



Date February 10, 2020

**RESOLUTION HOLDING HEARING ON PROPOSED AMENDMENTS TO  
ZONING ORDINANCE AND CITYWIDE ZONING MAP**

**WHEREAS**, on April 25, 2016, by Roll Call No. 16-0717, the City Council adopted the PlanDSM: Creating Our Tomorrow Plan as the comprehensive plan for the City of Des Moines; and

**WHEREAS**, on October 16, 2019, by Roll Call No. 19-1683, the City Council approved Ordinance No. 15,816 adopting the Zoning Ordinance effective December 15, 2019, which repealed and replaced previous Chapter 134 of the Des Moines Municipal Code and Article 5 of which repealed and replaced the City's Wireless Telecommunications Facility Policy adopted on April 8, 2019 by Roll Call No. 19-0580, and approved Ordinance No. 15,818 adopting the updated Citywide Zoning Map rezoning all real property within the City limits of the City of Des Moines to reflect the newly designated zoning districts as defined in the proposed Zoning Ordinance; and

**WHEREAS**, on December 16, 2019, by Roll Call Nos. 19-2044 and 19-2046, respectively, the City Council approved Ordinance No. 15,844 amending the Zoning Ordinance, and approved Ordinance No. 15,846 amending the Citywide Zoning Map; and

**WHEREAS**, City staff have identified necessary amendments to Sections 134-7.1.4 and 134-7.2.5, relating to repairs and maintenance and damage or destruction of nonconforming one-household and two-household uses, and to Table 134-3.1-2, to incorporate a separation distance requirement between bar uses and church, school, public park, or licensed child care facility uses in applicable zoning districts, as well as amendments to the Citywide Zoning Map to reflect Legacy Planned Unit Development (PUD) districts that had been erroneously converted to an incorrect zoning district through scrivener's error; and

**WHEREAS**, the proposed amendments to the Zoning Ordinance and the Citywide Zoning Map are on file and available to the public for viewing in the office of the City Clerk; and

**WHEREAS**, on January 27, 2020, by Roll Call No. 20-0143, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held on January 16, 2020, its members voted 12-1 in support of a motion to recommend **APPROVAL** of the proposed amendments to the Zoning Ordinance and Citywide Zoning Map; and

**WHEREAS**, on January 27, 2020, by Roll Call No. 20-0143, it was duly resolved by the City Council that the proposed amendments to the Zoning Ordinance and Citywide Zoning Map be set down for public hearing on February 10, 2020 at 5:00 p.m. in the City Council Chambers at City Hall; and

**WHEREAS**, due notice of said hearing was published in the Des Moines Register, as provided by law, setting forth the time and place for hearing on said proposed amendments to the Zoning Ordinance and Citywide Zoning Map; and

**WHEREAS**, in accordance with the notice, those interested in the proposed amendments, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Des Moines, Iowa, that:



**Date** February 10, 2020

1. Upon consideration of the facts, statements of interested persons and arguments of counsel, any and all objections to said proposed amendments to Sections 134-7.1.4 and 134-7.2.5 and to Table 134-3.1-2 of the Zoning Ordinance, and the proposed amendment to the Citywide Zoning Map, be and the same are hereby overruled, and the hearing is closed.

2. The City Council hereby makes the following findings in support of the proposed amendments to Sections 134-7.1.4 and 134-7.2.5 and to Table 134-3.1-2 of the Zoning Ordinance, and the proposed amendment to the Citywide Zoning Map (collectively “amendments”):

- a. Said amendments are necessary to protect and preserve the rights, privileges, and property of the city and of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents, for the reasons stated herein.
- b. The amendments are further necessary to promote the health, safety, morals, and general welfare of the community and to preserve historically significant areas of the community.
- c. Said amendments are consistent with PlanDSM: Creating Our Tomorrow Plan, the comprehensive plan for the City of Des Moines, and meet the multiple goals thereof including but not limited to the following:
  - i. Land Use (LU) Goal 1: Develop new land development regulations consistent with this Comprehensive Plan, include development standards, provide for a mixture of land uses, mandate protection of natural resources, and promote flexible approaches to implementing the Plan.
    - LU1.3: Ensure new zoning and land use regulations promote development and redevelopment that is compatible with the neighborhood character and reduces negative impacts between incompatible uses.
  - ii. Land Use (LU) Goal 4: Continue to embrace the distinct character of Des Moines’ neighborhoods while allowing for new development and redevelopment.
    - LU 4.25: Require new development and redevelopment to be compatible with the existing neighborhood character.
  - iii. Housing (H) Goal 1: Provide a diversity of housing options to accommodate residents of all ages, income levels, household sizes, and cultural backgrounds.
    - H1: Ensure an adequate supply of housing through a mix of new development, infill development, and redevelopment of existing properties.
    - H4: Promote accessible, affordable, and age-friendly housing alternatives in all neighborhoods to accommodate persons with disabilities and allow seniors to age in place, in proximity to known services, and with easily accessible quality open space.
    - H5: Address availability and affordability of housing options for all families.
  - iv. Housing (H) Goal 2: Preserve, maintain, and improve the existing inventory of single-family and multi-family housing.
    - H16: Streamline permit and development processes to encourage development in accordance with applicable regulations.
  - v. Housing (H) Goal 4: Support development of and access to quality housing affordable to all income level households.
  - vi. Community Character and Neighborhoods (CCN) Goal 1: Embrace the distinct character offered in each of Des Moines’ neighborhoods.
    - CCN2: Ensure a diverse mix of housing types, styles, scales, density, and affordability that complement existing neighborhood character.
    - CCN5: Ensure infill development is sensitive to the existing character of the neighborhood.





Roll Call Number

Agenda Item Number

47

Date February 10, 2020

- vii. Community Character and Neighborhoods (CCN) Goal 2: Further Des Moines' revitalization efforts to improve the strength, stability, and vitality of all neighborhoods.
3. The proposed amendments to Sections 134-7.1.4 and 134-7.2.5 and to Table 134-3.1-2 of the Zoning Ordinance, and the proposed amendment to the Citywide Zoning Map, all in form on file in the office of the City Clerk, are hereby approved, subject to final passage of the respective enacting ordinances.

MOVED by \_\_\_\_\_ to adopt.

FORM APPROVED:

  
Glenna K. Frank, Assistant City Attorney

(10-2019-5.03)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED		APPROVED		

#### CERTIFICATE

I, P. KAY CMELIK, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Mayor

City Clerk



January 21, 2020

Honorable Mayor and City Council  
City of Des Moines, Iowa

Date February 10, 2020  
Agenda Item 47  
Roll Call # \_\_\_\_\_

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held January 16, 2020 the following action was taken regarding a City initiated public hearing regarding proposed amendments to the approved Zoning Ordinance in Chapter 134 of the City Code relating to Lodging – Short-Term Commercial Rental uses, non-conforming uses, separation distance requirements for Eating and Drinking Places – Bars uses in an MX2 Mixed Use District, and regarding proposed amendments to the approved Zoning Map relating to portions of Legacy PUD Districts that are erroneously shown as Flood Districts.

#### COMMISSION ACTION:

After public hearing, the members voted 12-1-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
Abby Chungath	X			
Jacqueline Easley	X			
Jann Freed	X			
John "Jack" Hilmes	X			
Lisa Howard	X			
Carolyn Jenison	X			
Greg Jones	X			
William Page		X		
Rocky Sposato				X
Steve Wallace	X			
Greg Wattier	X			
Emily Webb	X			

**APPROVAL** of Part A) the Commission find the proposed amendments to the Zoning Ordinance and Zoning Map are in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan and Part B) **APPROVAL** of the proposed amendments to the approved Zoning Ordinance and approved Zoning Map.

(10-2019-5.03)





## **RECOMMENDATION TO THE P&Z COMMISSION**

Part A) Staff recommends that the Commission find the proposed amendments to the Zoning Ordinance and Zoning Map are in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan.

Part B) Staff recommends approval of the proposed amendments to the approved Zoning Ordinance and approved Zoning Map

## **STAFF REPORT TO THE PLANNING COMMISSION**

### **I. GENERAL INFORMATION**

The proposed Ordinance to amend the approved Zoning Ordinance in Chapter 134 is attached.

Amendments relating to Short-Term Commercial Rental Lodging use in Section 134-3.5.12 [C] include the following:

- Allow a Short Term Commercial Rental Lodging use to be utilized for assembly use only if approved by the Zoning Board of Adjustment.
- Require a Short Term Commercial Rental Lodging use owner or manager that resides outside of Polk County or any county contiguous to Polk County to designate an authorized management agent who is at least 18 years of age who and a resident of Polk County or any county contiguous to Polk County.
- Revise the required guest registration information that must be provided to the City upon request.
- Eliminate requirements for a minimum number of days that the Short Term Commercial Rental Lodging use must be occupied by the owner.
- Eliminate requirements on the total maximum number of days a Short Term Commercial Rental Lodging use can be rented annually.
- Clarify that one short term rental is allowed per single-household detached structure or structure containing between 2 and 9 households.
- Clarify that the rounding provisions for calculating the percentage of units in multi-household exclude the whole number "0".

Amendments for Non-Conforming Uses provisions in Sections 134-7.1.4 and 134-7.2.5 include the following:

- Allow a non-conforming use to be re-established in a previous nuisance property if the nuisance is abated.
- Allow a structure containing a non-conforming one or two-household use that was conforming prior to December 14, 2019 to be re-established to the extent that it existed prior to damage or destruction, regardless of the extent or means of that damage or destruction.

Amendments to Table 134-3.1-2 regarding Alcoholic Liquor, Wine or Beer Sales correct the omission of a 150' separation requirement from a church, school, public park or licensed child care facility for bars in MX2 districts.



Finally, maps are attached that show areas of existing PUD's that were inadvertently zoned Flood District. The proposed Zoning Map Ordinance to rezone those specific areas from Flood District to Planned Unit Development District is also attached.

## **II. ADDITIONAL APPLICABLE INFORMATION**

On October 16, 2019 the Des Moines City Council voted 6-1 to approve final consideration of Ordinance #15,816 (Chapter 134 - Zoning Ordinance), Ordinance #15,817 (Chapter 135 – Planning and Design Ordinance), Ordinance #15,818 (Zoning Map), and Ordinance #15,819 (Cross references in multiple code chapters). Those Ordinances became effective on December 15, 2019.

On December 16, 2019 City Council voted 7-0 to approve revisions to Chapter 134 and Chapter 135 pursuant to Ordinance #15,844 and Ordinance #15,845. Those Ordinances became effective on January 3, 2020.

The proposed amendments being considered are a combination of changes to short-term rental regulations as directed by City Council at a workshop on October 16, 2019 and miscellaneous necessary revisions to Chapter 134 and the Zoning map that have been identified by staff since December 15, 2019.

## **SUMMARY OF DISCUSSION**

Erik Lundy presented staff report and recommendations.

Suann Donovan, Neighborhood Inspections Administrator stated they passed the short-term rental regulations with a stipulation of the owner living in the property for 175 days before it could be a rental property. The industry thought that was too onerous so they held public meetings to come up with amendments. These amendments will allow the property to be rented for 365 days but they will need a Zoning Board of Adjustment approval, along with a rental certificate. They have also changed the number of rental units allowed in a Multi-Family Dwellings with hopes it will cap the rental prices and keep them from getting out of control.

Greg Wattier asked if it would be up to the owners of the multi-family to figure out who that short-term renter would be?

SuAnn Donovan stated it would be up to the owner or whoever comes in for a rental certificate first.

Greg Wattier asked how it would work if more than one person wanted a rental certificate within a multi-family dwelling?

SuAnn Donovan stated they would need seek a use variance from the Zoning Board of Adjustment if they wanted to exceed the cap for number of units in a multi-family dwelling.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

Danielle Rucker, 714 53<sup>rd</sup> Street stated she started an Air BnB last May and have found it better than having a long-term rental property. She wants to thank the Council for all the

work they have done and these new revisions should add a good balance and oversight to short-term rental properties.

Brad Podray, 4407 SE 6<sup>th</sup> Street stated he has rehabbed a few houses in Des Moines for long-term rental, one burned down and one was vandalized. He's had much more success with short-term rental. Because of the tourism industry and making more money off Air BnB, he is able to create jobs for people who have a business of maintaining and hosting Air BnB's.

David Lund, 641 46<sup>th</sup> Street stated he currently has a neighbor who has converted their basement into rooms for rent and is renting rooms on the main floor as well. His concerns from what has been going on thus far are how people will be forced into compliance with City Code. If he could shut down the operation they have going on next door to him, he would not hesitate to do so.

Carly Hamilton, 678 45<sup>th</sup> Street read submitted letter verbatim (attached).

Diane Graham, 635 46<sup>th</sup> Street read submitted letter verbatim (attached).

Thomas Curble, 6630 Cody Drive, WDM stated this all comes down to the host and them being ones held responsible for what transpires at their properties. This needs to be a professionally ran business, not random people throwing up their home on the Air BnB website. The host needs to be aware of the regulations and put things in place to make sure their properties comply with those regulations.

Vi Higgins, 662 45<sup>th</sup> Street stated short-term rentals are like a party every night, no one is held responsible unless there is a responsible person on site at all time.

Jennifer Baccam, 400 Walnut Street stated this has been a wonderful experience for her. Rarely do they have people coming to party, it's a lot of families coming to see relatives or going to a concert. This isn't about making money, this is about showing people the City of Des Moines and how wonderful this community is.

Glenna Frank, stated there was no prior legal use of short-term rental under the old zoning Ordinance, therefore there is non-conforming use. Anyone that has been operating an Air BnB is operating illegally at this point and will need to seek a conditional use approval from the Zoning Board of Adjustment.

Jann Freed wanted to clarify that people operating under Air BnB are running it illegally?

Glenna Frank stated they wouldn't have zoning rights operating under Air BnB and would need to seek a conditional use approval from the Zoning Board of Adjustment.

Jacqueline Easley asked who they should file complaints with?

Glenna Frank stated the City's Zoning Enforcement Division.

John "Jack" Hilmes clarified they would need to seek conditional use approval from the Zoning Board of Adjustment and receive an occupancy permit?



Glenna Frank stated they would need to be in the correct zoning district, request a conditional use approval, receive a rental certificate and pay hotel/motel taxes.

Will Page asked what type regulations the Zoning Board of Adjustment has in regard to evaluating density?

SuAnn Donovan stated they will not evaluate density, they will evaluate if a property should be allowed to operate as a short-term rental. They will look at crowding, parking and other issues that would affect the neighborhood.

Will Page stated they don't have a regulation to use as a tool to address the problems that people have raised?

SuAnn Donovan stated the Board could take those comments into consideration and deny the application.

SuAnn Donovan stated there was a comment made about short term rentals being allowed at 85 decimals, it is 65 decimals allowed in residential areas. This is a part of the City's Noise Ordinance and not these regulations. The approved Ordinance also states they must supply the City with a local management agency, give that information to adjacent property owners and post that on the property itself. They are also required to post other information in the unit, when garbage is picked up, Snow Removal Ordinance and other relative ordinances so the tenants know what their responsibilities are.

Jann Freed asked if the people who do have concerns should file a complaint?

SuAnn Donovan states yes. The process would start with an investigation, determining it is a valid complaint and being used as a short-term rental. We would then issue a notice of violation and give the owner a chance to come in to the Zoning Board of Adjustment to seek the approval. At that time the neighboring owners within 250 feet will be notified and have the chance to voice their concerns at the public hearing. It would be up to the Zoning Board of Adjustment to grant approval of the use and then obtain a rental certificate. At any time, they violate the terms and conditions of the Boards order, we can take it back in and have it reconsidered.

### **CHAIRPERSON CLOSED THE PUBLIC HEARING**

Will Page stated questions around multi-family didn't raise much opposition but Short-term rental within a single-family dwelling seems raise a lot of questions. Since this is the first time regulating this type of use, we should do a thorough job rather than watering it down.

John "Jack" Hilmes stated a lot of work has been done to find common ground and give control to the City to avoid neighborhood problems like we have heard tonight. This will never be perfect, there will always be litigation and there will always be violators but he believes this is a good proposal.

Carolyn Jenison stated she is having a hard time seeing the difference from a year around Air BnB and an apartment building.

John "Jack" Hilmes stated he doesn't see how it is effectively different.

Carolyn Jenson asked if the regulations are the same for Air BnB's as they are for a house or apartment being rented out year around. They will have City inspectors come into the property?

SuAnn Donovan stated yes.

**COMMISSION ACTION:**

Greg Jones made a motion for approval of Part A) the Commission find the proposed amendments to the Zoning Ordinance and Zoning Map are in conformance with the PlanDSM Creating Our Tomorrow Comprehensive Plan and Part B) **APPROVAL** of the proposed amendments to the approved Zoning Ordinance and approved Zoning Map

Motion passed: 12-1-0 (Will Page voted in opposition)

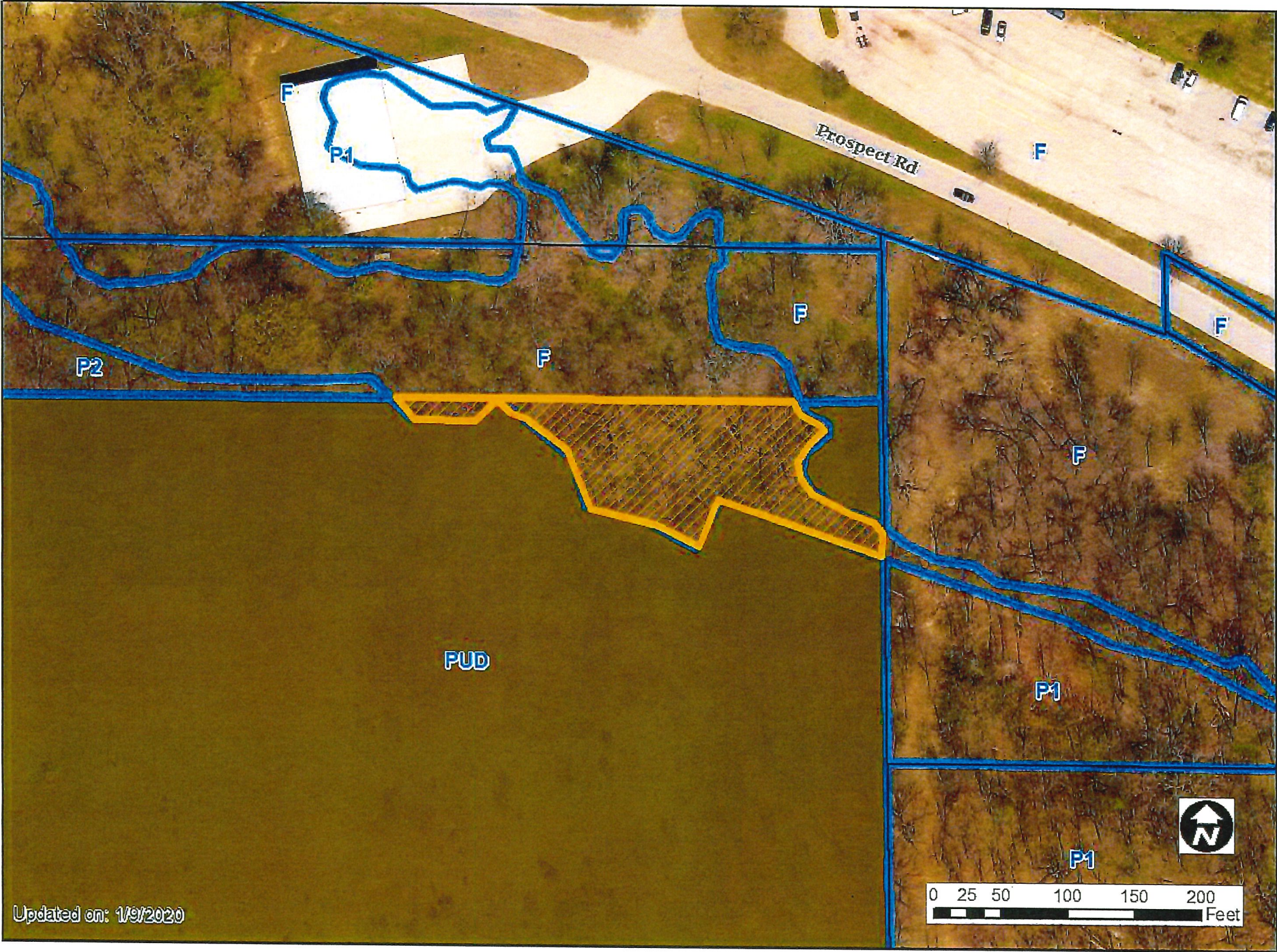
Respectfully submitted,



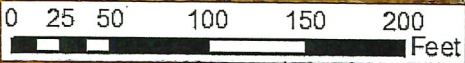
Erik Lundy, AICP  
Senior City Planner

EML:tjh  
Attachments





Updated on: 1/9/2020



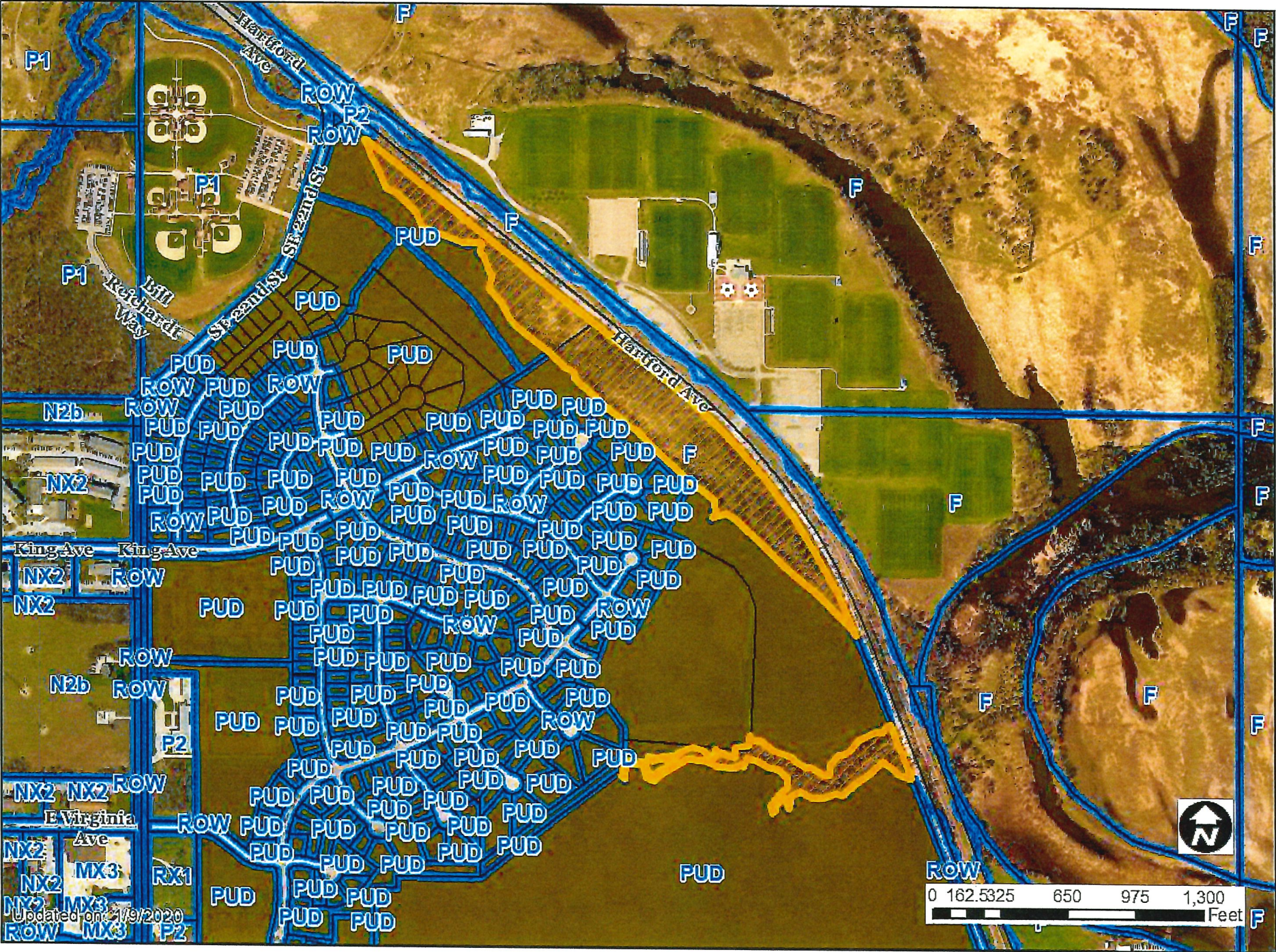
1 inch = 95 feet

47



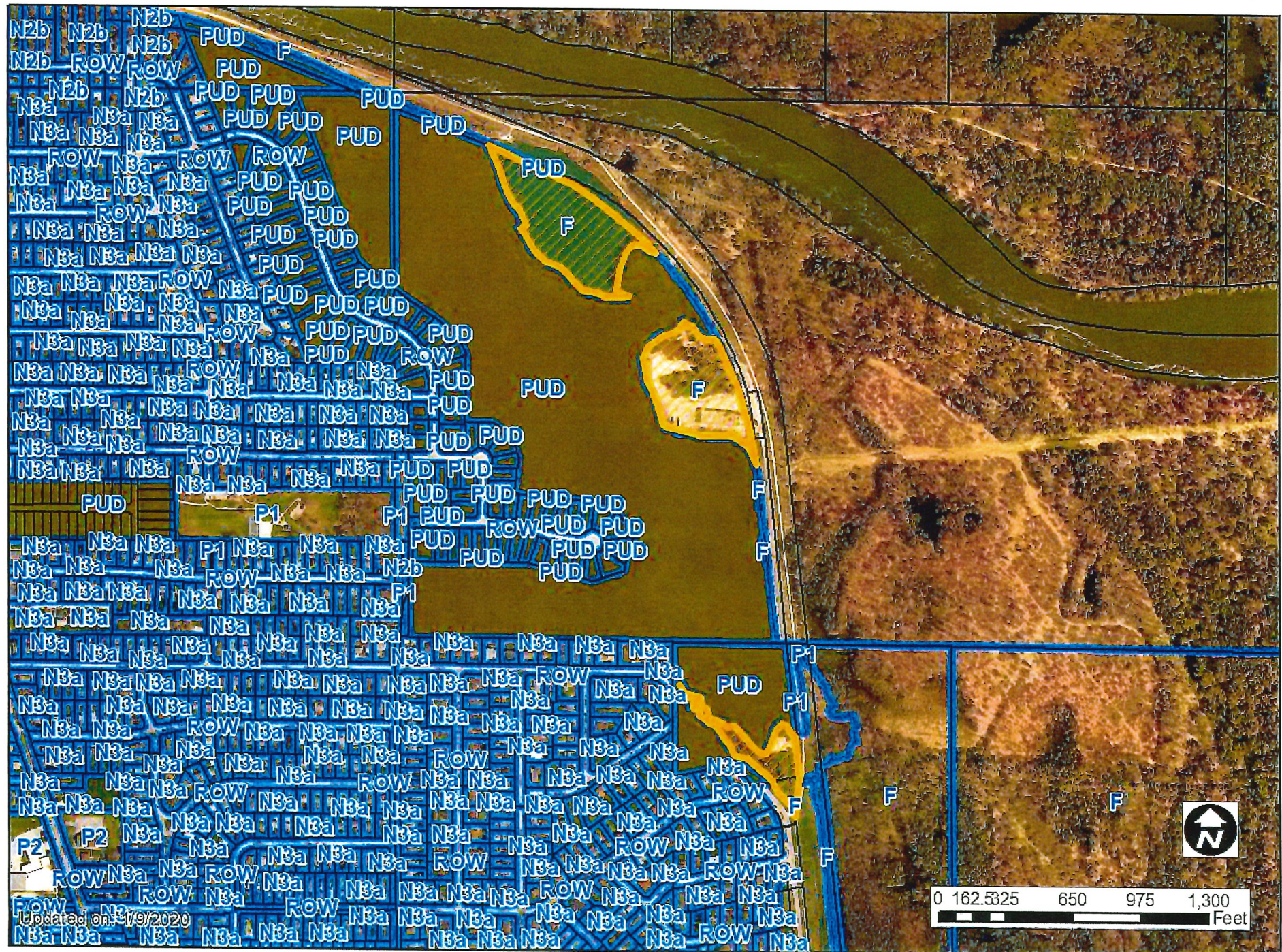




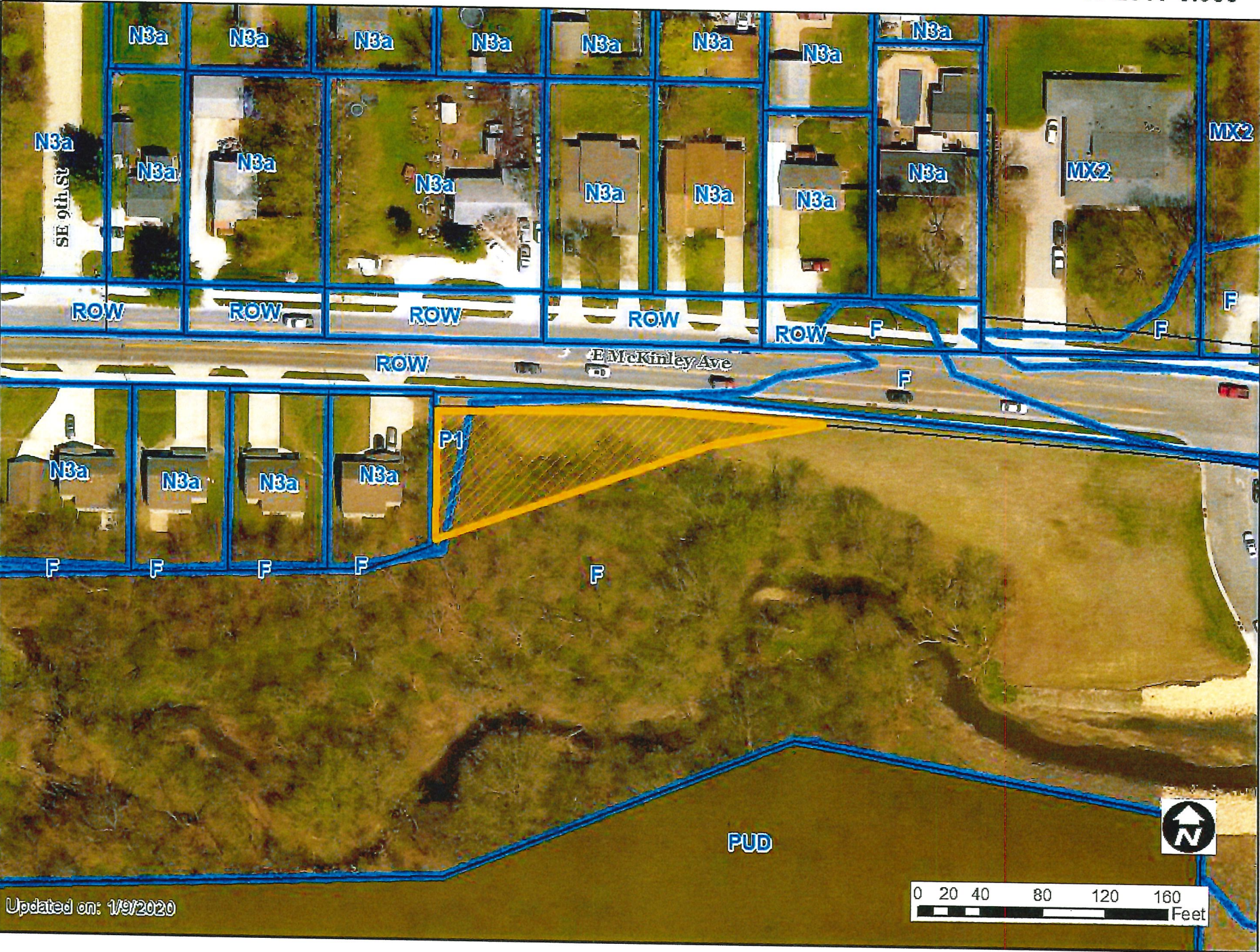


67









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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Sections 134-3.5.12, 134-7.1.4 and 134-7.2.5, and Table 134-3.1-2, relating to short-term commercial rental, to repairs and maintenance and damage or destruction of nonconforming one-household and two-household uses, and to separation requirements for bar uses, to promote the health, safety, morals, and general welfare of the community and to preserve historically significant areas of the City of Des Moines, as well as to protect and preserve the rights, privileges, and property of the City of Des Moines and of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended by amending Sections 134-3.5.12, 134-7.1.4, 134-7.2.5, and Table 134-3.1-2 as follows:

## Chapter 134 ZONING

### Sec. 134-3.5.12 LODGING

- 
- C. Short-Term Commercial Rental.** The use of a household unit for commercial lodging; also referred to in this chapter as short-term rental. A household unit, or part of a household unit, other than a restaurant, motel, temporary shelter, or bed and breakfast, where lodging is provided for compensation for one or more persons for periods of less than 30 consecutive days. All short-term rentals are subject to the following supplemental regulations, together with such additional special conditions as may be reasonably required by the board of adjustment:
1. The owner or authorized management agent of a short-term rental and all short-term rental guests may not use, or allow another to use, a short-term rental for any assembly use unless approved by the board of adjustment.
  2. A. The owner of a short-term rental who resides in Polk County or any county contiguous thereto, or whose manager, managing member, director or similar representative resides in Polk County or any county contiguous thereto in the event that the owner is a company or corporate entity, shall provide the community development director with the name, physical address, email address, tax identification number, and telephone number of

the owner and any individual over the age of 18 who shall be designated as the “authorized management agent” responsible for maintenance of the property and for responding to communications during the duration of a short-term rental. If there is a change related to an authorized management agent, the owner must provide updated or new information to the community development director in writing within three business days following such change.

- B. The owner of a short-term rental who resides outside Polk County or any county contiguous thereto, or whose manager, managing member, director or similar representative resides outside Polk County or any county contiguous thereto in the event that the owner is a company or corporate entity, shall provide the community development director with the name, physical address, email address, tax identification number, and telephone number of an individual over the age of eighteen(18) who shall reside in Polk County or any county contiguous thereto and who shall be designated as the “authorized management agent” responsible for maintenance of the property and for responding to communications during the duration of a short-term rental. If there is a change related to an authorized management agent, the owner must provide updated or new information to the community development director in writing within three business days following such change.
3. Short-term rentals shall include one or more adults 21 years of age or older in the renting party, and shall be limited to a single party of individuals.
  4. The owner or authorized management agent of a short-term rental and all short-term rental guests may not produce sound in excess of the city’s noise control ordinance, including the use of sound equipment.
  5. The owner or authorized management agent of a short-term rental shall provide a packet for all short-term rental guests with the following information, and provide an updated copy that remains in the unit:
    - a. Emergency contact information for the owner and authorized management agent.
    - b. Emergency and non-emergency numbers for City of Des Moines police and fire.
    - c. Trash pickup schedule
    - d. Any parking restrictions for on-street and off-street parking, including the city’s snow ordinance
    - e. Occupancy limits for the household unit or structure.
  6. The owner or authorized management agent of a short-term rental shall annually provide owners and occupants of immediately adjoining properties, and of adjacent properties separated from the short-term rental unit by public right-of-way, with emergency contact information for the owner and authorized management agent.



~~Each short-term rental shall be owner-occupied, or tenant-occupied with the signed written consent of the condominium owner. The owner-occupant or tenant-occupant, as applicable, shall reside in the condominium containing the short-term rental as his or her primary residence for no fewer than 245 days annually, with each annual period commencing on the anniversary of the date of filing of the board of adjustment decision and order approving the conditional use.~~

13. A maximum of 10% of the total number of household units located in a multi-household attached structure not consisting of individually owned condominiums may be allowed per such multi-household attached structure. Said percentage shall be rounded down to the lowest whole number including excluding zero. ~~Each short-term rental shall be applied for and operated by the owner of the multi-household attached structure, or the owner's authorized management agent.~~
14. Short-term renters shall be provided, at a minimum, the exclusive use of a bedroom and shared use of a full bathroom for the duration of any such rental.
15. Reserved. ~~Renting of each approved short-term rental shall be limited to no more than 120 days' cumulative annual rentals, with each annual rental period commencing on the anniversary of the date of filing of the board of adjustment decision and order approving the conditional use. The 120-day cumulative annual rental limit is applicable across any and all hosting platforms or other means of advertising the short-term rental, rather than per hosting platform or advertising method. Notwithstanding the foregoing, short-term rentals located within owner-occupied single-household detached structures, and short-term rentals located on the same lot as and associated with an owner-occupied principal residential structure, are not subject to the 120-day cumulative annual rental limitation provided that the owner-occupant is present for the duration of any short-term rental(s) occurring after said 120-day limitation has been reached within each annual rental period.~~
16. The owner or authorized management agent of a short-term rental shall post a clearly printed sign inside the short-term rental unit on the inside of the front door that provides information regarding the location of all fire extinguishers in the unit and building, gas shut off valves, fire exits, and pull fire alarms.
17. The owner of a short-term rental shall maintain liability insurance appropriate to cover the short-term rental use in the aggregate of not less than \$500,000 (U.S. dollars) or shall conduct each short-term rental transaction through a hosting platform that provides equal or greater coverage. Such coverage shall defend and indemnify the owner, as named additional insured, and any tenants in the building for their bodily injury and property damage arising from the short-term rental use.
18. In the event that a short-term rental unit or the property on which it is located is subject to any unresolved building, electrical, plumbing, mechanical, fire, health, rental property maintenance code, police, or zoning code enforcement,

7. Each owner and authorized management agent of a short-term rental shall have a duty to comply with all applicable federal, state and local laws and regulations, including but not limited to hotel/motel licensing, and collection and payment of taxes such as hotel accommodation taxes and property taxes, and shall be required to show proof of payment of such taxes within 15 days of request by the community development director.
8. The owner and authorized management agent of a short-term rental shall ~~maintain current~~ provide guest registration records ~~which contain~~ information upon request including the following information about each guest:
  - a. Name;
  - b. Address; and
  - c. ~~Signature;~~
  - d. ~~Copy of driver's license; and~~
  - ec. Dates of accommodation.
9. A short-term rental may not be occupied by more persons than as allowed per bedroom or sleeping area in the occupancy limitations set forth in the International Property Maintenance Code.
10. A maximum of one short-term rental may be allowed per single-household detached structure. ~~The short term rental shall be owner-occupied or associated with an owner-occupied principal residential structure, or tenant-occupied or associated with a tenant-occupied principal residential structure with the signed written consent of the property owner. The owner-occupant or tenant-occupant, as applicable, shall reside in the single-household detached structure containing or associated with the short term rental as his or her primary residence for no fewer than 245 days annually, with each annual period commencing on the anniversary of the date of filing of the board of adjustment decision and order approving the conditional use.~~
11. A maximum of one short-term rental may be allowed per structure containing between two and nine households. ~~per two-household attached structure or per condominium within a structure. The short term rental shall be owner-occupied or associated with an owner-occupied principal residential structure, or tenant-occupied or associated with a tenant-occupied principal residential structure with the signed written consent of the property owner. The owner-occupant or tenant-occupant, as applicable, shall reside in the two-household attached structure or condominium within a structure containing or associated with the short term rental as his or her primary residence for no fewer than 245 days annually, with each annual period commencing on the anniversary of the date of filing of the board of adjustment decision and order approving the conditional use.~~
12. A maximum of 10% of the total number of household units located in a multi-household attached structure consisting of individually owned condominiums may be allowed per such multi-household attached structure. Said percentage shall be rounded down to the lowest whole number ~~including~~ excluding zero.



including any notices of violation, notices to cure, orders of abatement, cease and desist orders, or correction notices, the short-term rental use shall be prohibited until such enforcement is complete and all violations are corrected to the approval of the community development director.

19. Any form of advertising of a short-term rental, including but not limited to listing on a hosting platform, is prohibited until a conditional use is approved by the board of adjustment. Any form of advertising of a short-term rental, including but not limited to listing on a hosting platform, is further prohibited at any time that the short-term rental use is not in full compliance with one or more of the general requirements for short-term rentals stated herein or with one or more conditions established in the board of adjustment conditional use approval.
20. The owner or authorized management agent of a short-term rental shall maintain records demonstrating compliance with this section. Records shall be made available to the community development director upon request.

#### **Sec. 134-7.1.4 REPAIRS AND MAINTENANCE**

- A. Repairs and normal maintenance necessary to keep a nonconformity in sound condition are permitted unless the work increases the extent of the nonconformity or is otherwise expressly prohibited by this zoning ordinance.
- B. If a nonconforming structure or a structure occupied by a nonconforming use becomes unsafe or dangerous, or when a structure is found unfit for human occupancy or otherwise deemed to be a public nuisance, it may not thereafter be used, restored, or repaired, or rebuilt except in conformity with the provisions of the district in which it is located.
- C. Nothing in this article section is intended to prevent nonconformities from being structurally strengthened or restored to a safe condition in accordance with an order from a duly authorized public official, or to prevent re-establishment of a nonconforming household use in a structure which has been repaired or constructed so as to not be unsafe, dangerous, or found unfit for human occupation, and which does not constitute a public nuisance, when allowed by section 134-7.2.5 of this article.

#### **Sec. 134-7.2.5 DAMAGE OR DESTRUCTION**

- A. If a structure containing a nonconforming one-household or two-household use, which household use was a conforming use pursuant to the city of Des Moines' zoning ordinance and zoning map in effect on December 14, 2019, is damaged or destroyed to any extent and by any means, including damage or destruction by repair, alteration, replacement or upgrade, exclusive of the foundation, the nonconforming one-household or two-household use may be re-established to the extent that such use existed before the damage, provided that a building permit application to allow the re-establishment is filed with the community development department within six months of the damage or date of inspection

finding a public nuisance.

- B. If a structure containing a nonconforming use, other than a nonconforming one-household or two-household use which was a conforming use pursuant to the city of Des Moines' zoning ordinance and zoning map in effect on December 14, 2019, is damaged or destroyed to the extent of 50% or more of its replacement cost at time of damage or destruction, by any means, including damage or destruction by repair, alteration, replacement or upgrade, exclusive of the foundation, the nonconforming use may not be re-established. If the structure is damaged or destroyed to the extent of less than 50% of its replacement cost at the time of damage or destruction by any means, including damage or destruction by repair, alteration, replacement or upgrade, exclusive of the foundation, the nonconforming use may be re-established to the extent that such use existed before the damage, provided that a building permit application to allow the re-establishment is filed with the community development department within six months of the damage.
- C. This subsection does not apply to properties designated a historic district or landmark under chapter 58 of this code or under the National Register of Historic Places.

**Table 134-3.1-2**

Revising Table as shown on attachment hereto, and by this reference made a part hereof, to:

- (i) Add "150" for 150 feet separation requirement from church, school, public park, or licensed child care facility as defined by Iowa Code Chapter 237A for "Bar" row in both "DX1, DX2, MX1, MX2, DXR" columns.

Section 2. This ordinance shall be in full force and effect upon and from its passage and publication as provided by law.

FORM APPROVED:

Glenna K. Frank  
Assistant City Attorney



# 134-3. USES

## Principal Uses

DRAFT

**TABLE 134-3.1-2. ALCOHOLIC LIQUOR, WINE OR BEER SALES**

USE	Alcoholic Liquor Sales			Wine or Beer Sales		
	Districts					
	DX1, DX2, MX1, MX2, DXR	MX3, CX, P1, P2	RX1, RX2, NX2a	DX1, DX2, MX1, MX2, DXR	MX3, CX, P1, P2	RX1, RX2, NX2a
Retail Sales						
Limited	Not allowed	○ 40%/500 1,320		○ 40%/150	○ 40%/150	
General	40%/75	40%/75		40%/75	40%/75	
Large	40%/75	40%/75		40%/75	40%/75	
Fuel Station	Not allowed	○ 40%/500 1,320	Not allowed	40%/150	40%/150	Not allowed
Liquor Store		○ 500/ 1,320		Not allowed	○ 150	
Tobacco Store		○ 25%/500 1,320		○ 25%/150	○ 25%/150	
Restaurant	50%/75	50%/75	○ 50%/75	50%/75	50%/75	○ 50%/75
Bar	○ 150	○ 150	Not allowed	○ 150	○ 150	Not allowed
Other Uses with Sales for On-Premise Consumption	○	○ 40%/150		○ 40%/150		

### Table Notes

○ = Uses identified with a ○ symbol are allowed only if reviewed and approved in accordance with the conditional use procedures of [134-6.4 of this chapter](#).

40% = no more than 40% of the gross receipts from sales from the premises may be derived from the sale of alcoholic liquor, wine, beer or tobacco products.

50% = at least 50% of the gross receipts must be derived from the sale of prepared food and food-related services. The sale of an alcoholic beverage is not the sale of prepared food and food-related services.

25% = no more than 25% of the gross receipts from sales from the premises may be derived from the sale of alcoholic liquor, wine or beer.

75 = the licensed premises occupied by such use must be separated by at least 75 feet from the property line of the lot where any church, school, public park or licensed child care facility as defined by Iowa Code Chapter 237A, are located. However, this condition is not applicable in the DX1, DX2, and DXR districts.

150 = the licensed premises occupied by such use must be separated by at least 150 feet from the property line of the lot where any church, school, public park or licensed child care facility as defined by Iowa Code Chapter 237A, are located. However, this condition is not applicable in the DX1, DX2, and DXR districts.

500 = the licensed premises occupied by such use must be separated by at least 500 feet from the property line of the lot where any church, school, public park or licensed child care facility as defined by Iowa Code Chapter 237A, are located. However, this condition is not applicable in the DX1, DX2, and DXR districts.

1,320 = the licensed premises occupied by such use must be separated by at least 1,320 feet from the property line of the lot where any other controlled use engaged in the sale of alcoholic liquor is located. In the DX1, DX2, and DXR districts, this condition is only applicable to liquor stores.

## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, 2000, set forth in Section 134-1.10 of Chapter 134 of the Municipal Code of the City of Des Moines, to promote the health, safety, morals, and general welfare of the community and to preserve historically significant areas of the City of Des Moines, by rezoning specified real property within the City limits of the City of Des Moines.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-1.10 of the Municipal Code of the City of Des Moines, Iowa, 2000, be and the same is hereby amended by rezoning and changing the district classification of certain property, located as described as follows, from the F Flood District to Legacy Planned Unit Development (PUD) District classification:

- a. Area generally bounded by Prospect Road on the north; Hickman Road on the south; 16<sup>th</sup> Street (extended north) on the west; and Prospect Road on the east (Broadlawns PUD).
- b. Area generally bounded by the Des Moines River on the north; Evergreen Avenue on the south; SE 36<sup>th</sup> Street (extended north) on the west; and SE 43<sup>rd</sup> Street (extended south) on the east (Iowa Primate Learning Sanctuary PUD).
- c. Area generally bounded by Hartford Avenue on the north; E. Park Avenue on the south; SE 22<sup>nd</sup> Street on the west; and Hartford Avenue on the east (Riverwoods PUD).
- d. Area generally bounded by the City's Corporate Boundary on the north; Madison Avenue on the south; Sawyers Drive on the west; and the City's Corporate Boundary on the east (Sawyers Landing/Tai Village PUD).



- e. Area generally bounded by E. McKinley Avenue on the north; Yeader Creek on the south; 1011 E. McKinley Avenue on the west; and Yeader Creek on the east (Southdale PUD).

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Section 3. The City Clerk is hereby authorized and directed to cause a certified copy of this ordinance, vicinity map(s), and proof of publication of this ordinance, to be properly filed in the office of the Polk County Recorder.

FORM APPROVED:

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Glenna K. Frank  
Assistant City Attorney

Good evening. My name is Diane Graham, and I live at 635 46<sup>th</sup> St. in Des Moines.

I'm here tonight first to commend you for stepping up to regulate short-term rentals in the city. It's tough subject area with a lot of complexity, but it's also an important step to take for residents like me.

I'm especially pleased that, as I understand it, under this ordinance from here on when someone wants to start a short-term rental business on their property, they must seek a permit and properties within 250 feet of that address will be notified and given the opportunity to address any concerns. Is that correct?

That is light years better than <sup>discovering</sup> finding out through the grapevine <sup>of seeing increased</sup> that a house on your street has become an AirBnB. So thank you.

But please don't stop there. There's still a need to set some standards for short-term rentals – especially whole-house rentals – in our residential neighborhoods. This zoning ordinance establishes caps on the percentage of a multi-unit building that can convert to short-term rentals. There also should be some sort of density cap to protect the character of residential neighborhoods as short-term home rental spreads. That's a



~~do not become~~  
blow a hole in that. They ~~are not our neighbors~~. The time to develop a more comprehensive short-term rental policy for residential neighborhoods is now, not when problems reach crisis levels.

Thank you for listening.

I am here to speak against STR. There are 3 of them operating illegally just a few blocks from my home. Together they can accommodate 20 renters coming and going all year long.

Residential neighborhoods are the heart of a city. They are important places for the people who live in them. Their ambience and energy can attract people who want to live and work in Des Moines. Housing for singles and families needs to be available in these neighborhoods. Neighborhoods need to be safe guarded from predators. And, the STR industry can be predatory, especially if Des Moines has weak zoning regarding them.

There are companies that are solely in the business of looking for cities that have no or weak ordinances regarding STR. These companies advise investors where to buy houses that can be turned into STR as investments. This turns our neighborhoods into commercial zones that can be over run with these hotels, which is what this rental business is, and all the harm that comes with them. The proposals in the Conditional Use – Short Term Commercial Rental are extremely weak.

These are:

1. No requirement for an owner to actually live at the property they are renting out. There is not even a requirement for them to live in the state.

Owners should at least be required to reside in Polk county or a contiguous county.

2. Off street parking should be required by the STR. This is a money making business. The owners need to take responsibility by providing parking on the rental site. Allowing the renters to park on the street in a neighborhood creates many problems for the residents. These problems occur each time a new group of renters arrives. It's like the movie Groundhog Day.

Renters park in No Parking Zones which blocks visibility at an intersection. A safety issue! Police are not very responsive to requests to ticket the violators which means the same cars park there again and again until a new group arrives and does the same thing.

Renters park in front of our properties causing problems with garbage pick up and city snow removal.

We have limited access to our own properties. Our guests have no where to park. Any service, such as appliance delivery, tree trimming, repair service, etc. is made more difficult due to the excess of renters' vehicles parked on our streets.

3. There needs to be a limit of how many STR and how many people they can accommodate are allowed in a certain block area. There is a 10% cap on the number of units that can be in condo and apartment buildings. Why not the same consideration for our neighborhoods?
4. There needs to a regulation of how close these rentals can be to each other. Right now there is no mention of this. A resident could end up with entire houses of STR (with no owner present) all around him!



5. And, believe me, this does affect property values. I have not met anyone who says "Oh, boy, I live next to an Airbnb!" or "Great! I want to buy a house right next to one that has people arriving late at night over and over, ringing my doorbell because they think my house is in the rental. Leaving bags of garbage on the curb causing the bags to break open and garbage blow across the front yard of my new home!"

6. 85 decibels is too loud. Please lower it. The CDC lists any noise over 70 can cause hearing damage.

How will the city enforce the rules? Is there a larger budget for police, public works, and the zoning departments so they can handle the complaints?

How can the zoning board realistically say these businesses won't affect the general welfare of a neighborhood's permanent residences. It does affect us? Adversely!

Des Moines needs its neighborhoods to remain good places to live. The neighborhoods need Des Moines' fullest protection.