

COUNCIL ACTION FORM

SUBJECT: CREATION OF A NEW CHAPTER OF THE AMES MUNICIPAL CODE, KNOWN AS CHAPTER 35, GUEST LODGING CODE- ESTABLISHING DEFINITIONS, ADMINISTRATION, STANDARDS, LICENSING, AND ENFORCEMENT FOR GUEST LODGING AND AMENDING THE TEXT OF THE ZONING ORDINANCE (CHAPTER 29) AND THE RENTAL HOUSING CODE (CHAPTER 13) TO ALLOW THEIR USE AND ESTABLISHING A FEE FOR LICENSURE.

BACKGROUND:

City Council provided direction on June 11, 2019 to remove the exemption from licensing for apartment tenants wishing to offer short-term rentals (**herein referred to as Guest Lodging**) from the proposed draft ordinances. Included in this revision, all offerings of Guest Lodging will be required to have a license. Additionally, as directed at the City Council meeting on April 23, 2019, Vacation Lodging has also been removed from the attached proposed ordinances. Vacation Lodging (formally referred to as a Vacation Rental) is the subject of a separate staff report.

Both Chapter 29 Zoning Ordinance and the new Chapter 35 Guest Lodging ordinance required modifications per City Council direction. Chapter 29 was modified to allow Guest Lodging as an Accessory Use for apartment buildings along with other minor administrative corrections. Chapter 35 was modified to add “Apartment Share” as a defined term along with other corresponding changes to the licensing and standards requirements. As result in the delay of proceeding with the ordinance, staff proposes to also delay implementation from September 1st to November 1st to allow for the same two months of implementation after adoption of the ordinances as was originally contemplated.

City Council had previously reviewed a draft of the proposed ordinances on February 26, 2019, and given direction to proceed with finalizing the text for the Guest Lodging Code and publishing notice for the text amendments to the Zoning Ordinance (Chapter 29). On November 13, 2018, the City Council had directed staff to proceed with drafting standards that would allow Guest Lodging within apartment dwellings and to proceed with described licensing system of one and two-family homes. City Council first reviewed a conceptual regulatory framework for on October 23rd regarding one and two-family homes.

Staff has worked with the City Attorney’s office to finalize the Guest Lodging Code and text amendments consistent with the Council’s direction. Guest Lodging is not a household living use, it is a lodging use that addresses how transient occupancy is allowed in conjunction with household living and the primary residents of a dwelling. Staff estimates that there are currently 50-60 properties that are advertised and that operate as a form of Guest Lodging.

Staff anticipates that the number would increase with legalization and awareness of the Guest Lodging options available.

The changes necessary to create a new use of Guest Lodging are extensive:

1. Create a new type of principal and accessory use within the Zoning Ordinance (Chapter 29),
2. Establish a new licensure chapter (Chapter 35) of the *Ames Municipal Code*, and
3. Modify the Rental Housing Code with clarifying text amendments.

A complete discussion of the proposed changes is included in the Addendum. The draft ordinances are included as Attachment 'A', and are summarized as follows:

- Duration of Stay. Guest Lodging is for a period of 31 consecutive days or less to the same person.
- Occupancy Limitations. Occupancy limitations vary by unit type and are generally based on the number of guest bedrooms with a maximum number of adults allowed.
- Approval. The intent is for an administrative review and approval for Hosted Home Shares and Home Shares as accessory uses. Amending the Bed & Breakfast special home occupation permit as an accessory use to become a Special Use Permit as a principal use.
- Annual licensing. An annual license is required. An annual licensing fee would be required in addition to any other city permits and fees.
- Parking. On-site parking subject to minimum parking requirements of Section 29.406.
- Fire Safety Requirements. Compliance with fire safety requirements of the Rental Housing Code (means of egress and fire protection systems) is required of all Guest Lodging units. A checklist will be made available and applicants will be required to indicate compliance.
- Inspections. All applications would be subject to verification and inspection for compliance. Subsequent inspections would be at the discretion of the Enforcement Officer.
- Renewal/Revocation Standards. The license to operate Guest Lodging may be revoked if it is determined that the Guest Lodging is operating inconsistent with the licensing standards or if there are verified complaints with notice of correction action regarding its operation. An appeal process to the Zoning Board of Adjustment is included.

The proposed regulations provide clear expectations with defined standards for the licensing and operating of Guest Lodging, and if needed, enforcement or license revocation. The goal is to minimize possible negative impacts to surrounding residential properties and neighborhoods from use of home for transient guest stays.

CODE COMPLIANCE & MONITORING:

The first step in achieving compliance with the adopted ordinances is public awareness of the new regulations. With City Council approval on first reading on July 23th and subsequent second and third readings in August, the new ordinances would be effective on or about September 1st. Staff proposes a delayed compliance period to allow time to receive and process applications, before enacting enforcement procedures, beginning on November 1st.

During the initial 60-day compliance period there would be no citations for operating an STR and if someone is in process of seeking a license they would not be subject to a citation during its review. Staff anticipates that review and approval of licensing applications can be incorporated into current inspection/planning duties.

Beyond providing public awareness, staff would have a limited ability to provide proactive compliance monitoring without address identification. The typical Airbnb listing data includes only a neighborhood map of listing, but does not where the unit is located with a property address.

Address information is not publically available without subscribing to a third party monitoring compliance software service. These types of vendors provide a proprietary evaluation of a listing to identify an address. An initial annual subscription with a monitoring compliance services for addresses and contact identification would help the City to proactively reach out to those who may be unaware of the new licensing requirements and would help to bring everyone into compliance. Staff's understanding of the pricing from one vendor indicates a price of \$1,500 based upon 50 listings in the City and a cost of \$30.00 per listing going forward.

However, Staff believes that that working through traditional methods would be effective in the initial stage of implementation due to the current estimated low number of listings. If staff is unsuccessful in efforts to obtain compliance from property owners, we can revisit the need for additional services.

LICENSING FEE:

A fee of \$50 would suffice in covering administration costs and would be in-line with the annual rental housing registration renewal fee for a single family home. In addition to the annual fee, an inspection fee would be charged with the initial application and may be charged for renewals if inspections are needed in the future. It is important to note that this license system is designed to be prospective about future use of the property, meaning a property owner is paying up front for the license, not paying for a prior year of licensure after the fact. Additionally, this license is to the property owner and a change in ownership will trigger a new license requirement and fee to issue a new one-year license. If City Council chooses to acquire a subscription to a monitoring service, reviewing license fees would be appropriate at that time.

ALTERNATIVES:

1a. The City Council can adopt on first reading by separate motion, each of the attached ordinances:

- i. Ordinance creating a new chapter of the *Ames Municipal Code* known as Chapter 35, Guest Lodging Code, establishing definitions, administration, standards, licensing, and enforcement for Guest Lodging, and
- ii. Ordinance amending the text of the Zoning Ordinance (Chapter 29), and
- iii. Ordinance amending text of the Rental Housing Code (Chapter 13) to allow the use of Guest Lodging, and

1b. The City Council can by resolution on third reading and passage of the ordinances described in Alternative #1a, establish a fee for Guest Lodging licensure for 2019-2020 at \$50.00.

2. City Council can continue the public hearing to a date certain and direct modifications to the draft ordinances prior to first reading. ***City Council would choose this Alternative if it directs a substantive change to the ordinances, such as including Vacation Lodging, formerly known as Vacation Rentals.***

3. The City Council can adopt on first reading, a modified version of any of the three attached ordinances and establish a fee for Guest Lodging licensure upon third reading of the ordinances.

MANAGER'S RECOMMENDED ACTION:

Staff has worked with the City Attorney's Office to finalize the Guest Lodging Code and text amendments consistent with the Council's direction. The changes necessary to address allowing Guest Lodging are extensive, as these would be a new type of principal and accessory use within the Zoning Ordinance (Chapter 29), and would establish a new category of licensure, incorporated into a new Chapter (Chapter 35) of the *Ames Municipal Code*. Clarifying text amendments are also needed within the Rental Housing Code.

With four types of proposed Guest Lodging (Apartment Share, Bed & Breakfast Establishment, Hosted Home Share, and Home Share), each has unique attributes related to occupancy, parking, and the approval process. However, objective criteria are included in the text to enable review for compliance and approval. Additional scrutiny through the Special Use Permit process for Bed & Breakfast Establishments will help to ensure neighborhood compatibility.

Upon adoption of new Guest Lodging standards, the goal would be to undergo a public education campaign to let people know of the new requirements. Staff believes allowing until November 1st to both receive initial applications would be appropriate, before enacting enforcement procedures.

Licensing allows for periodic contact with property owners and helps ensure continued compliance. An annual licensing fee similar in cost to a Single Family Rental Letter of Compliance Cost is planned for the proposed licensing process. A Council update on the status of Guest Lodging licensing and compliance 6-9 months after adoption, would shed

light on whether any adjustments to the initial fee (set with the adoption of the ordinances) would be warranted.

Therefore, it is the recommendation of the City Manager that the City Council adopt on first reading each of the attached ordinances as described in Alternative #1a and upon third reading and passage of the ordinances described in Alternative #1a, establish a fee for initial Guest Lodging licensure described in Alternative #1b.

However, in the event the City Council determines on July 23rd to reintroduce Vacation Lodging (formerly Vacation Rentals where the owner is not present), staff would recommend Alternative 2 to continue the public hearing to August 13th and bring back updated ordinances to the next meeting.

Addendum

The allowance of Guest Lodging as a transient occupancy use in residentially zoned areas has the potential to be incompatible with surrounding residential uses. Therefore, special regulation for short-term occupancy is necessary to ensure that Guest Lodging use will be compatible with surrounding residential uses and will not materially alter the character of neighborhoods in which they are located.

The Guest Lodging Code is proposed as a new chapter of the *Ames Municipal Code*. It establishes definitions, administration, standards, licensing, and enforcement for Guest Lodging. It provides reasonable and necessary regulations for the licensing and operation of Guest Lodging in order to:

- (1) Ensure the safety, welfare and convenience of renters, owners and neighboring property owners throughout Ames;
- (2) Help maintain the City's needed housing supply for household living; and
- (3) Protect the character of the City's neighborhoods by limiting the operations, number, and concentration of Guest Lodging in residential zones.

Objective standards are included to enable review for compliance and approval. The Guest Lodging period would be 31 consecutive days or less.

The Guest Lodging types include: apartment shares, hosted home shares; home shares; and bed & breakfast establishments. Additional scrutiny through the Special Use Permit process for Bed & Breakfast Establishments will help to ensure neighborhood compatibility.

Each of the proposed types of Guest Lodging has unique attributes related to occupancy, parking, and the approval process. In cases where the property owner is the primary resident, the Guest Lodging use may be considered as an accessory use to the use of a single-family dwelling as household living. A new definition for "primary residence" helps differentiate when Guest Lodging would be considered as an accessory or principal use.

The proposed text amendment to the Zoning Ordinance adds each of the Guest Lodging types to the list of permitted uses in Article 5. Uses would be included as either a new accessory use to Household Living or as a new principal use under Short-Term Lodging.

Apartment Shares

This new category of accessory use allows apartment tenants the ability to offer their dwelling unit for Guest Lodging with application by the property owner when the apartment is the primary residence of the tenant. Apartment shares are subject to the occupancy standards of Chapter 13. Each dwelling unit is licensed individually. A licensing application is required that would be administratively approved and required to be renewed annually.

Hosted Home Shares

As an incidental, accessory use, hosted home shares are the least impactful of the Guest Lodging types. Bedrooms that may be rented are limited to a maximum of two with no more than two adults as guests per dwelling unit. The dwelling is the primary residence of the property owner and the property owner is required to be on site and present during the rental period. This type of activity is viewed as an accessory use (subordinate and incidental to the residential use of the home). The impact of a hosted home share is not much greater than that of a private home with frequent houseguests. A licensing application is required that would be administratively approved and required to be renewed annually.

Home Shares

This option is somewhat unique in allowing for whole-house Guest Lodging facilities on limited basis without the primary resident present during the stay. The Guest Lodging code would allow a maximum of two adults per approved bedroom, not to exceed a total of five adults per dwelling unit. Approval would be by staff as an administrative process. Rental Housing Code registration is not required given the use of the home as a primary residence with a limited number of guest stay days in a year. The cumulative total of rental days allowed per annual renewal is 90 days. The proposed limitations are also meant to distinguish the Guest Lodging use from a use that should actually register as rental housing property subject to Chapter 13 requirements. In accordance with the Guest Lodging definition, the maximum stay for any guest is 31 consecutive days.

Bed & Breakfast Establishments (B&B's)

Bed & Breakfast Establishments are private homes or residences where the property owner resides, as their principal residence. Bed & Breakfast Establishments are permitted a maximum occupancy of two adults per approved bedroom for overnight Guest Lodging. The Zoning Board of Adjustment determines the number of bedrooms specific to the dwelling unit through the special use permitting process. No more than five bedrooms may be approved. B&B's are exempt from the City's Rental Housing Code; however, state licensing and inspection as a food establishment is required when there are more than four guest families accommodated. (Iowa Code, section 137F.1) The operating license would be required to be renewed annually.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning & Zoning Commission reviewed the proposed ordinances for the use of single and two-family dwellings as Guest Lodging on September 19, 2018 and the use of apartments as Guest Lodging on January 16, 2019.

In each case, the P&Z made a unanimous recommendation of approval (5-0) with certain modifications or limitations as summarized below.

September 19, 2018 unanimous recommendation regarding single-family homes as Guest Lodging:

- Two-family dwellings be included, and

- That the City Council consider proactive compliance monitoring to ensure that all Guest Lodging properties are licensed.

January 16, 2019 unanimous recommendation regarding inclusion of apartments as Guest Lodging:

- Home Shares in rental apartments would be allowed as an accessory use in all zoning districts with no tenant or property owner license required; Oversight compliance would be the responsibility of the landlord.
- The Commission also recommended that if Vacation Rentals (Vacation Lodging) were an allowed use, that a maximum of 10% of apartment units could be used for such a use and that one and two-family dwellings be allowed subject to a special use permit approval as was originally described by staff. However, Vacation Rentals (Vacation Lodging) are not part of the draft ordinance.

The Planning & Zoning Commission's recommendations were incorporated into the updated draft ordinances and are part of the staff recommendation.