

**COUNCIL ACTION FORM**

**SUBJECT:** RENTAL CAP ORDINANCE REPEAL

**BACKGROUND:**

In 2018, Council adopted a rental cap ordinance that prohibited new rental properties from being added in certain neighborhoods (established by Resolution) near the ISU campus. The Governor signed a bill into law on May 2, 2019, prohibiting cities from enacting and enforcing any type of rental cap ordinance. In response to a staff memo, at the May 14, 2019 City Council meeting, the City Council directed staff to draft an ordinance repealing the rental cap.

Staff has determined that the following sections of Chapter 13 of the *Ames Municipal Code* are no longer valid after the recent legislation:

***13.201 Rental Concentration Cap Neighborhoods:*** *Certain neighborhoods as designated by a Resolution adopted by the City Council, which are subject to the limitation on the number of rental properties established in Section 13.300(9).*

***13.300(9) Limitation on number of rental properties in certain neighborhoods.***

***13.300(10) Rental Concentration Cap Exception***

***13.300(11) Property Sale Hardship Exception***

***13.303 Temporary Moratorium on Issuance of Rental Letters of Compliance***

The proposed ordinance with the above sections repealed is attached.

The recently passed state legislation does not prevent the enforcement of any of the occupancy changes that were made to the *Municipal Code* in the past several months. Therefore, occupancy will remain limited to:

- Three adult occupants in a one-, two-, or three-bedroom dwelling unit
- Four adults in a four-bedroom dwelling unit
- Five adults in a dwelling unit with five or more bedrooms
- Properties in the Near Campus Neighborhoods (Note: these are different from the Rental Concentration Cap Neighborhoods) are still limited to a number of adult occupants which is equal to the number of bedrooms the City had on file on January 1, 2018.

It is noted that, should Council proceed with this ordinance, at the third reading Council will also be asked to rescind the Resolution defining the Rental Concentration Cap Neighborhoods.

**ALTERNATIVES:**

1. Approve on first reading the ordinance repealing the rental cap code language. This ordinance will remove all code sections in Chapter 13 relating to the rental percentage cap.
2. Deny on first reading the ordinance repealing the rental cap code language. This would keep the existing language in the *Municipal Code*, even though it is not enforceable.

**CITY MANAGER’S RECOMMENDATION:**

State law now prohibits cities from enforcing a rental concentration cap ordinance. In an effort to keep the *Municipal Code* up-to-date and enforceable, and clear to the public, it would be appropriate to remove the language in *Ames Municipal Code* relating to the rental concentration cap. The establishment of the rental concentration cap neighborhoods is done via resolution, so should Council proceed with this ordinance, at the third reading Council will also be asked to rescind the Resolution defining the Rental Concentration Cap Neighborhoods.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative #1 and thereby approve on first reading an ordinance repealing the rental cap language in the Rental Code.

## ATTACHMENT

**NOTE: As the usual procedure for repealing sections of the *Ames Municipal Code* is just to list in the proposed ordinance the numbers of the sections being repealed, staff thought it would be helpful for Council to see the full text of the language regarding the Rental Cap which would be repealed by the ordinance:**

**“Sec. 13.201. TERMS DEFINED.**

**REPEAL:**

**RENTAL CONCENTRATION CAP NEIGHBORHOODS:** Certain neighborhoods as designated by a Resolution adopted by the City Council, which are subject to the limitation on the number of rental properties established in Section 13.300(9).

*(Ord. 4354, 5-22-18).*

**Sec. 13.300. GENERAL.**

**REPEAL:**

**(9) Limitation on number of rental properties in certain neighborhoods.**

For each neighborhood established as a Rental Concentration Cap Neighborhood, the number of rental dwellings allowed shall be no more than 25% of the dwellings in each neighborhood. In each neighborhood, only properties zoned R-L or UCRM will be used in calculating the percentage of rental dwellings to other dwellings in the neighborhood. No new rental registration applications will be accepted or approved in a neighborhood if the neighborhood has 25% or more registered rental dwellings or the application for a new rental registration would cause the ratio of rental dwelling to other dwellings to exceed 25%.

Rental dwellings in a Rental Concentration Cap Neighborhood with a rental registration or Letter of Compliance in place as of the date of establishment of a Rental Concentration Cap Neighborhood will be allowed to remain as registered rental properties and may renew their Letters of Compliance even if the number of rental dwellings is above the 25% cap. Additionally, the owner of a dwelling constructed as a duplex may register and obtain a Letter of Compliance on one or both units of the duplex, regardless of whether the 25% cap is exceeded in the neighborhood. If a registered rental dwelling that was not constructed as a duplex ceases to operate as a licensed rental dwelling, the owner cannot subsequently register the dwelling if the registration would cause the ratio of rental dwellings to other dwellings to exceed 25%. Transitional Letters of Compliance may be issued regardless of the 25% cap.

*(Ord. 4354, 5-22-18; Ord. 4366, 8-14-18)*

**(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 property owner is responsible for all application requirements for the exception, registering the property, and obtaining a Letter of Compliance. A Letter of Compliance obtained under this exception is not transferable to a new owner upon the sale of the 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

either 1) the property must be the primary residence of the property owner as of the date of application, or 2) the property owner had obtained, on or after October 28, 2016 and prior to October 27, 2017, a building, electrical, plumbing or mechanical permit which would indicate an intent to convert the property to a rental property.

- ii. The deadline to file an application is thirty (30) days from the effective date of this

ordinance.

- iii. The property owner 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.

Upon receipt of a Letter of Compliance for the property, each subsequent renewal of the Letter of Compliance after the initial twelve months is subject to the dwelling's continued use as a bona fide rental dwelling and the dwelling is either not exempted by 13.100(5) of the Rental Code or is a one- or two-bedroom dwelling which is the owner's primary place of residence with a non-owner tenant.

(Ord. No. 4368, 8-28-18)

(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 is 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 and date of purchase.
- 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.

*(Ord. No. 4368, 8-28-18)*

## **REPEAL:**

### **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 certain neighborhoods in the City while the Council considers other options to address issues regarding increasing number of rental units in certain residential neighborhoods.

(2) A moratorium on the acceptance of new rental registrations and issuance of new Letters of Compliance for single-family and two family homes is established and in effect within the Near Campus Neighborhoods. Except as noted in subsections (3) and (4) below, no new rental registrations will be accepted by the City and no new 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 presale 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 May 31, 2018, at which point this section shall become null, void and of no future effect.

*(Ord. No. 4325, 10-24-17; Ord. 4343, 4-24-18)*

ORDINANCE NO.

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY REPEALING SECTIONS 13.201, 13.300(9), 13.300(10), 13.300(11) AND 13.303 THEREOF, FOR THE PURPOSE OF THESE SECTIONS NO LONGER BEING VALID AFTER RECENT LEGISLATION; REPEALING ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; 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 repealing Sections 13.201, 13.300(9), 13.300(10), 13.300(11) and 13.303 as follows:

**“13.201 Rental Concentration Cap Neighborhoods:** Certain neighborhoods as designated by a Resolution adopted by the City Council, which are subject to the limitation on the number of rental properties established in Section 13.300(9).

**13.300(9) Limitation on number of rental properties in certain neighborhoods.**

**13.300(10) Rental Concentration Cap Exception.**

**13.300(11) Property Sale Hardship Exception.**

**13.303 Temporary Moratorium on Issuance of Rental Letters of Compliance.”**

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

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

Passed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Diane R. Voss, City Clerk

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John A. Haila, Mayor