

Staff Report

RENTAL HOUSING REGULATIONS

June 18, 2019

BACKGROUND:

At the May 14, 2019, City Council meeting, the Council directed staff to present options to enhance rental ordinances to address quality of life, life safety, and potential increased enforcement city-wide.

The City Council has taken a number of actions regarding the regulation of rental housing since 2017. That year, the state Legislature invalidated the City’s existing ordinance limiting occupancy of rental properties in single-family housing on the basis of familial status.

City staff began conversations in May 2017 to find an alternate way to regulate occupancy in single-family and two-family dwellings. Ultimately, a new occupancy ordinance was approved that allowed three adults to reside in one, two, or three bedroom dwellings. Dwellings with four or more bedrooms can have an equal number of adults to bedrooms with a maximum of five adults. Bedrooms were limited in existing rentals to the number of bedrooms that were on record for the property as of January 1, 2018 with the Inspection Division or Assessor’s Office, whichever was greater. New rental applications are evaluated for bedroom count at their first inspection.

With the occupancy ordinance in place, Council focused its discussions on other topics that surfaced as part of the occupancy discussions. These included: a rental concentration cap, increased enforcement, short term rentals (now known as guest lodging), different ways to enforce/incentivize on nuisance rentals, and incentives to increase the conversion of rental properties back to single-family homes.

Therefore, from 2017 to early 2019, the following areas of the Rental Housing Code were modified:

OCCUPANCY LIMITATIONS	RENTAL CONCENTRATION CAP
<ul style="list-style-type: none"> • Adults per bedroom standards • Defined “adult” and “owner-occupied dwelling unit” • Updated 13.406(5) Computation of required off-street parking spaces • Established Near Campus Neighborhoods 	<ul style="list-style-type: none"> • Established Concentration Cap Neighborhoods* • Established Percentage Cap (25%)* • Expanded Transitional Letter of Compliance allowances • Established Percentage Cap Hardship waiver* • Defined “primary residence” and “bona-fide rental”

*Unenforceable due to changes in state law.

The most recent legislative change at the state level invalidated the City's rental concentration cap standards. **This creates a situation where the potential number of renters in a property has increased, but the offsetting action of restricting the number of overall rentals in a neighborhood has been eliminated.**

The City Council has completed two of the required three readings to repeal the percentage cap, the Concentration Cap Neighborhoods, and the hardship processes. This repeal will remove from the Municipal Code the items in the table above that have asterisks behind them, but will leave intact the occupancy limitations, revised Transitional Letter-of-Compliance (LOC) language, the definition of primary residence, and the definition of bona-fide rental.

RENTAL HOUSING CODE AFTER CONCENTRATION CAP INVALIDATION:

With the invalidation of the rental concentration cap, any person may convert any property into a rental property. There are no prerequisites or additional rules based on location of the property or who will be living in the property. If the property complies with the Rental Code, the owner can be issued a full Letter of Compliance.

The removal of the cap has indirect effects on occupancy in three ways: First, for Near Campus Neighborhoods, the occupancy ordinance freezes the number of bedrooms that count towards occupancy at the number existing on January 1, 2018. Adding bedrooms to a property would not increase the number of potential renters. **The removal of the concentration cap allows owners throughout the City to be able to easily remove the property from rental, add bedrooms, and then bring it back on as a new rental to gain occupants.** Before the elimination of the concentration cap, properties in capped neighborhoods would not be able to obtain the new LOC after the bedrooms were added.

Second, the cap prevented an owner from demolishing a dwelling and rebuilding a larger dwelling with the potential for more occupants on the same lot. With the cap, the property would lose its LOC when demolished and would not be eligible to obtain a new one at the time of the final inspection. **The current code does not prohibit the intensification of bedrooms through demolition/rebuild.**

Third, the proposed guest lodging ordinances were initially drafted under the assumption that use of a whole house as a Vacation Lodging use would need to be registered as a rental and, as such, would not be allowed in addition to existing rentals within the capped neighborhoods. City Council reviewed the draft ordinances for guest lodging at the June 11th meeting and did not include Vacation Lodging as an allowable use for any single-family property in the City. A separate staff report on options for Vacation Lodging standards was also presented on June 11th. Without creating a licensing option for Vacation Lodging, this type of use could not occur anywhere in the City.

QUALITY OF LIFE, LIFE SAFETY, AND ENFORCEMENT:

The Council has considered a variety of potential ways to regulate rental housing in the past two years. Different approaches exist to address quality of life issues, life safety challenges, and enforcement concerns. Therefore, it is important for the City Council to articulate what goals it wishes to achieve with potential new regulations. The list below outlines concepts previously considered by the City Council to regulate rental housing, as well as other concepts that address the Council's direction. These concepts are grouped based on the issue or concern each is meant to address:

Quality of Life, Health, and Safety:

- Holding owners responsible for nuisance issues caused by either the occupant or the owner (garbage, parking, over-occupancy, nuisance parties, noise, household furniture, grass height, junk vehicles, exterior building maintenance, yard waste accumulation, sidewalk clearance, etc.):
 - Suspending or revoking LOCs after repeated violations
 - Tiered fee system (increase rental fees when violations increase)
 - Issue longer LOCs for those in compliance
- Requiring a local agent (who resides in Story County) to take corrective action for rental properties in violation of the code
- Making an LOC non-transferrable with repeated violations (new owner cannot obtain LOC if repeated violations occurred)
- Implement Rent Abatement (adopting state law provision that empowers tenants not to pay rent until landlord is in compliance with health/life safety and registration requirements)
- Making all LOCs non-transferable (Upon transfer of ownership, the new owner must ensure the property meets all existing codes before a new LOC is issued)
- Prohibit or restrict the addition of off-street parking
- Prohibit the enclosing of porches to create additional living space
- Make illegal rentals ineligible to receive an LOC for a substantial period of time (suggestion from SCAN representatives)

Reducing the Intensity of Rentals:

- Establish a minimum distance between rentals
- Prohibit owner-occupied rentals (owners would not be allowed to register their property so that they can sell it as a rental sometime in the future)
- Enhance the code requirements for new rentals (for example: above grade egress windows for every bedroom, hard-wired smoke detectors in every rental, require non-compliant conditions such as plumbing fixtures and guardrails to be brought into compliance instead of allowing them to continue as we currently do)

Incentivizing Conversion of Rentals to Owner-Occupied Dwellings:

- Provide a financial incentive for conversion (tax abatement, financial assistance for rehabilitation or purchase)
 - Note – included in the Planning and Housing Department’s program of work is a staff report regarding this topic, which is expected to be delivered in summer 2019

Occupancy Limitations:

- Limit occupancy based on the number of off-street parking spaces
 - Prohibit or restrict the addition of off-street parking
- Limit occupancy based on the square footage of a dwelling or bedroom
- Limit occupancy based on the number of students
- Prohibit or restrict current rentals from adding bedrooms
- Freeze the number of bedrooms on all properties (including properties not used as rentals now) as of January 1, 2019 (suggestion from SCAN representatives)
- Prohibit or restrict rentals from expanding the footprint of the dwelling
- Eliminate the roomer exemption from rental code, and require an LOC if any room is rented
- Change the definition of bedroom to match the Assessor’s definition (suggestion from SCAN representatives)

STAFF COMMENTS:

The first question for the City Council to consider is whether it is satisfied with the Rental Housing Code after the repeal of the concentration cap mechanisms. If the Council believes the removal of the concentration cap raises new concerns that require changes in policy, the next step is to identify whether those concerns relate to quality of life, life safety, or enforcement. The Council can identify potential solutions to address these areas from the list provided above, or direct staff to identify new areas to study.