



MEMO

To: Mayor Haila and Members of the Ames City Council

From: Sara Van Meeteren, Building Official

Date: February 19, 2019

Subject: Transitional Letters of Compliance

The South Campus Area Neighborhood (SCAN) emailed Council on January 10, 2019 with some concerns and suggestions regarding the administration of Transitional Letters of Compliance. Council made a motion at the January 15, 2019 Council Meeting requesting a memo from staff in response to the email. The original email is attached for your reference.

Prior to the 2018 Rental Code changes, the Transitional Letter of Compliance language read:

13.301(10) Transitional Letter of Compliance.

A Transitional Letter of Compliance may be issued for a property which the owner is seeking to rent, if all of the following conditions apply:

- a) After initial inspection, it is determined that the property is not in compliance with the Rental Housing Code provisions; and*
- b) There are no life safety code violations present that constitute an immediate danger to occupants; and*
- c) One of the following shall exist:*
 - i. The unit is to be used for less than a year as a rental unit; or*
 - ii. The unit is for sale and rental is temporary until sale occurs; or*
 - iii. The unit was previously a registered rental unit and is in the process of being brought into code compliance.*

A Transitional Letter of Compliance (LOC) shall be in effect for a maximum of one year.

At the April 10, 2018 Council Meeting, Councilman Martin made the following motion:

Direct staff to prepare an Ordinance to allow for a one-year Transitional license as currently done and can have multiple of them separated by 12 months and each owner of the property would be eligible for one occurrence of a two-year period of Transitional license.

That motion carried unanimously and there was no further direction in regards to additional criteria. Staff drafted the motion into ordinance format and presented to Council for their approval on April 24, 2018.

The final reading for the additional language was approved on May 22, 2018. The approved language states:

A Transitional Letter of Compliance (LOC) shall be in effect for a maximum of one year and is renewable for a period of time not to exceed one additional year. Each property is eligible for only one Transitional LOC renewal per property ownership. No new Transitional LOC will be issued until one year has elapsed between Transitional LOCs. If a property is acquired by a new owner, the new owner is eligible for Transitional LOC without regard to the prior owner having obtained a Transitional LOC.

The renewal of a Transitional LOC only applies to the second year extension. A Transitional LOC acquired after the one year break is considered a new Transitional LOC. This language applies to all properties regardless of their location within a capped neighborhood.

SCAN listed the following items in their January 10, 2019 email that they perceive to be problems with the Transitional LOC ordinance:

- 1.) **There is no provision that, if a property is deemed to be an illegal rental, it is ineligible for a Transitional LOC.**
- 2.) **There is currently no requirement that the property be the primary residence of the applicant.** If it isn't a primary residence, then the property is most likely either illegal or parent-owned. A parent-owned home, which, in capped neighborhoods, previously could only accommodate a child and one roommate, can obtain a Transitional LOC and house up to 5 adults (depending on number of bedrooms.) This circumvents the cap and makes it much more economically feasible to purchase these homes for student-children.
- 3.) **A "new" owner can apply for a Transitional LOC without the required one-year gap for a single owner to re-apply.** In the absence of a primary residence requirement, long-term circumvention of the rental cap is now possible. The property can be "sold" every two years among members of a family or group of investors.

The bold text in the list above indicates true statements. There are currently no criteria that prohibit rentals that were potentially being operated illegally or that are not the owner's primary residence from being eligible for a Transitional Letter of Compliance.

In addition to the problems listed above, SCAN recommend the following solutions in their email:

- 1.) Illegal rentals should be prohibited from obtaining a Transitional LOC. An investigation must be conducted prior to accepting an application.
- 2.) A Transitional Letter of Compliance applicant must demonstrate that the property is the owner's primary residence.

In determining whether or not text amendments to this code section are necessary, Council should keep in mind that this section applies city wide and is not limited to the Percentage Cap Neighborhoods. There may be instances in which the above mentioned solutions hinder an owner's ability to rent while determining what to do with the property. For instance, Inspections receives a report of an un-registered rental. After making contact with the owner, they find that the owner isn't sure he can afford to comply

with the rental code or that he wants to be a permanent rental. In this situation, he would have no option but to vacate the property and put it up for sale. The temporary LOC buys him time to determine how he wants to proceed.

Another situation to consider would be when a parent buys a property for their child that will be attending Iowa State in a year. Since the child can live in the property without registering it, there's no reason for the owners to comply with the rental code. Without the Transitional Letter of Compliance, the owners would have to let the house sit empty until their child moved in.

Problem 3 in SCAN's list of issues highlights a loophole in which an owner could sell the property to a family member or an LLC and gain another two years. However, the primary residence requirement may not prohibit this situation. For example, John Doe has a Transitional Letter of Compliance on a three bedroom house. He resides in the home with two roommates. The property is required to be registered, but it is still John's primary residence. In two years, John sells the property to John Doe LLC, which he is the owner of, creating a new owner and allowing for an additional two year Transitional Letter of Compliance. **It may be possible to close this loophole by adding language that prohibits consecutive Transitional Letters of Compliance.**

STAFF COMMENTS:

Should Council determine that text amendments are needed, this item should be placed on a future agenda so that the City Council can direct staff to draft amendments to revise Sec. 13.301(10) of the Rental Code to solve one, two, or three of the problems identified above. Additionally, Council may determine that the changes requested above are necessary only in the Percentage Cap Neighborhoods. If that's the case, then the Council will direct that a new section be added creating separate regulations for Transitional LOCs in Percentage Cap Neighborhoods.