

COUNCIL ACTION FORM

SUBJECT: REVISION TO RENTAL HOUSING CODE (CHAPTER 13)

BACKGROUND:

Attached are revisions to the Rental Housing Code (Chapter 13 of the *Municipal Code*). These revisions codify changes as directed by City Council at its December 10, 2010 meeting. As recently as last week, Staff met with an Ames Rental Association representative as this proposed ordinance was being prepared for first reading, and their additional feedback has been incorporated into the proposed ordinance.

The process leading up to these proposed changes extends over the last three years. In 2008, the Council directed staff to form an ad-hoc committee to study revising the Rental Housing Code. A representative group of tenants, small to medium landlords, large landlords, and neighborhood representatives spent nine months meeting to develop recommendations. Their recommendations were discussed by Council six times in 2008. In 2009, Council held four additional public discussions regarding rental housing. The current revised ordinance became effective on July 1, 2009.

On April 20, 2010, Council held a fact-finding workshop with members of the business community to identify codes, policies, and procedures that are impediments to development. Several landlords expressed concerns about the City's rental housing inspection program and enforcement of Ames Municipal Code Chapter 13 that had been in effect for nine months. The Ames Rental Association (ARA) was formed, and additional public discussions with Council occurred during 2010. Significant staff resources were devoted to meetings and discussions with leaders of the ARA during this period to achieve resolution of all possible concerns, as well as to identify those remaining issues that required Council direction.

The following City Council discussions on this subject were conducted in late 2010:

- 9/29/10 – Presentation by Ames Rental Association, Presentation and Recommendation by Property Maintenance Appeals Board, and Public Input
- 10/19/10 – Roundtable discussion regarding Rental Housing Code
- 11/9/10 – Staff report on modifications to Chapter 13, Rental Housing Code. Council direction to City Attorney to draft ordinance.
- 12/14/10 – Workshop on Rental Housing Code pertaining to Plumbing Code issues

In considering this subject over this time period, Council utilized the following four staff reports:

- September 24 – Response to Requests for Changes to Chapter 13, Rental Code
- September 27 – City Attorney’s Comparison to other Cities’ Rental Codes
- November 29 – Report on Rental Housing Modifications
- December 10 – City Attorney’s analysis of State Plumbing Code Requirements

Twenty-eight requests for code modifications to the current code were requested by the ARA. After discussions with ARA representatives and the City’s Property Maintenance Appeals Board, on December 10, 2010 the City Council directed staff to make twelve additional modifications to Chapter 13. The twelve modifications directed by Council generated changes to thirteen code sections, a summary of which follows:

- 1) Sec. 13.108 Time to file for an appeal was increased from 20 days to 30 days.
Sec. 13.108(1)(c) The code can be adequately satisfied by other means and specific proposed alternative actions that will provide an “equivalent degree of code compliance” rather than an “increased degree of code compliance.”
- 2) Sec. 13.200(1)(c) A definition of administrative approvals has been added.
- 3) Sec. 13.301 Letter of compliance will remain effective until its noted expiration date or it is revoked by the Building Official
- 4) Sec. 13.301 (10) A transitional letter of compliance section was added for three specified situations where rental will be allowed for non-code compliant residences for a period of under one year.
- 5) Sec. 13.302 (7) Section to be deleted to allow transfers of ownership of rental properties without need for an additional inspection.
- 6) Sec. 13.403(1)(b) An exception for direct vent appliances was added.
- 7) Sec. 13.403(1)(d) A requirement to pave driveway approaches was removed.
- 8) Sec. 13.406(8)(b) Changes pre-existing parking areas that are non-compliant, so that they may be rearranged.
- 9) Sec. 13.407(3) Surfaces designed for stabilization by oxidation are exempt from paint treatment requirements.
- 10) Sec. 13.600(4) Allow the continuation of basement showers and tubs to drain across floor to floor drain if maintained in a sanitary condition. Allow unvented traps for up to 5 years. All unvented traps must be brought into code compliance no later than July 1, 2016.

- 11) Sec. 13.602(3) Bathroom carpet in a sanitary condition can be kept for one inspection cycle.
- 12) Sec. 13.702 Defines and further clarifies pre-existing conditions and requirements for non-compliant furnaces in shared occupancies.
- 13) Sec. 13.802(4) Fire protection systems – extends the time for compliance for buildings with lockable common hallways of six dwellings or more to install Knox box systems from July 1, 2011 until July 1, 2012.

The attached ordinance incorporates these changes as directed by the City Council at its December 10 meeting.

ALTERNATIVES:

1. Approve the attached revisions to the Ames Rental Housing Code - Chapter 13 of the Ames Municipal Code. This ordinance will be in full force and effect from and after its passage and publication as required by law.
2. Direct Staff to make additional revisions to the Ames Rental Housing Code.
3. Do not approve revisions to the Ames Rental Housing Code at this time.

CITY MANAGER'S RECOMMENDED ACTION:

The issues before the Council contain a delicate balance between property owners' rights, tenants' rights and safety, and the property values of those in the neighborhood of rental units. During Council's review of this topic, the City Attorney clearly stated that there is a legal precedent and basis for differentiation between rental and private occupancies. The City Attorney clarified the community's legal obligation to maintain a rental inspection program, and detailed how the State Plumbing Code places restrictions on our own local plumbing code. A study of Ames' ordinance compared to comparable cities showed a wide variance of enforcement programs, but did not indicate that Ames' ordinance was overly restrictive. Considerable effort has been made to provide a balanced approach to this contentious subject.

Inasmuch as the Council, community, and staff have devoted a tremendous amount of effort to evaluating how best to regulate rental housing in the community, and in accordance with Council's directions given on December 10, 2010, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, thereby approving the attached revisions to the City's Rental Housing Code.

ORDINANCE NO.

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY REPEALING SECTIONS 13.108(1)(a)(b)(c)(d)(e), 13.301(6), 13.302(7), 13.403(1)(b), 13.403(1)(d), 13.406(8)(b), 13.407(3), 13.602(3), 13.702(6)(d), 13.802(4); AMENDING SECTION 13.201 AND ENACTING NEW SECTIONS 13.108(1)(a)(b)(c)(d)(e), 13.301(6), 13.301(10), 13.403(1)(b), 13.406(8)(b), 13.407(3), 13.600(4), 13.602(3), 13.702(6)(d), 13.802(4) THEREOF, FOR THE PURPOSE OF RENTAL HOUSING PROVISIONS; 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 repealing Section 13.108(1) and enacting a new Section 13.108(1) as follows:

“Sec. 13.108. MEANS OF APPEAL.

(1) Application for Appeal.

Any person directly affected by a decision of the Building Official or a notice or order issued under this code shall have the right to appeal. Appeals shall be heard by the Property Maintenance Appeals Board. An appeal request shall be made in writing and be filed no later than 30 days after the date of the inspection deficiency letter. An application for appeal shall be based on the claim that:

- (a) the true intent of this Code or the rules legally adopted hereunder have been incorrectly interpreted; or
 - (b) the provisions of this code do not fully apply; or
 - (c) the requirements of this code are adequately satisfied by other means, and the specific proposed alternative action will provide an equivalent degree of code compliance; or
 - (d) there are specific fixed conditions that make strict compliance with this Code impracticable;
- or
- (e) required actions cannot be completed within the time limit specified by the Building Official.

Section Two. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by adding to the existing list of definitions as published in Section 13.201. TERMS DEFINED, a definition of “Administrative Approvals”:

...

ADMINISTRATIVE APPROVALS. A code interpretation by the Building Official conveyed in writing to the property owner and kept on record in the City Clerk’s office.

....

Section Three. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by repealing Section 13.301(6) and enacting a new Section 13.301(6) as follows:

Sec. 13.301. LETTER OF COMPLIANCE (LOC).

(6) Expiration.

A Letter of Compliance issued shall be effective until:

- (a) its noted expiration date, or
- (b) it is revoked by the Building Official.

Section Four. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by enacting a new Section 13.301(10).

(10) **Transitional Letter of Compliance.**

A Transitional Letter of Compliance may be issued for a property which the owner is seeking to rent, if all of the following conditions apply:

- (a) After initial inspection, it is determined that the property is not compliant with the Rental Housing Code provisions; and
- (b) There are no life safety code violations present that constitute an immediate danger to occupants; and
- (c) One of the following conditions shall exist:
 - (i) The unit is to be used for less than one year as a rental unit; or
 - (ii) The unit is for sale and rental is temporary until sale occurs; or
 - (iii) The unit was previously a registered rental unit and is in the process of being brought into code compliance.

A Transitional Letter of Compliance shall be in effect for a maximum of one year.

Section Five. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by repealing Section 13.302(7) Transfer of Ownership.

Section Six. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by repealing Section 13.403(1)(b) and enacting a new Section 13.403(1)(b) as follows:

Sec. 13.403. PRIOR APPROVALS SHALL NOT CONTINUE – CONDITIONS.

(1) **General.**

The Building Official shall not provide continued approval of the following pre-existing conditions beyond the time limits stated for compliance as stated below, or elsewhere in this Code.

...

(b) Gas fired appliances.

Furnaces and water heaters shall not be located in, or open directly into a bedroom or bathroom. Such pre-existing conditions must be corrected upon notification by the Building Official.

Exception: Direct-vent appliances that obtain all combustion air directly from outdoors. Such appliances may be located in an adjacent room when there is a solid wall and door separating the bedroom or bathroom from the room in which the appliance is located. The wall must prevent the passage of air from one room to the other. The door or door frame must be furnished with gasketing or weatherstripping along the sides and top to prevent passage of air through the doorway, and a snug fitting threshold must be provided.

Section Seven. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by repealing Section 13.403(1)(d), Driveway Approaches.

Section Eight. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by repealing Section 13.406(8)(b) and enacting a new Section 13.406(8)(b) as follows:

Sec. 13.406. EXTERIOR PROPERTY AREAS.

...

(8) **Approval of pre-existing parking areas.**

The continued use of pre-existing noncompliant parking areas may be approved provided:

...

(b) Such approved pre-existing parking area may not be increased unless such increase is in compliance with requirements of this section for new parking areas.

Section Nine. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by repealing Section 13.407(3) and enacting a new Section 13.407(3) as follows:

Sec. 13.407. EXTERIOR STRUCTURE.

...

(3) Protective treatment - paint.

All exterior surfaces, including but not limited to doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Surfaces designed for stabilization by oxidation are exempt from this requirement.

Section Ten. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by enacting a new Section 13.600(4) as follows:

Sec. 13.600. RESPONSIBILITY.

...

(4) Pre-existing Plumbing Items

Plumbing systems lawfully in existence at the time of adoption of this code may have their use, maintenance, or repair continued if the use, maintenance, or repair is in accordance with the original design and location and no hazard to life, health, or property has been created by such plumbing system. [2009 UPC Section 101.5.3]

Exceptions;

(a) The following specific pre-existing unlawful plumbing items shall be noted on the inspection report but shall not prevent the issuance of a letter of compliance as long as maintained in a manner which is safe and sanitary.

(i) Stand pipes for washing machines without a visible trap; Drainage of existing basement showers, washing machines, laundry tubs, or utility sinks across the surface of a basement floor to an existing floor drain; Existing auto vents; and toilets, showers, tubs, and sinks located in bathrooms with less clearance than required by the UPC;

(ii) existing S traps, provided however, that such unlawful traps shall be replaced by a trap and vent system that complies with the current Ames Plumbing Code no later than July 1, 2016.

Section Eleven. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by repealing Section 13.602(3) and enacting a new Section 13.602(3) as follows:

Sec. 13.602. TOILET ROOMS.

...

(3) Floor surface.

Every toilet room floor shall be a hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary

condition.

Exception:

Existing carpet which is not in an unsanitary condition shall be a noted inspection item that will not prevent issuance of a letter of compliance. Such carpeting must be removed and a hard nonabsorbent floor surface shall be provided not later than the next regularly scheduled inspection. This exception shall not prohibit an inspector from requiring removal of an unsanitary carpet and compliance with this standard within 30 days of notice.

Section Twelve. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by repealing Section 13.702(6)(d) and enacting a new Section 13.702 (6)(d) as follows:

Sec. 13.702. MECHANICAL EQUIPMENT.

(6) Furnaces/re-circulated ventilation air.

The use of a single furnace serving multiple dwelling units within an existing registered rental structure where air is circulated through more than one unit may continue, provided:

(a) The owner/manager makes application for approval of the pre-existing condition to the Building Official within thirty days of notification of the condition by the Building Official.

(b) The owner/manager discloses existence of the shared furnace in the lease and acceptance is initialed by the tenant;

(c) The owner/manager discloses existence of a shared thermostat in the lease and acceptance is initialed by the tenant;

(d) The owner/manager obtains an annual furnace safety inspection and written certification, from a licensed mechanical contractor, of all shared furnaces more than 5 years of age. Certification of furnaces less than 5 years of age may be required by the Building Official for due cause.

(e) When the single furnace is replaced, it must be brought into compliance with current codes regulating:

- (i) exhaust system;
- (ii) fuel gas piping;
- (iii) electrical supply;
- (iv) ventilation air;

and other relevant provisions of the electrical, mechanical, fuel gas, and plumbing codes.

(f) A carbon monoxide detector must be provided within the vicinity of the furnace, as specified by the manufacturer. Recirculation of air between dwelling units and common areas is not prohibited by this Code. Approval of this pre-existing condition is transferable from one owner to another, provided compliance with this all conditions of this section is maintained continuously. Failure to maintain continuous compliance with this section will result in termination of approval, and will require compliance with current mechanical code provisions, following appropriate notification and hearing procedures of this Code. Approval of pre-existing conditions will not be granted to new rental registration applications for duplex or multifamily dwellings.

Section Thirteen. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by repealing Section 13.802(4) and enacting a new Section 13.802(4) as follows:

Sec. 13.802. FIRE PROTECTION SYSTEMS.

(4) Emergency access key boxes (Knox boxes).

Key boxes, for emergency Fire Department use, shall be installed in multi-family apartment buildings, at entry points as specified by the Fire Chief or designee. Key boxes shall be of an approved type and shall contain keys to provide necessary access to rooms and areas as required by the Fire Chief or designee. The operator of the building shall immediately notify the Fire Chief or designee, and provide a new key whenever any lock is changed or rekeyed. The new key to such lock shall be secured in the key box, and the old key shall be removed.

This requirement shall apply to all new apartment buildings of six dwelling units or more.

All existing apartment buildings of six dwelling units or more with a common entrance capable of being locked shall comply with this requirement not later than July 1, 2012.

Section Fourteen. Violation of the provisions of this ordinance shall constitute a municipal infraction punishable as set out by law.

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

Section Sixteen. 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