

MEMO

Legal Department

To: Mayor Haila and Ames City Council

From: Mark O. Lambert, City Attorney

Date: July 13, 2018

Subject: Eligibility of duplexes for a rental Letter of Compliance – Item No. 6

At the July 10, 2018 Council meeting, the Council approved a motion directing staff to draft an amendment to the Rental Cap Ordinance regarding the ability of duplexes to obtain Letters of Compliance despite the 25% rental cap. Attached is the ordinance.

For ease of seeing the proposed changes, I provide the paragraph below, which takes the original language adopted in May, and indicates the changes. (Deletions are indicated by strike-throughs, additions by underlining). The relevant paragraph is from Ames Municipal Code Sec. 13.300(9):

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 ~~that has obtained a Letter of Compliance on one legally established unit of a duplex~~ may register and obtain a Letter of Compliance on one or both units ~~the other legally established unit~~ 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.

As staff discussed this matter, the issue came up of duplexes that were constructed as duplexes versus single-family dwellings that have been converted into duplexes. Although Council did not specify such, staff believed that the Council's intent was to ensure that duplexes that were constructed as duplexes would be eligible to obtain LOCs, because such buildings are primarily built to be rentals. Therefore, rather than saying that all duplexes could obtain an LOC for one or both sides, staff drafted the ordinance to say that duplexes "constructed as" duplexes were eligible to obtain LOCs despite the 25% rental cap. If Council would like the ordinance to apply to all duplexes, including former single-family homes that were converted to duplexes, Council can move to amend the ordinance.

For your information, the City's Zoning Ordinance allows existing two-family homes to be torn down and rebuilt, but does not allow new two-family homes to be established in the RL or UCRM zoning districts. Therefore, we do not face the issue of a single-family home in a Rental Cap Neighborhood being demolished and rebuilt as a duplex that wouldn't be subject to the rental cap.

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ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY AMENDING CHAPTER 13, SECTION 13.300 (9) THEREOF, FOR THE PURPOSE OF LIMITATION ON NUMBER OF RENTAL PROPERTIES IN CERTAIN NEIGHBORHOODS 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 amending Section 13.900 as follows:

DIVISION III
RENTAL REGISTRATION AND INSPECTION PROGRAM

“Sec. 13.300. GENERAL

...

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

...

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.”

...

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