____.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor