

COUNCIL ACTION FORM

SUBJECT: **ORDINANCE LIMITING OCCUPANCY IN
SINGLE AND TWO-FAMILY RENTAL DWELLINGS**

BACKGROUND:

As a result of recent changes at the State level, Staff has been working through ways to stabilize rental occupancy levels throughout the City. The City Council has made many motions over the last few months addressing several different aspects of a new occupancy ordinance. These motions have been prioritized based on the January 1, 2018 deadline. The proposed ordinance changes only reflect those issues that Staff feels need to be addressed by this deadline. This includes the following motions:

Motions from the October 24, 2017 regular meeting of the Ames City Council:

- Parking spaces will be in the garage, driveway, or existing legal parking spaces as of January 2018.
- Establish a cap of five adults in a low density residence.

Several motions from the October 24, 2017 meeting were amended at the November 14, 2017 meeting. Motions at this meeting include:

- Adopt a limit of three adults for one, two and three bedroom homes;
- Adopt a limit of one adult per bedroom, maximum of five adults, for homes exceeding three bedrooms.
- One-, two-, and three-bedroom houses require two parking spaces, and homes with more than three bedrooms are required to provide one space per bedroom.
- Use the Assessor's bedroom count as the baseline number as of January 1, 2018, or the number of bedrooms established through an official rental inspection, whichever is higher.

It should be noted that at the October 24, 2017 meeting, Council directed Staff to bring options back on how the addition of bedrooms might be limited. A motion to freeze the number of bedrooms failed at the November 14, 2017 meeting. The proposed code does not address whether or not a property could add bedrooms after January 1, 2018 for properties not subject to the moratorium or after the moratorium expires. However, discussion around approved parking spaces did indicate that additional parking could not be added.

CODE CHANGES:

The proposed code has removed any reference to 'family' within the Rental Code. There is still a definition of 'family' in the Zoning Code, but it is not being used to determine the number of occupants in rental properties. City staff will evaluate the needs to update the definition of Family in the Zoning Ordinance subsequent to the update to the Rental Code.

Section 13.406(5) addresses the off-street parking requirements. In an effort to be consistent with the rest of the Municipal Code, the dimension of a parking stall has been changed from 18 feet to 19 feet in 13.406(5)(a). An additional sentence was added to subsection (a) of the same section clarifying the ability to stack vehicles in a driveway. Changes based on Council's motions in 13.406(5) include the addition of subsections (d-f) which state that two off-street parking spaces are required for one-, two-, and three-bedroom units, units with four or more bedrooms need to have one parking space for each bedroom that is to be used to determine occupancy, and that off-street parking areas are limited to those in existence on January 1, 2018. The meaning of the January 1, 2018 reference is that it would always apply as a limit to property and that no new parking areas could be constructed to increase occupancy for a property.

Only those bedrooms that are to be used to set occupancy are required to have an off-street parking area. It's possible that a unit may have additional bedrooms, but no more than five bedrooms may be used to set occupancy. For example, a four-bedroom home that has three off-street parking spaces would be limited to three adults and a five-bedroom home with four off-street parking spaces would be limited to four adults.

Staff was able to remove many subsections from Sec. 13.503. Major changes include a section (13.503(4)(b)) specifically regulating dwelling houses as they are a distinguished use from single-family homes. The code requirements for dwelling houses are not changing from current standards. Dwelling houses will still be allowed one more person than the number of bedrooms with a maximum of five people, assuming they have the required amount of parking and are located in a zone in which the Zoning Code allows dwelling houses. Subsections (c-d) of 13.503(4) are intended to clean up the existing code to eliminate some of the confusion on apartments occupancy, notably it equalizes occupancy standards for all apartments, regardless of their construction before or after May 2000. These changes are not reflected in a motion on the first page. Rather, they are Staff's attempt to clarify the regulations for these types of properties in conjunction with the direction to regulate occupancy based upon adult occupants.

A new subsection, Section 13.503(4)(e), addresses the remaining motions from the first page. The subsections limit the number of adult occupants to three in one-, two-, and three-bedroom units with at least two parking spaces, limit the number of occupants in units with four or more bedrooms to one adult per bedroom, and caps the total number of adult occupants at five. This section also states that the number of bedrooms is determined by the number of bedrooms listed in the Assessor's records as of January 1,

2018, or by the number of bedrooms reflected in the inspection records as of January 1, 2018, whichever is greater.

The motion regarding the cap of five adults specifically states that the cap was to be in low density residences. Staff has determined that it is best to not base the new regulations on the base zone and instead base them on the type of use of a property with a single-family, two-family, or apartment dwelling. So, a single-family home in a high-density neighborhood will be held to the same standard as a single-family home in a low-density neighborhood. This should help with our education efforts in that people will no longer need to know the zone of their property when signing a lease. It also provides better guidance to the enforcement Staff. **The proposed ordinance places occupancy restrictions on all single-family and two-family dwellings, regardless of the zone. If Council feels that the cap should only be in low density areas, the proposed code will need to be amended.**

For properties seeking a new rental registration after January 1, 2018, the number of bedrooms shall be determined by an inspection conducted by the Inspection Division. This includes brand new (newly constructed) properties, existing properties that are not currently registered rentals, and properties that are demolished and replaced by a new structure. A new registration will require Inspections to determine the number of bedrooms, based on parking and building code requirements, at the time of the initial inspection. **It is important to note the new ordinance limits the existing registered rental properties, for the purpose of determining occupancy, to the number of bedrooms that are in existence on January 1, 2018.**

Here again, if the Council does not believe our interpretation of the direction given for counting bedrooms for existing properties that are not currently registered, structures that are demolished and replaced by a new building, or new properties; then the proposed code will need to be amended prior to a second reading.

ALTERNATIVES

1. The Council can approve the proposed ordinance on first reading.
2. The Council can reject the proposed ordinance.
3. The Council can approve the proposed ordinance with amendments.

CITY MANAGER'S RECOMMENDATION

Assuming the proposed code changes adequately reflect the previous direction given to the City staff, it is the recommendation of the City Manager that the City Council support Alternative #1 and thereby approve on first reading the attached ordinance on first reading.

This ordinance will: 1) set the occupant limit at three adults in units with three or less bedrooms and two off-street parking spaces, 2) limit one adult per bedroom for units with four or more bedrooms, 3) require one off-street parking space for a fourth or fifth bedroom if it is being used to determine occupancy, 4) cap the total number of occupants at five adults, and 5) freeze the current number of off-street parking spaces.

ORDINANCE NO.

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY REPEALING SECTION 13.104 (1)(c), SECTION 13.201 TERM OF "FAMILY", SECTION 13.406(5)(a)(b)(c), SECTION 13.503(4),(5) AND ENACTING A NEW SECTION 13.104(1)(c), SECTION 13.406(5)(a)(b)(c)(d)(e)(f), SECTION 13.503(4)(a),(b),(c)(i)(ii),(d),(e)(i)(ii)(iii)(iv) THEREOF, FOR THE PURPOSE OF RESIDENTIAL OCCUPANCY; 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 a new Section 13.104(1)(c), Section 13.406(5)(a)(b)(c)(d)(e)(f), Section 13.503(4)(a),(b),(c)(i)(ii),(d),(e)(i)(ii)(iii)(iv) as follows:

“Sec. 13.104. VIOLATIONS AND ENFORCEMENT.
(1) Violations.

(c) No person shall occupy, nor shall the owner or operator allow any persons to occupy, any dwelling unit in excess of the maximum occupancy permitted in this chapter.

Sec. 13.406. EXTERIOR PROPERTY AREAS

(5) Computation of required off-street parking spaces.

Number and dimensions of off-street parking spaces must comply with standards in the Zoning Ordinance Section 29.406, and the following:

(a) A parking space for each vehicle must be no less than 19 feet in length and 9 feet in width, and located upon an approved driveway that leads to the side or rear yard or to a garage. The area allocated for each vehicle must be available for parking at all times. Stacked parking for single family and two family dwellings is permitted for all required parking spaces.

(b) Garage parking spaces shall be counted as approved off-street parking spaces if the required area for each vehicle is available for parking at all times.

(c) Specific site conditions that may prevent compliance with these requirements shall be reviewed and may be approved on an individual case basis by the Building Official.

(d) Single family or two family rental dwelling units with one, two, or three bedrooms shall have at least two off-street parking spaces.

(e) Single family or two family dwelling units with four or more bedrooms shall have at least one off-street parking space for each bedroom accounted for in determining maximum occupancy.

(f) For purposes of subsections (d) and (e) above, off-street parking spaces for existing properties are limited to garage, driveway, or other legal existing parking spaces as of January 1, 2018.

Sec. 13.503. OCCUPANCY LIMITATIONS

The maximum occupancy for dwelling houses and apartment units shall be based upon compliance with all standards of the Code, including but not limited to parking spaces, area requirements, habitable space requirements, and the following:

(4) **Limits based on Zoning District - Maximum Occupancy**

(a) In all cases, each dwelling unit shall provide habitable floor space totaling at least eighty (80) square feet for the first occupant and sixty (60) square feet for each additional occupant.

(b) For Dwelling Houses, where permitted as a use in the Zoning Ordinance, the maximum occupancy of a dwelling unit shall be one more adult than the number of bedrooms, up to five adults, provided there is one parking space per bedroom for units with two bedrooms or more, or in University Impacted areas 1.25 parking spaces per bedroom in units with two or more bedrooms, and one bedroom units shall have 1.5 parking spaces per unit.

(c) Apartments in Residential Zones.

(i) The maximum occupancy is one more adult than the number of bedrooms, up to five adults, provided there is one parking space per bedroom for units with two bedrooms or more, or in University Impacted areas 1.25 parking spaces per bedroom in units with two or more bedrooms, and one bedroom units shall have 1.5 parking spaces per unit.

(ii) Provided, however, that with respect to dwelling units that, as of May 1, 2000, had a current Letter of Compliance stating an occupancy limit greater than the aforesaid, such occupancy limit shall be allowed to continue until such time as negated by a change of use or conditions in the property that would restrict the number of occupants in accordance with this subsection.

(d) Apartment Buildings Commercial Zoning. Maximum occupancy is one more adult than the number of bedrooms, up to five adults, when parking is provided consistent with the Zoning standards and Site Development Plan approval.

(e) The maximum occupancy for a single-family or a two-family dwelling unit shall be based upon compliance with all standards of the Code, including but not limited to parking spaces, area requirements, habitable space requirements, and the following:

(i) Three adult occupants for one, two and three bedroom dwelling units.

(ii) One adult occupant per bedroom, with a maximum of five adult occupants, for dwelling units with four or more bedrooms.

(iii) For rental dwelling units registered as of January 1, 2018, the number of bedrooms for determining maximum occupancy shall be determined by the number of bedrooms listed in the records of the Ames City Assessor as of January 1, 2018, or by the number of bedrooms reflected in the inspection records of the City of Ames Inspections Division as of January 1, 2018, whichever number is higher.

(iv) For rental dwellings for which a registration is being sought after January 1, 2018, the number of bedrooms for determining maximum occupancy shall be determined by an inspection by the Inspections Division.”

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

Ann H. Campbell, Mayor