

COUNCIL ACTION FORM

SUBJECT: PROPOSED RENTAL CONCENTRATION CAP EXCEPTIONS AND
HARDSHIP ORDINANCE

BACKGROUND:

At the August 14, 2018 Council meeting, the Council directed staff to bring back for a first reading the Rental Cap Hardship & Exception ordinance with the following changes from the version that was previously passed and subsequently vetoed by the Mayor:

- a) Provide a definition for “bona fide rental.”
- b) Change the application deadline from September 1, 2018, to 30 days from the effective date of the ordinance.
- c) Narrow the prior language from the vetoed ordinance allowing a property owner residing at the property with a tenant (who would not be required to have an LOC under the Rental Code) to renew an LOC obtained under the exception, but only for one- or two-bedroom dwellings.

In the new draft, staff has incorporated these changes, as directed by Council:

- a) In Section 13.201 (definitions) “Bona Fide Rental” is defined as a rental in which a genuine, legitimate landlord/tenant relationship exists between a landlord or owner and at least one non-owner tenant.
- b) In Section 13.300(10)(a)(ii) the deadline for applying for the Rental Cap Exception is changed from September 1, 2018, to thirty days after the effective date of the ordinance.
- c) In Section 13.300(10) (final paragraph of this section) is reworded to require that, in order for a property owner to renew an LOC obtained under this exception (both for the first renewal which happens 12 months after obtaining the LOC and for subsequent renewals), the dwelling would have to be a bona fide rental, **and either** 1) the dwelling is not exempt from the Rental Code, **or** 2) the dwelling is a one- or two-bedroom dwelling which is the owner’s primary place of residence with a non-owner tenant.

ALTERNATIVES:

- 1.) Approve on first reading the attached Rental Cap Hardship & Exception Ordinance as directed by the City Council.
- 2.) Approve the Rental Cap Hardship & Exception Ordinance with modifications to the non-owner tenant and one and two-bedroom dwelling exception standard.

This alternative could include two modifications to the language that the Council requested for the non-owner allowance for 13.300(10)(a). The first modification would be to remove the reference to one and two-bedroom dwellings and the second would narrow the scope of a non-owner tenant to be outside of the first degree of consanguinity. This approach would address all "single roommate" situations the same regardless of house size, and thereby ease staff administration and efforts to educate the public.

- 3.) Decline to pass on first reading the attached Rental Cap Hardship & Exception Ordinance.

CITY MANAGER'S RECOMMENDATION:

In accordance with previous direction on August 14, 2018, it is the recommendation of the City Manager that the City Council support Alternative #1 and thereby approve on first reading the Rental Cap Hardship & Exception Ordinance as attached.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY ENACTING NEW SECTIONS 13.201 TERMS DEFINED “BONA FIDE RENTAL” AND “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 “Bona Fide Rental” and “Primary Residence” and Section 13.300 (10) and (11) as follows:

“Sec. 13.201. TERMS DEFINED

...

BONA FIDE RENTAL: A rental in which a genuine, legitimate landlord/tenant relationship exists between a landlord or owner and at least one non-owner tenant.

...

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

...

(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. The deadline to file an application is thirty (30) days from the effective date of this ordinance.

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.

Upon receipt of a Letter of Compliance for the property, each subsequent renewal of the Letter of Compliance after the initial twelve months is subject to the dwelling's continued use as a bona fide rental dwelling and the dwelling is either not exempted by 13.100(5) of the Rental Code or is a one- or two-bedroom dwelling which is the owner's primary place of residence with a non-owner tenant.

(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