

COUNCIL ACTION FORM

SUBJECT: **TEMPORARY MORATORIUM ON ISSUANCE
OF NEW RENTAL LETTERS OF COMPLIANCE**

BACKGROUND:

For several decades the City of Ames has limited the number of unrelated people who can share a rental unit as a means of controlling over occupancy of rental units and the problems that come from such over occupancy.

Earlier this year, the Iowa Legislature passed a new state law, HF 134, which prohibits municipalities, after 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 relationship between the occupants of such rental properties. As the result of this action, the Ames City Council is in the process of reviewing ways to address issues related to rental properties and over occupancy, given the new restriction on the City established by state law.

At the September 12, 2017 Ames City Council meeting, the Council heard from citizens about problems caused by over occupancy and an increasing number of rental properties in some neighborhoods. Citizens from certain neighborhoods spoke about the ever-increasing number of single-family homes being converted to rental properties, and the resulting changed nature of their neighborhoods.

After reviewing numerous alternatives for addressing over occupancy, the Council decided to pursue several courses of action. One course of action was that the Council directed staff to draft an ordinance placing a temporary moratorium on the issuance of new Letters of Compliance for single-family and two-family residences. A Letter of Compliance is the necessary permit issued by the City for property owners to lawfully rent or lease a property. Letters of Compliance are established in Section 13.300 of the Ames Municipal Code and are often informally referred to as “rental occupancy permits.” This moratorium would stop, on a temporary basis, property owners from converting single and two-family homes into rental properties, while the Council addresses broader issues.

The City Attorney’s office, with assistance from the Inspection Division and the Department of Planning and Housing, drafted an ordinance to establish the moratorium. Although a Council resolution could be used to establish a moratorium in some situations, it is necessary in the current situation to establish the moratorium by ordinance, since a resolution cannot trump an existing ordinance.

Subsection (1) of the ordinance states the purpose of the ordinance.

Subsection (2) creates a moratorium on the issuance of new Letters of Compliance during the moratorium period.

Subsection (3) addresses issues that staff believes may arise during the moratorium period. **Staff felt the need to have the ordinance state clearly, so that there are no misunderstandings or misinterpretations, that renewals of Letters of Compliance are allowed during the moratorium, and that property owners who sell their property to another person during the moratorium may transfer the Letter of Compliance to the new owner.**

Subsection (4) is designed to address issues that staff considered during the drafting of the ordinance. There are two situations the Council may wish to consider: How does the Council wish to address: 1) property owners who have already completed and filed a rental registration application (which is the application to receive a Letter of Compliance), and 2) potential property owners who have started the process by filing a pre-sale inspection form (this is the process where the potential buyer of property starts the process to make certain the property can be turned into a rental property. These applicants are not yet owners of the property at issue).

Under the language in subsection (4) as drafted, a Letter of Compliance still could be issued during the moratorium period in situations where an applicant has already begun the registration process to receive a Letter of Compliance. This sentence states that property owners who have filed a rental registration application or a pre-sale inspection form prior to the effective date of the moratorium could still potentially receive a Letter of Compliance.

The City Attorney's office believes there might be potential liability from a due process standpoint for property owners who have actually filed a rental registration application, and recommends that the Council allow the application process to proceed and potentially a Letter of Compliance to be issued during the moratorium period for those in this situation.

The Council directive was for a six-month moratorium. For clarity, staff felt it was best to set a specific date for the moratorium to expire, rather than having it expire six months from the date it becomes effective, as it is not easy for a member of the public to determine when an ordinance became effective. Staff chose March 31, 2018, which is approximately six months from now.

An ordinance requires three readings. If the Council determines the need for a moratorium is urgent, the Council can vote to suspend the rules and proceed with the second and third readings.

ALTERNATIVES:

1. Council may approve the ordinance establishing a temporary moratorium on issuance of new rental Letters of Compliance, but allowing Letters of Compliance to be issued during the moratorium for those who had begun the process of obtaining a Letter of Compliance either by filing a rental registration application or a pre-sale inspection form.
2. Council may approve the ordinance establishing a temporary moratorium on issuance of new rental Letters of Compliance, but amend the ordinance by deleting the words “or a pre-sale inspection form” from subsection (4).

This alternative would allow for new Letters of Compliance to be issued during the moratorium only for those who have filed a rental registration application before the effective date of the ordinance. This approach would require a motion to be approved deleting the words “or a pre-sale inspection form” from subsection (4) before the vote on the ordinance.

3. Council may approve the ordinance establishing a temporary moratorium on issuance of new rental Letters of Compliance, but amend the ordinance by deleting the subsection (4).

This alternative would mean that no new Letters of Compliance would be issued during the moratorium, even for those who have begun the process in any way prior to the effective date of the ordinance.

4. Council may not approve the proposed ordinance.

MANAGER'S RECOMMENDED ACTION:

The City Council directed the City Attorney to draft this ordinance creating a moratorium in order to temporarily address the increasing number of homes being converted to rental properties and resultant problems in neighborhoods, while the Council considers other methods of addressing these issues. **Because of potential due process concerns raised by the City Attorney about including in the moratorium property owners who have already filed a rental registration application, it is the recommendation of the City Manager that the City Council approve Alternative #2 as highlighted above.**

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY ENACTING A NEW CHAPTER 13 SECTION 13.303 THEREOF, FOR THE PURPOSE OF TEMPORARY MORATORIUM ON ISSUANCE OF NEW RENTAL LETTERS OF COMPLIANCE; 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 enacting a new Section as follows:

**DIVISION III
RENTAL REGISTRATION AND INSPECTION PROGRAM**

“13.303. TEMPORARY MORATORIUM ON ISSUANCE OF RENTAL LETTERS OF COMPLIANCE.

(1) The purpose of this ordinance is to provide a temporary means to protect neighborhoods by preserving the current level of rental properties in the City while the Council considers other options to address issues regarding increasing number of rental units in residential neighborhoods.

(2) A moratorium on the issuance of new rental Letters of Compliance for single-family and two-family homes is established and in effect within the Ames City limits. Except as noted in subsections (3) and (4) below, no new rental Letters of Compliance will be issued by the City during the moratorium period.

(3) Nothing in this section shall be construed to prohibit a property owner with a current rental Letter of Compliance from renewing the Letter of Compliance during the moratorium period. Nothing in this section shall be construed to prohibit a property owner with a current rental Letter of Compliance from transferring the Letter of Compliance to a new owner if the property is sold during the moratorium period.

(4) Property owners that have filed with the City a completed rental registration application or a pre-sale inspection form prior to the effective date of this section may continue with the process, and the City may issue a Letter of Compliance in such cases during the moratorium period.

(5) The moratorium is effective until March 31, 2018, at which point this section shall become null, void and of no future effect.”

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