

Staff Report

REGULATING OCCUPANCY IN RENTAL UNITS

July 18, 2017

LEGISLATIVE ACTION:

During the latest session the State Legislature passed the following law:

AN ACT RELATING TO THE AUTHORITY OF CITIES TO REGULATE AND RESTRICT THE OCCUPANCY OF RESIDENTIAL RENTAL PROPERTY. BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 414.1, subsection 1, Code 2017, is amended to read as follows:

a. For the purpose of promoting the health, safety, morals, or the general welfare of the community or for the purpose of preserving historically significant areas of the community, any city is hereby empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes.

b. A city shall not, after January 1, 2018, adopt or enforce any regulation or restriction related to the occupancy of residential rental property that is based upon the existence of familial or nonfamilial relationships between the occupants of such rental property.

The passage of this law negated the long-standing ability for the City of Ames, and many other cities throughout the state, to limit unrelated persons to a fixed number in a rental unit. **Assuming that the City Council would want to replace the familial relationship code language with other regulations that will effectively manage the densities in rental units in low density residential areas, City staff has begun to explore other strategies to limit occupancy in rental units.**

MEETING WITH OTHER INTERESTED CITY REPRESENTATIVES:

Towards this end, on May 23, 2017, the City Manager, Planning & Housing Director, Assistant City Attorney, Fire Chief and Community Codes Liaison traveled to the Des Moines City Hall to discuss possible strategies for protecting our neighborhoods by limiting occupancy based on something other than familial status. Others attending this meeting included representatives from Cedar Falls, Iowa City, and Des Moines.

The group discussed a number of possible strategies for regulating occupancy in residential rental units. The following is a list of the options that were introduced:

- Limit occupancy based on a per-person square footage allotment
- Limit occupancy to a specific number of adults (over the age of 18) to any dwelling unit, but allow this number to be exceeded when authorized by a Conditional Use Permit issued by the Zoning Board of Adjustment based on a pre-determined list of criteria.
- Limit occupancy by number of bedrooms
- Limit the number of rental units within a pre-established geographic area (block, Ward, neighborhood)
- Establish a separation distance between rentals
- Restrict occupancy by age
- Eliminate the owner-occupied exception so that every dwelling unit that has a renter in it will require a rental permit
- Limit occupancy based on availability of adequate off-street parking for rental units (This approach will require more off-street parking spaces to be made available)
- More aggressive enforcement of current nuisance related impacts (noise, parking, junk/grass, exterior maintenance, annual inspections, etc.) with the cost of additional inspectors paid for with an increase in annual rental registration fees

After reviewing the various options highlighted above, the city representatives present at the meeting agreed that:

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- There is a concern that whatever actions the cities take to limit occupancy through a means other than family affiliation, the General Assembly will take action next year to prohibit our actions.
- There was a difference of opinion as to whether the best way to limit occupancy was through changing the Zoning Ordinance or the Rental Housing Code.
- If the options selected either 1) limits the percentage of rentals in a neighborhood or 2) creates a separation distance between rental properties, there will be concerns about grandfathering existing rental units while their licenses are valid and whether they can receive a new license if they do not meet the restriction. Under this option, a key question will be how to allocate licenses equitably.

- Basing limitations solely on age could be unworkable for many households within the City due to the recent trend of children returning to home as adults or grandparents being cared for at home by their adult children.
- One possible strategy that could be legally defensible includes the following four point approach:
 1. Restrict a specific neighborhood (yet to be determined geographic area) to a certain percentage of rental properties.
 2. Grandfather the existing rental properties so that existing rentals would not be subject to the percentage restriction.
 3. Perform more aggressive, proactive inspections of rental properties to eliminate those issues that are negatively impacting neighborhoods (eg. off-street parking, noise, outdoor property maintenance, life and safety code issues, etc.).

(This step will require additional staff that could be paid for from increased rental property registration fees.)

4. Establish a process to revoke a rental housing permit privilege for repeat offenders identified through inspection process.

For example, a potential list of progressive sanctions for violations could include:

- 1st offense – rental property placed on annual inspection cycle
- 2nd offense – restrict the term of the rental housing permit to 6 months
- 3rd offense – revocation of rental housing permit for some period of time

Following this joint meeting the staff learned that the City of Iowa City initiated a moratorium ordinance that reads,

"the City shall not issue a rental permit for any dwelling that is not subject to a current rental permit or a rental permit that expired within the past 18 months. The City, furthermore, shall not issue a building permit that would result in an enlargement of a rental dwelling located within the area described above."

Apparently, this ordinance was passed as a result of a significant increase in the number of conversions of single family homes to rental properties in Iowa City after the change in the State law.

FOLLOW-UP MEETING ATTENDED BY CITY STAFF:

Following this joint meeting of cities, the City staff met to develop a more focused list of possible options for the Ames City Council to consider.

- **Limit the concentration of rental units in a specified geographic area.**

This approach is being used in various cities outside of Iowa and has been approved by the courts. In order to be more acceptable to existing rental property owners, the existing rental units would have to be “grandfathered”. Therefore, this option would only prevent an increase in the number of rental units in an area.

- **Limit the number of adults that can inhabit a rental unit**

While the easiest approach to administer, determining the appropriate maximum number of adults that should be allowed in a rental unit is difficult given the fact that more and more 1) children are returning home to live temporarily with their parents after college graduation until they find a job or save enough money to move out to live on their own, and 2) grandparents are living with their adult children because of the high cost of long-term care.

- **Limit occupancy in rental units to a specified amount of square footage per person**

In order to pursue this approach, it will be important to identify a square footage that can be justified. A check of the building codes indicate that a very small minimum square footage is required per person. Therefore, applying this standard to the Rental Code would not limit occupancy very effectively.

One approach would be to determine the average square footage for a single family home in Ames and divide this number by the average family size in Ames. The resulting square footage per person could be used to determine how many renters should be allowed in any rental unit. Under this strategy, the larger the house, the more renters that would be allowed to live in it.

- **Limit occupancy based on the number of off-street parking spaces**

To be effective in limiting occupancy, the number of off-street parking spaces will have to be increased from the current parking requirements for rental units in low density residential areas. In addition, to make sure rear yards are not totally paved to accommodate this new off-street parking requirement, a maximum percentage for paving the backyard must be established.

- **Limit occupancy in rental units based on a multi-tiered approach**

An example of this approach could include all three of the following:

-Limit occupancy to no more than two persons, 18 or older, per bedroom or a total of five adults;

(five is being suggested here assuming the need to accommodate one grandparent, two parents, and two adult children over the age of 18);

-Increase the off-street parking requirements for rental units in low density residential areas, with limitations on paving a certain percentage of the rear yards; and

-Limit occupancy in low density residential areas based on some yet to be determined square footage per person

MEETING WITH SCAN NEIGHBORHOOD ASSOCIATION REPRESENTATIVES

On June 29, 2017, the City Manager and Planning and Housing Director met with members of the SCAN neighborhood association. The neighborhood representatives are very aware of the recent change in the State legislation and are adamant that the limits similar to the previous regulations should be placed on occupancy in rental units in order to stabilize our neighborhoods.

In the conversation with City staff they offered the following options for limiting occupancy.

- Limit occupancy in rental units to no more than three adults aged 18 to 55
- Limit occupancy in rental units to no more than three undergraduates
- Don't allow any additional rental units in low density residential neighborhoods
- Limit building envelopes of existing structures so that single-family buildings that are being rented cannot be expanded to accommodate more renters
- Incentivize conversion from rental to owner-occupied houses
- More aggressively enforce the existing "nuisance" related violations (noise, parking, etc.)
- Modify the Zoning Ordinance to prevent changes to architectural features (such as enclosing porches) to rental units in the low density residential areas

STAFF COMMENTS:

It is clear from all of the research performed to date that there is no one perfect approach to limit occupancy in rental units now that the new State legislation has been passed. Furthermore, any option that could be considered will have both positive and negative impacts.

Although the new State occupancy law affects all rental properties in the City, the most immediate concern seems to be the impacts on rental units within the low density residential areas. Therefore, if any changes are made to limit occupancy, the City Council might want to focus on these areas and not the high or medium residential density areas.

The first step in the decision making process is for the City Council members to determine if new occupancy regulations are necessary, or if the City should rely only on more aggressive enforcement of nuisance violations to mitigate any negative impact on low density residential neighborhoods.

Assuming the City Council would like to pursue new occupancy regulations, it would be helpful for the City Council to provide staff general direction regarding a general approach that either 1) limits the number of adults in a rental unit or 2) relies upon a quantitative limit on renters based upon square footage of a home, number of bedrooms, number of off-street parking spaces, or some other indicator. The Council should understand that if the approach selected relies on a per renter quantitative limit, larger homes would likely have more occupants.

Rather than dealing only with the issue of occupancy within a rental unit, the Council could also decide to pursue changes that limit the number of rental units in a specified geographic area. Here again, there are two approaches to consider. A policy can be established that limits the concentration of all rentals in a certain area or only limit the concentration of those that exceed a certain threshold.

At the workshop the staff is seeking an indication as to which general approach(s) the City Council would like us to pursue. With this direction, the staff will determine the legal viability of the approach or approaches that are selected by the Council and attempt to develop specific Municipal Code language changes for the Council to approve at a later date.