

COUNCIL ACTION FORM

SUBJECT: TEXT AMENDMENTS TO AMES MUNICIPAL CODE CHAPTER 13 (RENTAL HOUSING CODE), CHAPTER 29 (ZONING ORDINANCE) & CHAPTER 35 (GUEST LODGING CODE) TO ADDRESS CHANGES IN STATE LAW RELATED TO SHORT-TERM RENTALS AND REPEALING FEE FOR LICENSURE

BACKGROUND:

Under House File 2641, a state law adopted in the last legislative session, local governments are no longer able to regulate short-term rentals (locally called “guest lodging”) as a distinct activity differently from other residential uses within dwellings. As a result, licensing fees, special use permits, and separation distances are no longer allowed under the new law. Based on the State’s action, the City has very limited options regarding what it can do to regulate short-term rentals.

The new law does allow local government to “regulate, prohibit, or limit if enforcement is performed in the same manner as enforcement applicable to similar properties that are not short-term rentals” for such things as the “protection of public health and safety related to fire and building safety, sanitation, or traffic control” and “residential use and zoning purposes related to noise, property maintenance, or nuisance issues”.

This means that short-term rentals are still subject to zoning as a residential use and importantly are included under the purview of Chapter 13, Rental Housing. The rules and process established by the City in 2019 had exempted certain licensed Guest Lodging (short-term rental) establishments from full Rental Code compliance. **On October 13, 2020, the City Council directed staff to proceed with updating the Ames Municipal Code related to the local regulation of short-term rentals to comply with state law and create a voluntary licensing process for Home Share and Hosted Home Shares.**

HOSTED HOME SHARE AND HOME SHARE SHORT TERM RENTALS:

City Council was concerned at its October 13th meeting about the implications of the Rental Code applying to owner-occupied units (those wishing to offer a Home Share or Hosted Home Share) which previously were not required to be in full compliance with the Rental Code. **The Council directed that these units be provided an optional process for an exemption from the Rental Code if they voluntarily register as a short-term rental unit. There would be no charge for registration; however, there would be an inspection fee. The intent is that if a homeowner chooses to operate a short-term rental under the constraints of short-term rental standards of Chapter 35, which is primarily a limitation on occupancy, parking, fire safety standards, and days of operation; they would be exempt from the full Rental Code.**

If someone chose not to voluntarily obtain a license under Chapter 35, they may proceed with registering the property as a rental property and obtaining a letter of compliance under Chapter 13 Rental Code standards. Should the registration be revoked for non-compliance with the terms of registration, the unit would no longer receive exemption from full compliance with the Rental Housing Code.

Only the short-term rental owner-occupied categories of Home Share and Hosted Home Share will be included in Chapter 35. These uses will continue to be included in the Zoning Tables as an Accessory Use under the Household Living category, in the zoning districts where allowed.

VACATION LODGING:

Vacation Lodging will continue to be required to fully comply with Chapter 13, Rental Housing Code, but nothing additional will be required. Vacation Lodging will also continue to be included in the Zoning Tables under the short-term lodging category, in the zoning districts where it is allowed within the Zoning Ordinance, but will no longer be addressed in Chapter 35.

BED & BREAKFAST ESTABLISHMENTS:

The new state law did not address Bed & Breakfast Establishments. Iowa Code recognizes these as a separate and distinct use from short-term rentals. Therefore, the proposed text removes Bed & Breakfast Establishments as a short-term rental use but maintains them as a short-term lodging (hotel/motel) use. **The revised text allows them to continue as a standalone use authorized through the Special Use Permit process.** The criteria for approval of a Bed & Breakfast Establishment, included under Section 29.1302, remains the same except for the addition of some criteria previously included in Chapter 35.

SUMMARY OF CHANGES:

On November 18, 2020, the Planning and Zoning Commission reviewed the zoning text amendments to Chapter 29, Zoning Ordinance and voted unanimously in support of the changes to address changes in State law related to short-term rentals. These changes are summarized as follows:

Chapter 13, Rental Housing Code Changes

- Exemptions are revised to reflect updated Short-Term Rentals

Chapter 35, Short-Term Rental (previously Guest Lodging) Code Changes

- Licensing Requirement is Removed
- Categories of Vacation Lodging and Bed & Breakfast Establishments are Removed
- References to “Guest Lodging” are replaced with “Short-Term Rental”

- Voluntary Registration Process is Added for Hosted Home Shares and Home Shares
- Require an inspection prior to licensing with a fee, but no annual fee for a license. Inspection required every other year.
- Violations & Penalties are Removed, if the license is revoked, they are subject to Chapter 13 for enforcement.

Chapter 29, Zoning Ordinance Changes

- Remove Special Use Permit Requirement for Vacation Lodging
- Update the Bed & Breakfast Definition and Special Standards of Article XIII
- Remove Guest Lodging Terminology and Definitions
- Clarify Home Share and Hosted Home Share as Accessory Uses to Household Living

ALTERNATIVES:

1. A. Approve on first reading each of the attached ordinances:
 - i. Ordinance amending the text of the Short-Term Rental Code (Chapter 35)
 - ii. Ordinance amending the text of the Zoning Ordinance (Chapter 29)
 - iii. Ordinance amending text of the Rental Housing Code (Chapter 13)
- B. Adopt a resolution repealing the fee for Guest Lodging licensure.
2. Continue the public hearing to a date certain and direct modifications to the draft ordinances prior to first reading.
3. Adopt on first reading a modified version of any of the three attached ordinances and repeal the fee for Guest Lodging licensure upon third reading of the ordinances.
4. Take no action regarding the text amendments, thereby not memorializing changes in state law related to short-term rentals within the *Ames Municipal Code*.

CITY MANAGER’S RECOMMENDED ACTION:

As previously directed by Council, the proposed text amendments are in response to changes in state law related to short-term rentals (Guest Lodging). Portions of Chapter 35 previously addressing Vacation Lodging and Bed & Breakfast Establishments are eliminated. Bed & Breakfast Establishments will continue as a stand-alone use authorized through the Special Use Permit process of the Zoning Ordinance. Those units that have already received a Special Use Permit for operating as a Bed & Breakfast Establishment will be able to continue to do so.

The term "Guest Lodging" is being replaced with the term "Short-Term Rental." There will no longer be an annual license required for this use.

The revised text allows an optional process for an exemption from the Rental Code with voluntarily registration as a short-term rental unit under Chapter 35 for owner-occupied units, such as Hosted Home Shares and Home Share. If the proposed changes that include the voluntary licensing process are not approved, all short-term rentals would be subject to complete compliance with Chapter 13 Rental Code.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative #1 A and B above, thereby approving first reading of the three ordinances and repealing the fee for Guest Lodging licensure.