

## Staff Report

**Rental Concentration Hardship Options**

April 10, 2018

**BACKGROUND:**

At its March 20<sup>th</sup> Rental Housing Workshop the City Council directed staff to provide options regarding “hardship” and temporary rental licensing options as part of considering a rental concentration restriction for specific neighborhoods. The City Council provided direction to draft a rental concentration ordinance that limits the maximum number of registered rental dwellings to 25% of the properties with either a single family RL or UCRM base zoning district. If the number of registered rental dwellings exceeded the 25% cap, then no additional rental registrations could be approved.

The City currently allows for a temporary rental registration license called a Transitional Letter of Compliance. The Transitional Letter of Compliance allows for a single-family home to be registered for a year by meeting certain life safety requirements for the building. The Transitional Letter of Compliance does not require compliance in that year with non-life safety code violations such as plumbing, mechanical, and parking requirements. The Transitional Letter of Compliance is available to provide flexibility to a property owner to address a variety of situations that may or may not result in the long term rental of a property.

Staff reviewed the standards of other communities that have already adopted a rental concentration limit similar to what is proposed for Ames. These cities allow for one to two years of temporary rental licensing in certain situations. Excerpts of other City ordinances are included as an Attachment.

City	Duration	Criteria for Temporary Rental Exception
Iowa City, IA	2 years	Absent with intent to return, or heir of property intending to occupy the property
Winona, MN	1 year	Offered for sale
North Mankato, MN	1 year, 1year extension	Offered for sale or caretaker function with owner absent
Northfield, MN (City Council Approval)	1 year, 1year extension	Offered for sale, in foreclosure, leave of absence, employment status
Steubenville, OH	2 years	Offered for sale
Berkeley, MO	1 year	Offered for sale

## **STAFF COMMENTS:**

Based upon the review of other “hardship” allowances in other City’s ordinances along with the City of Ames Rental Housing registration requirements, staff believes that the following circumstances would address the most common issues regarding property owner flexibility within a rental concentration cap.

### Proposed Temporary Exceptions to 25% Rental Concentration Cap:

1. Registration of a dwelling unit within a lawfully existing two-family dwelling that currently has a registered rental dwelling abutting the unit.
2. A one year Transitional Letter of Compliance with no eligibility prerequisites, no second license within a 12 month period.
3. Owner occupied dwelling with up to one roomer that is not otherwise required to register with the City. *(Note an owner occupied home with up to one roomer would already be exempt from registering the dwelling. This clarifies to the public that an owner can rent to one individual despite the rental cap when it is consistent with the Rental Housing Ordinance definitions.)*
4. A second one year Transitional License for specified circumstances of property owner absent from the property with intent to return (e.g. sabbatical, temporary employment assignment) with documented evidence related to employment provided to staff.

Some members of City Council expressed concern about potential individual property owners’ ability to sell for owner occupied housing when surrounded by other registered rental properties. From review of the rental property maps provided to Council on the 20<sup>th</sup>, it is not a common situation to have a single-family zoned (RL or UCRM) property surrounded on both side yards and the rear yard. It most commonly would occur within the Westside Neighborhood, the Franklin Avenue blocks of Edwards, and some blocks within College Creek/Old Ames Middle School.

With any exception to a rental cap there is a question of maintaining the integrity of the neighborhood and the rationale for having a cap in the first place with exception allowances. Staff did not find an example of standards for review of permanently exempting homes from a rental cap. The closest example to an exception was to allow for an owner-occupied home to have one renter. This is the same as our current owner-occupied roomer definition that would already apply.

If City Council pursues an option for a permanent exception, City Council would need to consider how to evaluate an expectation of return on investment and resale expectations in a neighborhood. Due to the permanent exemption, the threshold of approval should be a high bar to maintain the integrity of the concentration cap. In some

ways this would be similar to evaluating the financial feasibility in conjunction with a demolition request in the University Impact Overlay or a use variance that has unnecessary hardship standard.

At a minimum, City Council would have to consider what proximity to other rental properties justifies an exception (i.e. abutting rental properties to the sides, across a street, or the rear yard), efforts undertaken to sell a property, the condition of a property compared to investment needed for a property to be a registered rental property, and whom is the designated reviewing authority to grant the exception.

A permanent exemption process could include evaluation of the following information and standards:

1. Evidence of offering the property for sale for a minimum a period of 24 months with disclosure of offers received for purchase of the property that have been rejected.
2. Evidence of the original purchase price, date of purchase, and current mortgage balance.
3. Current appraised value of the dwelling with comparable sales.
4. A home inspection report describing the condition of the property.
5. Rental Housing Code pre-inspection and cost estimate for compliance with the Rental Housing code.
6. Property must have been in ownership by the current property owner for a minimum of five years.
7. Prerequisite that the property has abutting registered dwelling units on a minimum of three sides (two sides property lines and the rear property line or across an alley)
8. Review by the City Council with the following findings for approval of the exemption:
  - a. Determination that the preponderance of properties along the same block face are existing registered rental properties, not just the abutting properties.
  - b. Sale of the property for an owner occupied home is not financially feasible when considering the condition of the home and market value. Deferred maintenance and actions of the property owner that diminished the value of the property are not presentable evidence in support of financial infeasibility.
  - c. Sale of the property for an owner occupied home would deprive the owner of the property of reasonable use of, or economic return on, the property within the intent of the Rental Concentration Cap to preserve homeownership opportunities in a neighborhood.

## **Attachment 1-Temporary Rental Excerpts**

### **Iowa City**

13. Temporary Rental Permits: The City may issue a temporary rental permit for a maximum of twenty four (24) months if the owner is an individual: a) 1) who has been occupying the dwelling; 2) who intends to return to the dwelling; and 3) whose absence is due to a sabbatical, an extended vacation, spending winter months in a warmer climate, military service, a volunteer commitment, employment, or substantially similar reason; or b) who occupied the dwelling at the time of death and the owner's heir(s) occupies or intends to occupy the dwelling. (Ord. 17-4734, 12-19-2017, eff. 1-1-2018)

### **North Mankato**

#### 151.19 Temporary Rental Licenses

(A) A temporary rental license may be granted by the City for unlicensed properties to an owner of a property for a period not to exceed 12 months for the following circumstance(s):

(1) The property is listed for sale and the owner and owner's family are not residing at the property.

(2) The owner and the owner's family are not residing at the property and the occupants are providing a caretaking function for the property.

(3) The City Administrator or his designee is granted authority to extend the temporary rental license for two consecutive six month periods as long as the home is actively marketed for sale.

(4) Twelve months from the date of issuance, a temporary rental license shall expire and is not subject for renewal unless granted an extension by the City Administrator or his designee as outlined in chapter 151.19 (3).

## **Winona**

(iii) Temporary Rental License. Notwithstanding the foregoing, a property owner, whose property is subject to the 30 percent limitation, may obtain

a temporary rental license for his or her property for a period of time not exceeding 12 consecutive months under the following conditions:

1. The property is actively being offered for sale to the public by the owner, or by any authorized agent of the owner, during the license term.
2. The property shall be temporarily licensed for rental purposes only if the property complies with all applicable City and State rental housing requirements.
3. The property shall be licensed only for one of the following: (a) one adult living alone; or (b) two unrelated adults living together with any dependents by birth, adoption or law; or (c) any number of persons related by blood, marriage, adoption, or law.
4. The temporary rental housing license shall terminate immediately upon the closing of a sale of the property to a purchaser or at the end of the license term, whichever event first occurs.
5. A copy of the lease agreement shall be deposited with the City's Community Development Department within one week from the date of the execution of the lease.

## **Steubenville**

### 1175.07 EXCEPTIONS FOR TEMPORARY RENTAL UNITS

A property owner within an existing neighborhood conservation district may register and temporarily rent a single-family detached dwelling for a period of time not exceeding twenty-four (24) consecutive months under the following conditions:

- (a) The property is actively being offered for sale to the public by the owner or by an authorized agent of the owner during the twenty-four month term.
- (b) The property is listed with a licensed State of Ohio realtor provided the owner submits proof to the Zoning Administrator of such listing and sale status.
- (c) The property complies with all Property Maintenance Code requirements.
- (d) Registration shall terminate immediately upon the closing of a sale of the property to a purchaser or at the expiration of twenty-four months from the date of the registration, whichever occurs first. (Ord. 2014-52. Passed 7-8-14)

## Berkeley

### Section 4 Exempt Districts

Property located within the following zoning districts are exempt from this rule are R4, C1, C2, C3, M1, M2, AD, AD-3, and P-1. Notwithstanding the foregoing a property owner whose property is subject to the 30-percent limitation may obtain a temporary rental license for his or her property for a period of time not exceeding 12 consecutive months under the following conditions:

1. The property is actively being offered for sale to the public by the owner or by any authorized agent of the owner during the license term.
2. The property shall be temporarily licensed for rental purposes only if the property complies with all applicable City rental housing requirements
3. The property shall be licensed only for one for one of the following: a one adult living alone or two unrelated adults living together with any dependents by birth, adoption or law, or any number of person related by blood, marriage, adoption, or law.
4. The temporary rental housing license shall terminate immediately upon the closing of a sale of the property to a purchaser or at the end of the license term whichever event first occurs.
5. A copy of the lease agreement shall be deposited with the City Public Works Inspections Division within one week from the date of the execution of the lease and before an occupancy permit will be issued.

## Northfield

Sec. 14-99. - Temporary rental license.

Notwithstanding section 14-97 ( Limitation on rental properties in low density neighborhoods ), the building official may issue a temporary rental license under the following conditions:

(1) The property owner seeking a temporary rental license must submit a written request/application for said license to the building official.

(2) In the written request/application filed with the building official, the property owner must state that, during the term of the temporary rental license, one or more of the following circumstances will, within the next 30 days, or currently does, apply to the property owner:

a. The property owner is currently taking, or will be taking, an extended leave of absence from the property owner's place of employment for a duration of six months or

more where the property owner or the property owner's family do not reside at the property; or

b. The property owner is involved in a bankruptcy or foreclosure proceeding directly involving the property and property owner; or

c. The property owner (i) is currently or will become unemployed, or (ii) has or will have a change in employment status resulting in a loss of income or in the relocation of the property owner more than 20 miles away from the city; or

d. The property is being or will be actively listed or offered for sale to the public by the property owner.

(3) Notwithstanding anything to the contrary in this section, the temporary rental license may be issued for a period not to exceed 12 months, provided however, that upon written request/application of the property owner to the building official a one-time extension of the temporary rental license may be issued by the building official for a period not to exceed an additional 12 months. The extension shall not be issued by the building official if the rental property has had three or more blight notices, conduct violations or police reports filed against the property in the first 12-month temporary rental period. The temporary rental license period extension is subject to issuance of a new temporary rental license by the building official, following the property's passage of city rental inspection and payment of the required license fee.

(4) Subject to clause [subsection] (3) above, the temporary rental license shall terminate immediately upon closing of a sale of the property to a bona fide purchaser or at the end of a bona fide lease agreement, but the rental occupancy may not exceed the temporary rental license expiration date.

(5) A property may be issued a temporary rental license and extension as provide for in this section only one time within a five-year time period.

(6) The property shall at all times comply with applicable city and state rental housing requirements, property maintenance requirements, and all other laws and ordinances applicable to the property.

(7) The fees for the 12-month temporary rental license and any extension thereof as provided in this section shall be the same as the regular rental license with no prorating for the difference in any rental duration.

Any property owner who is aggrieved by a decision or action of the building official pursuant to this section may appeal in accordance with section 14-136 to the rental housing board of appeals.