

RENTAL HOUSING ORDINANCE DISCUSSION

February 20, 2018

With the recent action by the State Legislature, the City of Ames can no longer limit occupancy within a rental unit based on familial status. After much discussion regarding possible alternatives, the City Council passed an ordinance amending the Rental Housing Code to tie occupancy limits to the number of bedrooms and off-street parking spaces for single and two family units, up to a maximum of five occupants.

Even when voting to pass the amendment, City Council members made it clear there were a number of issues that remained to be discussed and, as a result, additional amendments to the ordinance could be expected. **The following questions highlight those policy issues that have been raised by the City Council over the course of their discussions regarding alternatives for limiting occupancy in single and two family rental units.**

ISSUE #1: SHOULD AN INCREASE IN BEDROOMS BE ALLOWED AFTER THE MORATORIUM IS LIFTED?

The current Rental Code limits maximum occupancy of a home to the number of bedrooms that existed on January 1, 2018. Additionally, the City has a temporary moratorium on building permits and new letters of compliance in certain university impacted neighborhoods, which expires after April 30, 2018. The temporary moratorium by the City Council states the following:

Sec. 13.303 Temporary Moratorium on Issuance of Rental Letters of Compliance
5.) During the moratorium, the City shall not issue a building permit under Chapter 5, Ames Municipal Code, which would result in an enlargement of single-family or two-family dwellings located within the area described in subsection (6). For purposes of this ordinance, "enlargement" is defined as: An increase in the volume of a building, an increase in the area of land or building occupied by a use, an increase in the number of bedrooms within a dwelling unit or an increase in the number of dwelling units. For group living uses, any alteration that allows an increase in the number of residents is considered an enlargement of the use.

Prior to making any decision regarding additional bedrooms, it would be helpful for the City Council first to decide between two main philosophies:

1. Allow existing registered rental properties to increase the number of adult occupants or
2. Prohibit existing rentals from increasing the allowed number of adult occupants.

If the intent is to keep the number of occupants equal to the number of bedrooms in existence on January 1, 2018, the following options could be considered:

- **Prohibit any building permits that would increase the number of bedrooms.**

This option is difficult to administer because it is not in the staff's purview to speculate why someone is applying for a permit.

- **Allow building permits to increase the number of bedrooms, but freeze the number of adult occupants based on the number of bedrooms on January 1, 2018.**

If the goal is to freeze the number of occupants, this option would allow property owners to make changes to their properties that would add bedrooms, but prohibits them from taking advantage of these changes to add adult occupants.

If City Council takes no action to revise the current Rental Code, this is the resulting standard for the entire City after the moratorium is lifted.

If the intent is to allow additional occupants, provided there are enough bedrooms as prescribed in the current ordinance, the following options could be considered:

- **Allow building permits to be issued that would facilitate the increase in the number of bedrooms and, therefore, the number of adult occupants up to the stated maximum of five.**

Under this alternative, there will still be a maximum of five adult occupants regardless of the number of bedrooms created. Therefore, there may be little incentive to create more than five bedrooms.

This option would require a change to the current ordinance.

The following possible policy issues remain regarding any option that allows building permits which create an increased number of bedrooms:

- Will the expansion of the footprint of the structure be permitted?
- Will the enclosure of a portion of the structure, such as a porch, be permitted?
- Will the renovation of an existing room, such as a dining room or office, be permitted?

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| <ul style="list-style-type: none">• ISSUE #2: SHOULD AN INCREASE IN OFF-STREET PARKING SPACES BE ALLOWED AFTER THE MORATORIUM IS LIFTED? |
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The same philosophical questions hold true for off-street parking: allow existing rental properties to increase the number of adult occupants by adding parking spaces to a property or prohibit existing rentals from increasing the number of adult occupants by adding additional parking.

If the intent is to keep the number of occupants equal to the number of parking spaces in existence on January 1, 2018, the following options could be considered:

- **Prohibit the increase in the number of off-street parking spaces in existence on January 1, 2018 for any single-family or two-family dwelling rentals.**

This option would mean that an existing four bedroom house with three off-street parking spaces will only be able to have three adult occupants. Likewise, an existing four bedroom house with four off-street parking spaces would only be allowed to have four occupants, regardless of the possibility of additional bedrooms.

The current ordinance would need to be revised to restrict expansion of parking after April 30th.

- **Allow additional parking that may or may not allow for additional bedrooms, but freeze the number of adult occupants based on the number of parking spaces in existence on January 1, 2018.**

This approach would allow a property owner to add paving to help facilitate additional parking, but would not allow them to increase the number of occupants.

Therefore, a three bedroom home that currently has two off-street parking spaces would be able to add a third off-street parking space to accommodate the third adult occupant. This would also allow a five bedroom home with five off-street parking spaces to allow a sixth off-street parking space even though the maximum number of adult tenants has been met.

Changes to the parking requirements found in the Rental Code would be required under this option.

If the intent is to allow additional occupants, provided there are enough parking spaces (one space for every adult occupant), the following options would be available:

- **Allow an unlimited number of additional parking spaces provided it meets all zoning requirements for new parking.**

The prohibition of front yard parking and the maximum lot coverage (e.g. RL Zoning has a maximum standard of 60% of the lot that can be covered with a structure or pavement, including the sidewalks and driveway) would still apply in this option, thereby limiting owners from completely paving their sites. Additional parking would be allowed if there is room in the front and in the rear of the structure, provided there is a legal driveway to the parking and the total area of impervious coverage is below the maximum lot coverage standard.

If Council selects this option no changes to the Rental Code are required.

- **Allow additional parking spaces, but cap the total number of allowed additional spaces at five.**

This approach will allow the addition of paved spaces with a maximum of five off-street parking spaces, regardless of the number of bedrooms in the house.

If a decision is made to select an option allowing for an increase in parking, the City Council might want to reaffirm how we are currently handling parking in alleys and backyards.

ISSUE #3 HOW TO HANDLE THE SITUATION WHERE A NON-ADULT WHO LIVES IN A RENTAL UNIT WITH HIS/HER FAMILY BECOMES AN ADULT AT A LATER DATE DURING THE TIME A RENTAL LEASE IS STILL IN EFFECT? A COMPANION ISSUE IS TO DETERMINE THE DEFINITION OF ADULT.

Staff proposes that the following definition of adult be added to the Rental Code to address situations where minors may turn 18 while still a dependent of the adult householder.

“An adult is defined as an individual that is 18 years of age or older. Excluded from this definition is the dependent to an adult, both sharing their primary residence as the location of the registered rental property.”

The definition as described above would allow children that turn 18 or individuals of any age that are dependents of an adult that also resides within the same registered rental property to be exempt from the maximum adult occupancy calculation.

ISSUE #4: SHOULD A LIMIT ON THE CONCENTRATIONS OF RENTAL UNITS BE IMPOSED THROUGHOUT ALL PARTS OF THE CITY OR ONLY FOR SPECIFIC AREAS? IF THERE IS SUPPORT FOR A CONCENTRATION LIMIT, WHAT SHOULD THE PERCENTAGE BE?

The options regulating rental property concentrations range from separation distances between single-family rental properties to setting a maximum percentage of a defined area that could have registered rental properties.

- **Percentage Limits**

The following table highlights a number of communities that were found to regulate concentration of rental property. From staff’s cursory review of these ordinances, existing rental properties were typically “grandfathered” and permitted to continue unless they ceased to be a licensed rental property. Some communities’ ordinances were challenged and upheld in court, including Winona and East Lansing.

Table 1. Rental Percentage Limitation Examples

City	State	Restriction	Measurements
East Lansing	MI	0%	Zoning Overlay
Mankato	MN	25%	Block
North Mankato	MN	10%	Block
West St Paul	MN	10%	Block
Winona	MN	30%	Block
Northfield	MN	20%	Block
Berkeley	MO	30%	Block
Steubenville	OH	0%	Zoning Overlay
Philadelphia	PA	0%	Zoning Overlay- Non-Owner Rentals

Notes: The zoning overlays are for limited areas of a community, whereas the percentage limits appear to be city-wide. Block is most commonly defined as what is understood as a square block. It would include properties bounded by street intersections, but does not include properties across the street. Block sizes would then vary depending on if it was a gridded street system or an area with curvilinear blocks and cul-de-sacs.

**East Lansing has variable rental standards for each overlay. Some prohibit all rental licenses while some allow for certain classes of rental licenses.*

Many of the communities that restrict the location of rentals include online resources to identify restricted areas with maps and calculated rental concentrations. For example, here is a link to the [Winona map](#). **There was no common basis for setting a percentage limitation between the communities. Often the approach was to identify issues for an area related to loss of single-family home owner occupied housing or for parking, crime, and property maintenance complaints.**

- **Distance Separation**

Staff also identified that some communities focused their limitation on separation distances rather than percentage limits of rental properties. This approach could be applied to any type of rental property or to a specific type of rental property. Some communities focus the separation standards specifically on a defined use of student housing rentals. This separation approach typically allowed non-student rentals or lower occupant levels of less than three individuals and then restricted locations of student based housing that did not meet these prescribed standards.

Often student housing is a defined use or building type that was only permitted by an exception process with specific review standards. This appears to be a favored approach within Pennsylvania jurisdictions as some of the limitations were litigated and the communities' ordinances were upheld.

The following table describes separation standards for defined student housing and demonstrate how a separation could be applied to any type of registered rental property.

Table 2. Rental Limitation- Separation Examples

City	State	Restriction	Measurements
State College	PA	9x minimum lot width	Shortest distance lot to lot
West Chester	PA	20x minimum lot width	Shortest distance lot to lot
Merion Township	PA	500 feet	Shortest distance lot to lot
Newark	DE	10x minimum lot width	Shortest distance lot to lot
Allentown	PA	Limit 2 students or a family	Zoning Overlay
Greenburg	PA	500 feet	Shortest distance lot to lot
Altoona	PA	250 feet	Shortest distance lot to lot
St. Paul	MN	150 feet	Shortest distance lot to lot

ESTABLISHING CONCENTRATION LIMITATIONS FOR SINGLE FAMILY RENTAL PROPERTIES:

From staff’s review of literature on single-family rentals and the examples cited above, there is no consensus on what is an appropriate balance of homeownership and rental properties in a single-family area. Therefore, it appears most cities analyze their individual community needs and try to stabilize neighborhood change with uniform rental concentrations. Even across Ames, there is wide disparity between individual blocks on rental concentration. **Limiting rentals to 20% in a defined area would match our general levels of concentration in RL. Setting a ratio at 20% would restrict any additional single-family home rentals in already concentrated areas, but would allow for other parts of the community to add single-family rental properties.**

Establishing a percentage limitation would require some upfront work to establish the boundaries of an area to broadly manage concentration of rentals while allowing for some latitude for individual properties.

Staff believes the downside of setting a percentage restriction is that it may not address highly localized concentrations of rentals in one part of an area even though the overall percentage is met. For example, if a 20 property area is restricted to 20% rentals, it would allow for four properties to be rented. All four of the allowed rental properties could be concentrated together in a row or surround one property while the rest of the block has no rentals. However, in areas that are already over the threshold then this would not be an issue as no new rental licenses would be permitted.

OPTIONS FOR DEFINING THE CONCENTRATION AREAS:

- **Citywide Definition**

The City can define a uniform standard of a “block” for establishing the rental percentage limitation. Following the block model would mean areas as bounded by streets would be the defined block. The size of these blocks will vary across the City. In older gridded street blocks this may include a typical square block of approximately 16 properties while in newer areas with fewer intersections, such as Northridge, the block area could exceed 60 properties.

Under this option the standard would likely be put into the rental license standards rather than as a zoning standard. This option would be consistent with the Winona example.

- **Property Owner Petition for a Zoning Overlay**

The City could create an option for a Conservation District Overlay that would set rental limits within an individually defined area. Many Cities use conservation overlays and allow for property owners to petition for the overlay for a variety of reasons, including rental restrictions. This is similar to the Historic District petition process. The petition option is analogous to the East Lansing approach. Establishing an overlay would typically be based upon a minimum number of acres or properties and a requirement for a petition signed by a minimum percentage of property owners to have the City consider a rezoning request.

The intent is to ensure the area fits a defined boundary and a sense of a neighborhood. East Lansing requires a minimum 50 properties and boundaries follow streets or other identifiable boundaries. The petition percentage requirement appears to vary between 51% and 66% of property owners to initiate the process and to have City Council consider a rezoning.

This approach would be part of the Zoning Ordinance. As a zoning regulation it should be noted that if 20% of the property owners affected by the regulation are opposed to the change, they can petition the City Council and require a 5/6 City Council approval rather than the typically 4 vote majority standard.

- **City Initiated Zoning Overlay**

Rather than have a property initiated overlay, the City can apply a zoning overlay by its own volition. The City would create the terms of the Zoning Overlay in Zoning Ordinance and then proceed with the rezoning action for the defined area. No property owner concurrence is needed for this option. As a zoning regulation, it should be noted that if 20% of the property owners affected by the regulation are opposed to the change, they can petition the City Council and require a 5/6 City Council approval rather than the typically 4 vote majority standard.

- **Separation Requirement**

A different alternative to a rental percentage limitation would be a physical separation requirement. This approach would likely keep a distance of one or two properties between each rental to ensure there are not highly concentrated areas

of single-family rental properties. In many instances this would be a more limiting approach than a percentage limitation. A separation distance for a license single-family rental could be established as part of the rental code standards.

The separation distance is meant to be an alternative to a percentage limitation without stating a maximum limit. While this approach generally does a good job of insulating individuals properties from having multiple properties become rentals adjacent to them, in some unique situations it could allow for a slightly higher overall percentage than a flat cap as described above if rentals were previously concentrated to one side of an a defined area or neighborhood. Staff estimates that a 150 to 200 foot separation distance would be roughly equal to a 15 %to 20% overall limitation unless lots are very large in width. A 150 foot separation would typically separate rentals by two or more properties from each other.

ISSUE #5: SHOULD THE RENTAL OCCUPANCY LIMITS RECENTLY APPROVED BY THE CITY COUNCIL APPLY TO ONLY LOW DENSITY ZONING DISTRICTS AND/OR SPECIFIED NEIGHBORHOOD OVERLAY AREAS?

The recently approved occupancy ordinance applies to all single-family and two-family properties city-wide. Initial discussion assumed the ordinance would apply to only those properties in residential low density neighborhoods. The following is a table quantifying the number of single and two-family registered rental properties by zoning district.

Residential Zoning Districts

	RL Rentals	RM Rentals	RH Rentals	UCRM Rentals	S-SMD Rentals	F-SRL Rentals	F-SRM Rentals	F-PRD Rentals	F-VR Rentals
Total Parcels	7798	544	4480	1070	214	1220	1061	1912	984
Total Rental Parcels	1482	236	1580	274	59	33	104	170	77
Single Family	587	30	52	122	23	27	44	71	29
Two-Family	850	118	44	114	14	6	3	83	3

Non-Residential Zoning Districts

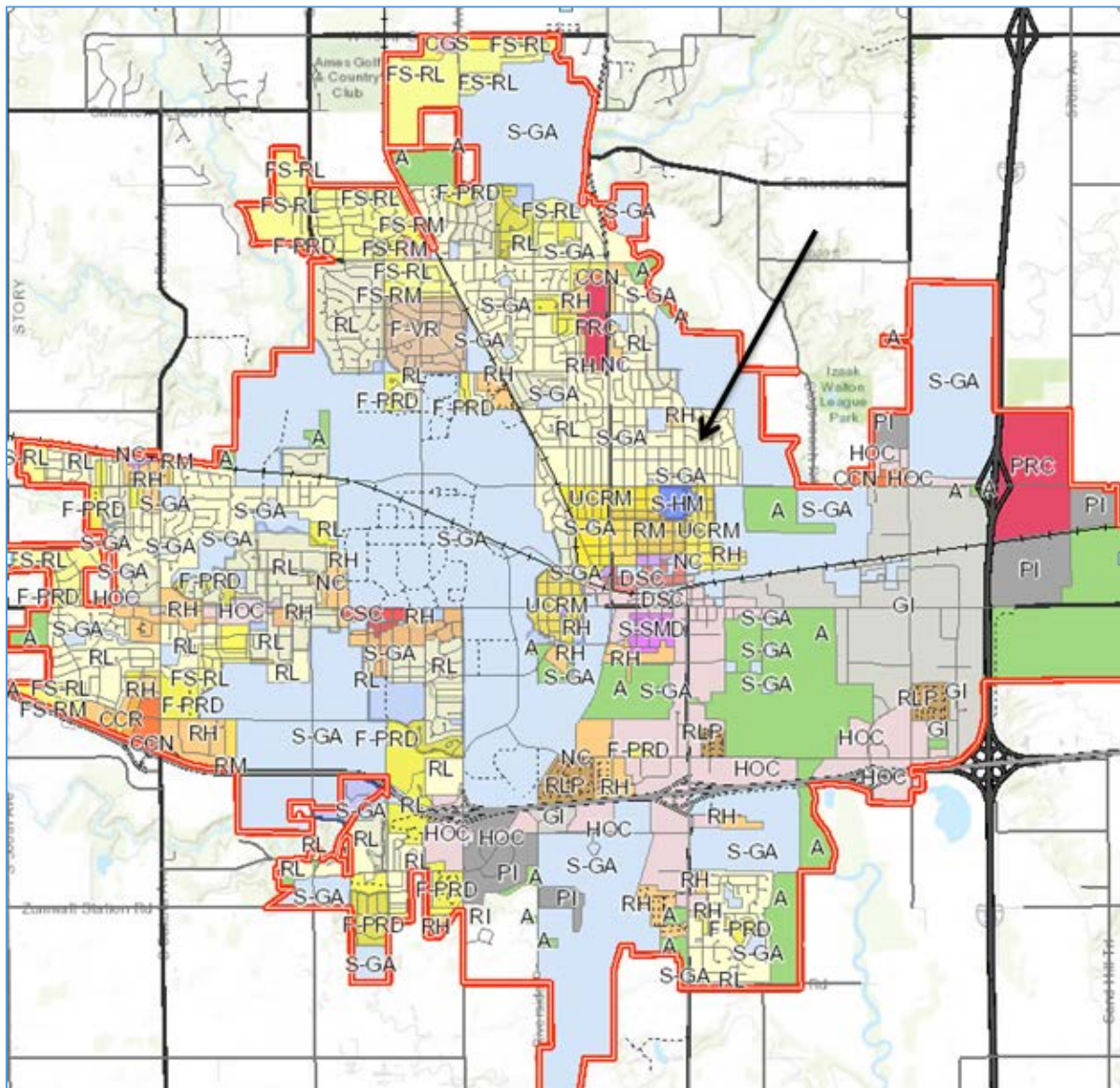
	NC Rentals	HOC Rentals	DSC Rentals	CSC Rentals	GI Rentals	CCR Rentals
Total Parcels	85	502	166	595	267	397
Total Rental Parcels	20	35	26	21	3	7
Single Family	6	13	7	1	1	1
Duplex	2	2	3	2	2	2

Limiting the ordinance to only single-family and two-family dwellings in residential low density zoned neighborhoods or in specified neighborhood overlay areas, as opposed to the whole City, will present two issues:

- 1) If the rental occupancy limitations for the same type of home vary in each zoning district, it will be more difficult to educate and enforce the limits consistently. For example, properties across the street from each other might have different requirements. Customers asking what the allowed occupancy is will have to know an address or zone and understand that the allowances may differ for each potential rental property. It will be much easier to educate our customers if the rules are standardized throughout the City.

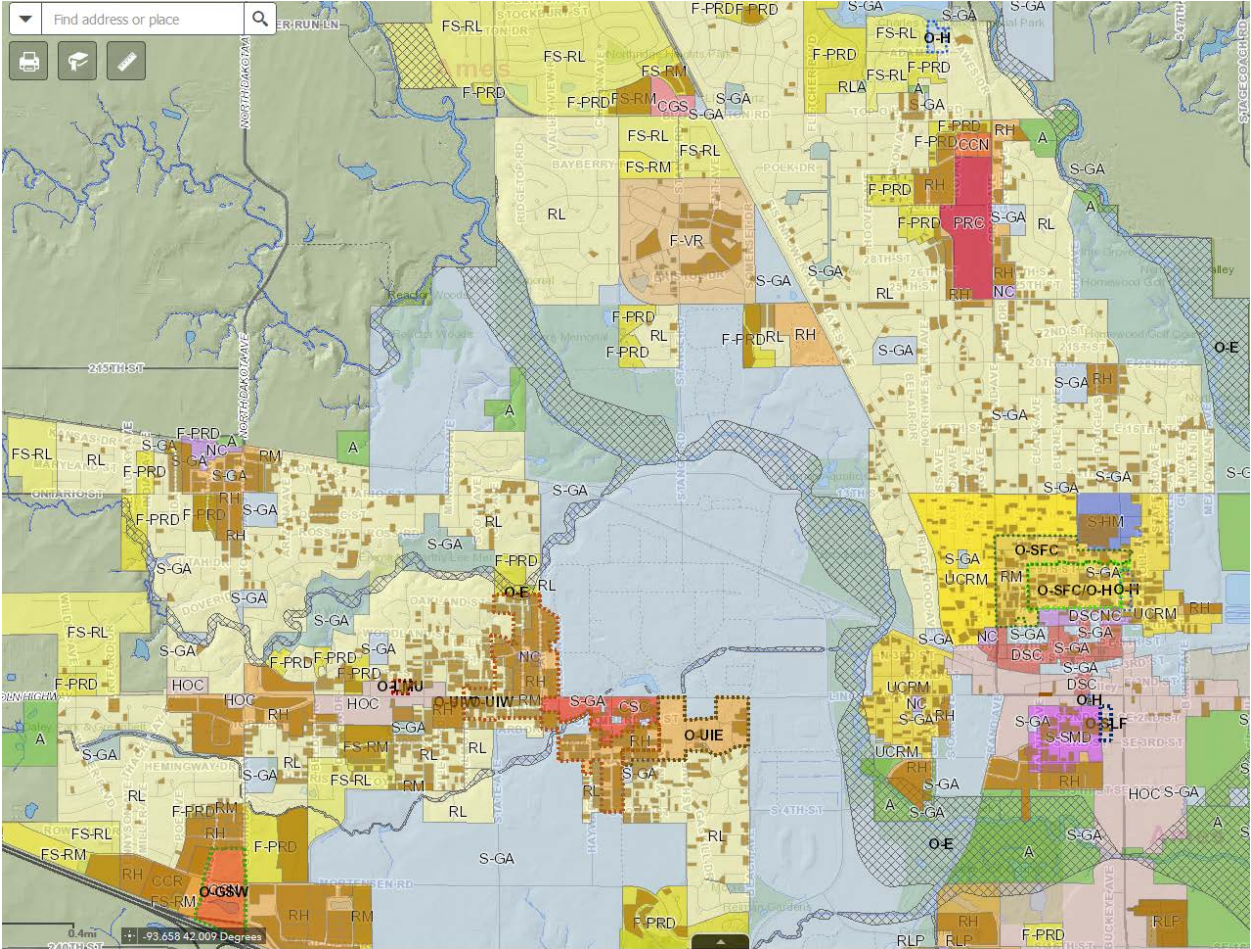
- 2) It should be noted that there are many other zones throughout the City that are very residential in nature, but are not zoned Residential Low Density. These zones include Village, RM, UCRM, S-SMD, F-PRD and are identified on the map below (the black arrow indicates the color of the RL zones). Some of the neighborhoods that would be exempt if this only applied to low density areas are Oak-Riverside, Somerset, and Old Town (7th to 13th and Northwestern to Maxwell).

City Of Ames Zoning Map



Therefore, if the ordinance only applies to Residential Low Density zones or to specified neighborhood overlay areas, the City Council will need to determine what the occupancy limits, if any, would be for other zones/areas. It would be very difficult to separate zones as our rental population is well-sprinkled throughout the City as indicated in the map below (brown layer indicates rental properties):

Registered Rental Properties [Brown is a rental property]



An overlay zone based on density of rental properties seems to be the best option if the City Council does not want the current ordinance to apply city-wide. However, it doesn't answer what occupancy limits should be in effect outside of the overlay and whether they should be more or less restrictive within the overlay.

It is assumed that the overlay area would maintain the current code requirements regarding occupancy. Listed below are the options that the City Council could consider regarding occupancy limits outside of an adopted neighborhood overlay area:

- Occupancy Limits Less Restrictive than the Overlay**

This option allows for more occupants outside of the overlay areas which would accommodate some of the atypical living situations that exist. However, it may also allow many of the single-family rental homes scattered throughout the city to be occupied by more than three adults, thereby upsetting the family-oriented dynamic many residents feel they have in these neighborhoods. Neighborhood residents may argue that they purposefully bought further away

from the University in relatively owner-occupied neighborhoods and would like to keep the majority of the student population in the areas immediately surrounding campus.

Examples of being less restrictive outside of the overlay might include allowing any of the following:

- One more adult than the number of bedrooms (a four bedroom house could have five adults)
- A number of adults equal to the number of bedrooms, regardless of parking (a four bedroom house could have four adults even if there are only three off-street parking spaces)
- A maximum number of adults, regardless of number of bedrooms (if the maximum is set at five, the maximum number of adults in any home would be five even if there are only two bedrooms)

- **Occupancy Limits More Restrictive than the Overlay**

The opposite approach would be to have more restrictive occupancy requirements outside of the overlay. The argument for this option is that the overlay is very rental dense and it makes sense to allow more people to live in this area so that they don't trickle into the neighboring primarily owner-occupied neighborhoods.

One example of being more restrictive outside of the overlay areas might be to create a smaller cap on the number of adults. The overlay areas may have a cap of five, but the cap outside of the overlay could be set at three or four, regardless of number of bedrooms or parking spaces.

- **Same Restrictions on all Single-Family and Two-Family Dwellings**

Single-family homes were constructed to be occupied by a small group of people (in most cases) regardless of the zone in which they were built. For this reason, staff feels it is best to regulate occupancy based on type of structure, not the zone. As stated before, regulating by building type is easier to educate and enforce. With this option there would be no overlays necessary.

Staff feels that the new definition of adult will resolve many of the atypical living situations, negating the need for different occupancy regulations throughout the City. Therefore, staff recommends that no changes for Issue #5, keeping the occupancy limitations reflected in the current ordinance applying to all single-family and two-family rentals citywide and in all zoning districts.

ISSUE #6 WHAT PENALTIES SHOULD BE IMPOSED AGAINST PROPERTY OWNERS FOR MULTIPLE RENTAL HOUSING CODE VIOLATIONS THAT OCCUR ON THEIR PROPERTIES?

The City Council asked staff to review the penalties for properties that consistently have violations. The following are options that would provide harsher penalties for frequent violators:

- The first approach divides violations into two categories:
 - 1) Simple Misdemeanors (those that can be criminally enforced through the Police Department – nuisance party, noise, etc.); and
 - 2) Nuisance Violations (those that can be enforced by Inspections – garbage, furniture, over-occupancy, vegetation, parking, etc. This does not include structural maintenance such as peeling paint, steps, etc.).

Based on these two types of violations, the following point system could be applied:

- Simple misdemeanors will be given two points per instance. NOTE: A nuisance party in which three tenants are issued citations will result in two points, not two points per citation.
- Nuisance violations will result in one point per instance.
- An accumulation of five points between August 1st and July 31st of each year will result in a one year suspension of the LOC.

Suspension of an LOC allows the property to remain registered, but not be rented for the specified amount of time. It is likely that this approach would result in the eviction of tenants. An alternative would be to suspend the LOC beginning on August 1st and ending July 31st. This would eliminate the immediate eviction of a tenant and would prohibit the landlord from entering into the next lease cycle with a tenant.

- A second approach would place landlords/property managers on a tiered fee system based on the number of nuisance and property maintenance violations for each property. Each tier would be subject to an increased annual fee set by the City Council. This approach penalizes the landlord (with an increased registration fee) more than the tenant and would not result in eviction of the occupants. However, this option could result in an increase in rent occupants.
- A third approach rewards landlords with a longer LOC cycle. The language for this approach, shown below, is currently in Chapter 13 of the Ames Municipal Code so a code change would not be necessary if this approach is supported by the City Council.

Sec 13.301 Letter of Compliance (LOC)

3.) Inspection Cycles

Letters of compliance shall be issued for terms of one, two, three, or four years, shall expire at the end of those terms, and shall not be renewed without inspection. The period shall be determined by the Building Official based on the following criteria:

a) One year

- i.) **All dwellings in which a verified incident of over-occupancy occurred during the previous year;***
- ii.) All dwellings which, due to a documented history of neglect and lack of maintenance require additional inspection to obtain compliance*

b) Two Years

- i.) All dwellings in which life safety violations, including broken/inoperable doors, ceiling, wall, and floor penetrations, have been found during the previous year;*
- ii.) All dwelling in which provided alarm or fire sprinkler systems have not been continuously maintained;*
- iii.) All dwellings which have been subject to more than two reinspection fees in the previous year, due to owner or operator failure to correct deficiencies in a specified time period;*
- iv.) **All dwellings which have been the subject of more than two verified property maintenance complaints within the previous year; with verification by Inspection staff or maintenance issues below neighborhood standards***

c) Three Years

- i) All dwellings which are found to have minor code violations (of a cosmetic rather than life safety nature) which are found to be corrected at the first reinspection;*
- ii) All multiple family dwellings not equipped with automatic fire sprinkler protection.*

d) *Four Years*

- i) *All single family dwellings with no code violations at the time of initial inspection;*
- ii) *All multiple family dwellings with no code violations at the time of initial inspection and which are equipped with automatic fire sprinkler protection throughout.*

4.) New Construction

A four year Letter of Compliance shall be issued to each newly-constructed multiple family dwelling or unit or single family dwelling for which a building permit has been issued and a Certificate of Occupancy has been issued. The Certificate of Occupancy issued at completion of construction shall constitute the rental inspection approval required for issuance of the first Letter of Compliance (LOC).

The Municipal Code is currently set up to reward those that maintain their properties with more years between inspection cycles. This is a good incentive for the landlords, but hasn't fully been utilized in recent years. Very rarely has the tenants' use of the property (property maintenance and over-occupancy complaints) resulted in a reduced LOC.

If properly used, this reward system could be enough incentivize the owner to maintain a property so that annual inspections in the Council established neighborhoods would not be warranted. This would allow staff to focus on the problem properties by giving them a shorter LOC and rewarding the well-kept properties with additional years.

- A final approach would combine the current code with either of the first two options as shown below:

Reduce the LOC cycle based on number of violations (current code) and add a provision to suspend a Letter of Compliance after four (or a number Council feels is appropriate) nuisance violations (couches, parking, occupancy, garbage, etc.) in a one lease year period, beginning August 1st and ending July 31st of the following year. The suspension would be effective for one year. Council will need to determine if the suspension begins at the next lease cycle (August 1st), or if it is effective immediately. If effective immediately, it would require tenants be evicted.

Reduce the LOC cycle based on number of violations (current code) and add a provision to place the property into a tier that would apply an additional annual fee as set by Council. This approach would not result in eviction.

Staff recommends, that as a first step, enforcing the current code language to determine if the process is effective. An increase in proactive enforcement should result in the identification of more code violations. If the current process is followed, these code violations will have a direct effect on reducing the interval for rental inspections and, hopefully, impact more compliance with the Rental Code. If an alternative process still proves to be still necessary, a harsher approach can be pursued at a later date.

ISSUE #7 HOW SHOULD SHORT TERM RENTALS (AIRBnBs) BE HANDLED?

The City's residential use categories are described within the Zoning Ordinance Article V of Chapter 29 of the Municipal Code. Residential uses are divided into Group Living, Household Living, and Short Term Lodging. One of the defining elements for Household Living is an expectation of limited transiency compared to Short Term Lodging, which is a use based upon accommodating transiency.

The City's standard includes language that Household Living requires an average length of stay that exceeds 60 days. Short Term Lodging is an average length of stay for less than 60 days. The City currently regulates requests for short term lodging consistent with the residential use categories of Article V of the Zoning Ordinance. Furthermore, depending on the

nature of the rental use it may be subject to the Rental Code requirements as well. Staff created a matrix in Attachment 1 describing three examples of how City codes apply to the situation. **Currently, staff regards short term rentals as a use that is not permitted with Household Living unless it is established through approval of a Bed and Breakfast (see Notes to Attachment #1) permit by the Zoning Board of Adjustment.**

The term Airbnb has come into vogue due to the success of the company's business of hosting a website that allows people to advertise short term lodging options for individual living units compared to traditional motels and hotels. There are other companies with websites that allow for short term rental lodging advertising as well. Currently, Airbnb has over 3,000,000 lodging listings in 65,000 cities and 191 countries. More and more homeowners (and in some cases tenants) are offering the use of their residences — or rooms within their residences — as temporary rentals, either sporadically or on an ongoing basis. A snapshot review of Airbnb offerings in Ames during mid-December included 26 listings. The majority of offerings were 1-2 bedrooms where the property owner was present. These are sometimes referred to as "homestays" with the Airbnb vernacular. In addition to owner present homestays, some property owners offer up whole house rentals where the residence is not the primary residence of the property owner.

Airbnb hosts are asked to review their local laws before listing their short-term rental, and Airbnb's Terms of Service state that when a host activates a listing, the host is certifying that they will follow local laws and regulations. Effective November 1, 2017, Airbnb began automatically collecting and remitting hotel and motel taxes directly to Iowa's Department of Revenue, making the process seamless and easy for both hosts and the State. This agreement ensures that Airbnb hosts collect the state excise tax and local hotel motel taxes.

The issues of short term rentals and their operating requirements has been addressed in a variety of means depending on a local jurisdiction's concerns. The American Planning Association has an advisory report on issues with ordinance examples as well as other entities provide additional resources for addressing short term rental ordinances. Nationally, cities such as San Jose, San Francisco, Tacoma, Boulder have example ordinances and communities in Iowa, such as West Des Moines, Coralville, and Clear Lake, have also adopted standards for short term rentals.

Short term rentals provide tangible benefits to providers, residents, travelers, businesses, and the local community. However, there can also be negative effects on housing supply for permanent households and consistency with community and neighborhood expectations of knowing your neighbors and establishing relationships when the occupants change over frequently or a home sits idle on many days of the year. As such, it is important that Ames consider if amendments to current regulations are needed to establish safeguards for both providers and travelers, alleviate neighborhood concerns, and offer a framework that promotes compliance.

Staff recommends that the City Council establish through revisions to the Zoning Ordinance clear requirements regarding short term rentals. The current short term lodging and household living definitions have blurred lines that could be addressed better by directly adding short term rental definitions and standards to the Zoning Ordinance. There are three main choices for doing this and they are described in more details below. Tonight, staff seeks direction on a preferred option for staff to evaluate as a draft ordinance and consideration by the Planning and Zoning Commission and the City Council.

- **Allow for "homestay" Short Term Rentals as an incidental use and establish specific permit requirements and an efficient registration process.**

This option would separate incidental owner-occupied home sharing of a few rooms as “homestays” (which include the majority of Airbnb offerings) from other larger, more impactful short-term rentals where a homeowner is not present or the short term lodging occurs more frequently. Making the process efficient and easily accessible would likely get people to support and comply with the City’s rules. This option would define short term rental within the Zoning Ordinance and establish an administrative approval process similar to a home occupation. **This option would prohibit whole house rentals that are not the primary residence of the property owner. This option would not require Rental Registration as it requires a homeowner to be the property owner and there is no absentee operation of the short term rental.**

Possible requirements that should be considered as part of a draft ordinance:

- Owner-occupied/primary residence
- Maximum of # of bedrooms for rent
- Owner present during rental period
- Maximum number of days or rental periods per year
- Administered as a Zoning Permit reviewed by staff as an accessory use
- Annual permit / registration and fee

- **Allow Short Term Rentals for both “homestays” and whole house rentals.**

This option recognizes that whole-house short-term rental facilities are more impactful to a neighborhood, but may be desirable for expanded lodging or short term living options within the City. Currently, a whole house rental is subject to the Rental Code, but has a length of average stay requirement of 60 days within the Zoning Ordinance. This is not the typical length of stay for short term rentals. Additionally, the bed and breakfast permit does not permit this option as it requires the homeowner to be present for a bed and breakfast as a Special Home Occupation.

If this option is desired, inclusion of the following requirements as a minimum are recommended to be considered in a draft ordinance in relation to a whole house rental:

- Owner-occupied or absentee
- Guest parking on-site
- Maximum number of rental periods or days per year
- Administered as a Zoning Permit by staff as an accessory use
- Annual permit / registration and fee
- Registration through the City’s rental housing program for health-safety compliance with periodic inspections,

- **Continue status quo of requiring all Airbnbs to be subject to the Bed & Breakfast Special Home Occupation process**

Airbnbs could continue to be permitted under the City’s current Special Home Occupation process which requires a \$100 fee, public notification, and a public hearing before the Zoning Board of Adjustment. Currently, once a property is approved, there is no annual registration or follow-up required. With this alternative, staff would recommend adding a definition of short term rental to clarify the requirements for a Special Home Occupation.

Staff recommends the City Council pursue the first option presented for Airbnbs that legalizes “homestay” short term rentals for a limited number of days in a year. This option seems to balance individual homeowner benefits with

neighborhood safeguards by requiring the property owner to be the primary resident and restricting the total number of days the guests would be present. Someone could still apply for a bed and breakfast permit if they wanted to operate a more regular short term lodging establishment. In this scenario whole house rentals would require licensing as a rental property and that the home would need to be rented consistent with the 60 day average stay requirements, rather than as short term lodging with shorter stays.

ISSUE #8 SHOULD THE RENTAL REGISTRATION EXEMPTION FOR ROOMERS BE MAINTAINED?

The Rental Code requires all rental properties to be registered with the City of Ames. However, it exempts the following in Sec. 13.100(5) below:

13.100(5) Exceptions.

The following residential structures are exempt from these rules:

- a) Owner-occupied single family dwellings;*
- b) Hotels, motels;*
- c) University housing;*
- d) State-licensed health and custodial facilities;*
- e) Other residential occupancies specifically regulated by state or federal authority;*
- f) Fraternity and sorority houses*

Pertinent definitions to this topic include the following which are located in Sec. 13.201 of the Ames Municipal Code:

Sec. 13.201 Owner-Occupied Dwelling Unit

Any townhouse, condominium, or detached dwelling that is occupied as a dwelling by the owner or owner's relative within the first degree of consanguinity (mother, father, daughter, son, sister, brother); and may include a live-in nanny; live-in nurse; one live-in exchange student; or one roomer.

Sec. 13.201 Roomer

A person who occupies a rooming house or rooming unit.

Sec. 13.201 Rooming House

A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two- family dwelling.

Sec. 13.201 Rooming Unit

Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

Staff has interpreted the definitions above to mean that an owner-occupied dwelling could have one rooming unit within the dwelling and this unit could be occupied by one roomer. **Since the term "owner-occupied" includes the owner's relative within the first degree of consanguinity, a child can be considered the owner. This child could have one roomer reside with them and still be considered owner-occupied. As long as the property meets the definition of being owner-occupied, it is exempt**

from registration through the rental code. However, the addition of a second roomer would require compliance with the rental code.

The removal of the word “roomer” from the definition of “owner-occupied dwelling unit” would still allow for a live-in nanny, live-in nurse or one live-in exchange student. Other than these exceptions, it would not allow anyone other than the owner or owner’s immediate family to reside in the home without registration.

This approach may present problems for situations that don’t fall into this category such as an extended family member or friend residing in an otherwise owner-occupied home (an owner-occupied home that allows a friend to live with their family while they find a job would be subject to the rental code). However, it would eliminate the child and friend situation (parents purchase a home for their child and one friend to live in while going to school).

If the City Council hopes to crack down on the number of unregistered rentals, this is likely not the preferred solution. Staff believes increased proactive enforcement would be the best tool to address unregistered rentals.

ATTACHMENT 1

Short Term Rental Scenario- Single-Family Zoning	Rental Code	Zoning Ordinance	Comments
Owner occupied home that makes home available to guests for a short period of time when absent	Licensing required if exceeds one roomer.	Frequent renting without homeowner present is prohibited as short term lodging (Stays less than 60 days) In frequent or occasional rental would be incidental to homeowner occupied house.	<p>Calculation of average stay is the determining factor of short term lodging vs. household living and incidental use.</p> <p><i>Examples-Rent house on three occasions in a year, overall the average stay would meet 60 day standard. Renting home on more frequent basis likely does not meet 60 day average.</i></p> <p>If rental is for more than 60 days it would meet zoning standards for household living, e.g. rental for the summer.</p>
Owner occupied home that allows guests and stays on site.	Okay if one "roomer," no licensing required.	Zoning ordinance does not address "Roomer." Must meet definition of a family and restrictions on unrelated people, regardless of rental occupancy standards.	May register as a Bed and Breakfast as an accessory use to the owner occupied home. Requires ZBA approval.
	Otherwise, comply with adult occupancy limits.		
	Otherwise, comply with definition of a family to determine if authorized.		
Renting of whole home, not an owner occupied property.	Licensing required.	Prohibited as short term lodging.	Length of stay must average 60 days to be a permissible use.

Note: Bed and Breakfast are a Special Home Occupation Permit with the following requirements:

- Owner/Resident-occupied
- Length of stay- maximum of two weeks
- Maximum number of guest rooms- low density zoning - 2; medium and high density zoning - 5
- Maximum area of exclusive use within the home- 25%
- One off-street parking space per guest room
- Breakfast shall be the only meal served (but not required to be served)
- Special Use Permit required and non-transferable
- Must comply with applicable local and state regulations
- Permit approval is by the Zoning Board of Adjustment
- Public hearing with noticing to property owners within 200 feet