

MEMO

Legal Department

To: Mayor Haila and City Council 42

From: Mark O. Lambert, City Attorney

Date: July 26, 2018

Subject: Amendments to Rental Cap/Hardship Exceptions Ordinance – Item 42

The attached ordinance incorporates the amendments which were adopted at the July 17, 2017 Council meeting, prior to the second reading.

These changes were:

1. Under 13.300(10) (first paragraph), establishing that an LOC obtained under the Rental Cap Exception could not be transferred to a new owner of the property upon the sale of the property (the Council decided not to include the language “or transfer of ownership”).
2. Under 13.300(10)(a)(i), the “building/etc. permit language under the Rental Cap Exception was amended to indicate that only people who had obtained a building/etc. permit “on or after October 28, 2016” and prior to October 27, 2017” would potentially be eligible for the exception.
3. Under 13.300(11)(a)(i), The definition of “abutting side” was amended by replacing the word “includes” with “is” for clarification.

Council also directed staff to come back with language for a possible amendment that would clarify, under the Rental Cap Exception requirement that those obtaining an LOC under this exception must be using the property as a bona fide rental in order to renew their LOC, that a property owner who had obtained an LOC even if the Rental Code wouldn’t require them to have one, and had a roomer paying rent, would be considered a bona fide rental property. The following underlined language is suggested as a possible amendment to accomplish this:

13.300(10)(a)(v): Upon receipt of a Letter of Compliance for the property, a Letter of Compliance may not be renewed after twelve months from the original approval if the property is not used as bona fide rental property. Each subsequent renewal of the Letter of Compliance after the initial twelve months is subject to the property's continued use as a bona fide rental property. A bona fide rental property includes an owner-occupied dwelling with a non-owner occupant who pays rent.

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ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY ENACTING NEW SECTIONS 13.201 TERMS DEFINED “PRIMARY RESIDENCE” AND SECTION 13.300 (10) AND (11) THEREOF, FOR THE PURPOSE OF RENTAL CONCENTRATION EXCEPTIONS 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 new Sections 13.201 Terms Defined “Primary Residence” and Section 13.300 (10) and (11) as follows:

“Sec. 13.201. TERMS DEFINED

...

PRIMARY RESIDENCE: A residence which is the only place where a person has a true, fixed, and permanent home, and to where, whenever the person is briefly and temporarily absent, the person intends to return. A property owner may have only one primary residence.

...

Sec. 13.300. GENERAL

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(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. An application to register the property must be received by September 1, 2018.

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.

v. Upon receipt of a Letter of Compliance for the property, a Letter of Compliance may not be renewed after twelve months from the original approval if the property is not used as bona fide rental property. Each subsequent renewal of the Letter of Compliance after the initial twelve months is subject to the property's continued use as a bona fide rental property.

(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.”

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