

Staff Report

Rental Concentration Hardship and Exception Ordinances

June 26, 2018

BACKGROUND:

The City Council recently adopted a rental concentration limitation for specific neighborhoods where new rental property registrations are prohibited if the neighborhood has 25% or more single-family rental properties. Staff presented Council with a draft ordinance for exceptions to the concentration cap in limited situations at the June 12, 2018 Council Meeting. The attached ordinance incorporates the motions that were made at that meeting.

RENTAL CONCENTRATION CAP EXCEPTION:

The Rental Concentration Cap Exception is a one-time exception process for a current property owner that may or may not sell their property. This allowance is restricted to only properties that are the primary residence of the property owner as of October 27, 2018. Additionally, the allowance to register the property and obtain a Letter of Compliance is restricted to the property owner and may not be obtained by buyers of property after this date. This standard is intended to help safeguard against speculative property registrations and focus the exception process on those that are interested in making an investment in conforming to the Rental Code in the near term.

The following changes to this section of the ordinance reflect motions made by Council at the June 12, 2018 meeting:

1. The date for which an owner needed to have possession of the property changed from May 22, 2018 to October 27, 2017.
2. The property now needs to be the primary residence of the owner at the time of application instead of May 22, 2018. Note this change would mean that if you owned the property by October 27th, but no longer living at the home you would be ineligible for the exception even if you own the home.
3. A sentence was added to Sec. 13.300(10) stating that "Property owners determined to have been renting without a required Letter of Compliance are not eligible for the exception." This was the result of a motion to 'ask staff for language to both options to deny registration in cases of illegal rental activity.'

4. Sec. 13.300(10)(v) now states that an LOC cannot be renewed if the property wasn't being used as a rental in the previous 12 months. This is a change from the previous requirement to have it rented within four years. After the first year, each renewal (whether it be a one, two, three, or four year LOC) is subject to the property's continued use as a rental property.
5. An additional sentence, Sec. 13.300(10)(vi), allows owners that have pulled building permits prior to October 27, 2017 with the intent of renting the property to register regardless of their status as the primary resident.

Number 5 above reflects a request for a recommendation to staff to allow owners to be eligible if they had a building permit prior to the moratorium. Staff has drafted the ordinance with this recommendation, but it can easily be removed if Council decides not to move forward with it. There was no direction on the type of permit or length of time since the permit was issued and adding a date would be appropriate. The difficulty with this approach is determining intent by staff. Staff would need to determine the intent of the owner when reviewing the building permit and would present the case to Council for a determination if the intent is unclear.

Property Transfer Limitation

During the June 12, 2018 meeting, there was a request for an opinion from the City Attorney on whether or not LOCs acquired through the exception processes could be non-transferrable. Staff has determined that it would be possible to write language to address this, but the logistics of enforcement and tracking would be difficult. It was not added to the ordinance due to staff's preference for not using this tool. If Council would like this requirement in the ordinance, staff will add it to the second reading on July 10, 2018.

PROPERTY SALE HARDSHIP EXCEPTION:

The Property Sale Hardship Exception process is designed to allow property owners that have owned property prior to the establishment of the Rental Moratorium on October 27, 2017 to request an allowance to exceed the concentration cap in order to sell their property. **This option is only available to property owners, or buyers in contract to purchase the property, prior to October 27, 2017 and would not be available to any purchaser of property subsequent to October 27, 2017.**

The only change to this section is the addition of the requirement that the property is not eligible for the exception if it has been determined that they have been renting without a required LOC. It was unclear with this motion if the intent was for it to be added to both exceptions or just to the Rental Concentration Cap Exception. It has been added to both, but can be removed if Council only intended for it to apply to one exception.

ORDINANCE NO.

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY ENACTING NEW SECTIONS 13.201 TERMS DEFINED “PRIMARY RESIDENCE” AND SECTION 13.300 (10) AND (11) THEREOF, FOR THE PURPOSE OF RENTAL CONCENTRATION EXCEPTIONS 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 new Sections 13.201 Terms Defined “Primary Residence” and Section 13.300 (10) and (11) as follows:

“Sec. 13.201. TERMS DEFINED

...

PRIMARY RESIDENCE: A residence which is the only place where a person has a true, fixed, and permanent home, and to where, whenever the person is briefly and temporarily absent, the person intends to return. A property owner may have only one primary residence.

...

Sec. 13.300. GENERAL

...

(10) Rental Concentration Cap Exception

For properties within a Rental Concentration Cap Neighborhood, a property owner of record on October 27, 2017 may apply for an exception in order to register their primary residence as a rental property and complete all requirements of the Rental Code to obtain a Letter of Compliance. The exception only applies to the primary residence of a property owner established prior to the date of application. The property owner is responsible for all application requirements for the exception, registering the property, and obtaining a Letter of Compliance. Upon completion of the requirements for the Letter of Compliance, the property may be sold to another property owner for use as a rental property. Any property sold subsequent to October 27, 2017 without a valid Letter of Compliance in regards to this exception shall not be eligible for a Letter of Compliance.

The exception is subject to minimum application standards and performance requirements described below. The exception may be approved by the Building Official upon review of the application for consistency with the standards of this Chapter. The Building Official may forward the application to the City Council for review upon any finding of irregularity in documentation with the application. A property owner may appeal the decision of the Building Official to the City Council. Property owners determined to have been renting without a required Letter of Compliance are not eligible for the exception.

(a) Exception Requirements

i. The property owner must have owned the property as of October 27, 2017 and the property must be the primary residence of the property owner as of the date of application.

ii. An application to register the property must be received by September 1, 2018.

iii. The property owner of a primary residence must obtain an initial inspection and complete all requirements for a Letter of Compliance within six (6) months of the inspection date.

iv. If a property owner has not obtained a Letter of Compliance within six months, the property registration shall expire and may not be renewed or reapplied for under this exception.

v. Upon receipt of a Letter of Compliance for the property, a Letter of Compliance may not be renewed after twelve months from the original approval if the property is not used as bonafide rental property. Each subsequent renewal of the Letter of Compliance after the initial twelve months is subject to the property's continued use as a bonafide rental property.

vi. A property owner who, prior to October 27, 2017, had obtained a building permit which would indicate an intent to convert the property to a rental property is also eligible for the exception, regardless if the property is the property owner's primary residence.

(11) Property Sale Hardship Exception.

For properties within a Rental Concentration Cap Neighborhood, a property owner may apply to the Building Official for a hardship exception to allow registration of the property for rental purposes in order to facilitate the sale of the property. The hardship exception is subject to minimum application standards described below and may be approved by the City Council upon review of the application.

Approval of the Property Sale Hardship by the City Council is for a six-month period to allow for sale of property to a new owner in an arms-length transaction to another party. The property owner may request a six month extension of the approval in order to complete work required to obtain a letter of compliance and/or to complete the sale and transfer of the property. An initial Letter of Compliance (LOC) will only be issued for one year for property registered under the hardship exception process. The LOC cannot be renewed by the property owner approved for a hardship, but can be renewed by the new property owner consistent with the standards of the Rental Code. Property owners determined to have been renting without a required Letter of Compliance are not eligible for a Property Sale Hardship Exception.

(a) **Application Requirements.** A property owner must submit documentation related to the following as part of the hardship application:

i. The property must abut registered rental properties on three sides, or the substantial equivalent of three sides. An abutting side includes any shared property line of the subject site and includes property lines with residential property located across the street or an alley. An abutting side includes any length of a property line that is 20 feet in length or greater.

ii. The property must have been purchased or under a purchase agreement by the current owner prior to October 27, 2017.

iii. The property has been offered and advertised for a minimum nine (9) consecutive months with a licensed realtor prior to the application for hardship.

iv. Disclosure of any offers to purchase the property which have been declined.

v. The original purchase price, date of purchase, and current mortgage balance.

vi. An appraisal prepared by a licensed appraiser for the value of the dwelling that also includes comparable sales within the appraisal.

vii. A home inspection report describing the condition of the property.

viii. Rental Housing Code pre-inspection and cost estimate for compliance with the Rental Housing code.

Upon submittal of the application to the Building Official, staff will review for completeness and adequacy of documentation provided within 10 days. Staff may request additional documentation in relation to the application requirements to determine completeness. Upon a determination that the application is complete, the application will be forwarded to the City Council within 30 days for Council review.

The City Council may approve a property sale hardship upon making both of the following findings:

1. The advantages to the neighborhood and the City of allowing for the property to be registered as a rental property to facilitate its sale outweigh the disadvantages to the neighborhood and City of exceeding the rental concentration cap.
2. The sale of the property would have been possible at a reasonable market value as a single family dwelling, but for the existence of the rental concentration cap.”

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

John A. Haila, Mayor