



Roll Call Number

Agenda Item Number

68

Date June 22, 2020

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, 134-6.4.8, and 134-6.4.10, relating to short-term commercial rental uses, while addressing the needs of residential neighborhoods where short-term commercial rental uses may occur, including the health, safety, morals, and general welfare of the community, the preservation of historically significant areas in the City, and the preservation and improvement of the peace, safety health, welfare, comfort, and convenience of its residents",

which was considered and voted upon for the first time under Roll Call No. 20-0868 of May 18, 2020, and considered and voted upon for the second time under Roll Call No. 20-0935 of June 8, 2020, again presented.

Moved by _____ to continue to the July 13, 2020 Council meeting.

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

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.

MOTION CARRIED

APPROVED

Mayor

City Clerk

68

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, 134-6.4.8, and 134-6.4.10, relating to short-term commercial rental uses, while addressing the needs of residential neighborhoods where short-term commercial rental uses may occur, including the health, safety, morals, and general welfare of the community, the preservation of historically significant areas in the City, and the preservation and improvement of 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, 134-6.4.8, and 134-6.4.10 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.
2. The owner of a short-term rental:
 - a. 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~~21 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. 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 21 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.

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;
 - c. License plate number of any guest vehicle to be parked at or in the vicinity of the short-term rental; and
 - ~~d. Copy of driver's license; and~~
 - ~~ed.~~ 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, and a minimum of one off-street parking space, compliant with chapter 135 of this code, shall be provided and assigned onsite by the owner or authorized management agent of each short-term rental for each bedroom or sleeping area contained in the short-term rental.
10. A maximum of one short-term rental may be allowed per single-household detached structure. ~~The~~ If located in a NX2a district, such 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~~ six months 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. Each lot line of a lot containing such short-term rental use for which a conditional use application has been filed with the community development director after July 1, 2020 must be separated by at least 700 linear feet from any lot line of any other lot containing:
 - (a) a single-household structure and a short-term rental use; or
 - (b) a structure containing between two and nine households and a short-term rental 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~~ If located in a NX2a district, such 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~~ six months 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. Each lot line of a lot containing such short-term rental use for which a conditional use application has been filed with the community development director after July 1, 2020, must be separated by at least 700 linear feet from any lot line of any other lot containing:
- (a) a single-household structure and a short-term rental use; or
 - (b) a structure containing between two and nine households and a short-term rental 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. Each such short-term rental in a NX2a district 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~~ six months 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, 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.

21. Any short-term rental shall be limited in duration to 5 years from the date that a conditional use is approved by decision and order of the board of adjustment, with the option to apply to the board of adjustment for renewal for one additional 5-year term.

Sec. 134-6.4.8 STANDARDS AND REVIEW CRITERIA

B. Short-Term Rentals

6. If the short-term rental ~~of a single household detached structure, a two household attached structure or a condominium within a structure,~~ is to be undertaken by a tenant-~~occupant~~ rather than an owner-~~occupant~~, then the application for conditional use requires signed consent by the owner of the applicable structure. If such signed consent is not included, the application for conditional use will not be accepted by city staff or submitted to the board of adjustment for consideration.

Sec. 134-6.4.10 LAPSE OF APPROVAL

C. Reserved. ~~An approved conditional use for a short term rental shall be in effect only for so long as the subject structure is owned, or controlled through lease, by the applicant.~~

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

FORM APPROVED:

/s/ Glenna K. Frank
Glenna K. Frank
Assistant City Attorney