



Date April 25, 2011

RESOLUTION INITIATING AN AMENDMENT TO THE ZONING ORDINANCE TO PROHIBIT FREESTANDING LIQUOR STORES IN THE "C-3", "C-3A", "C-3B", AND "C-3R" DISTRICTS AND ESTABLISHING A TEMPORARY MORATORIUM ON NEW FREESTANDING LIQUOR STORES IN SUCH DISTRICTS

WHEREAS, the "C-3" Central Business District Commercial District, "C-3A" Central Business District Support Commercial District, "C-3B" Central Business Mixed-Use District, "C-3R" Central Business District Mixed-Residential District and "D-R" Downtown Riverfront District encompass the downtown core and adjoining support commercial areas, the riverfront and Historic East Village areas; and,

WHEREAS, with the exception of the "D-R" Downtown Riverfront District, all such districts allow freestanding liquor stores, which are within the class of businesses referred to in the Zoning Ordinance as "package goods stores for the sale of alcoholic beverages"; and,

WHEREAS, such districts do not currently contain any freestanding liquor stores; and,

WHEREAS, the City Council desires to initiate and consider a proposal to amend the Zoning Ordinance to no longer allow freestanding liquor stores to locate within the downtown core and adjoining support commercial area and the Historic East Village areas encompassed by such districts; and,

WHEREAS, a temporary moratorium on the approval of site plans and permits for the construction, improvement and operation of new freestanding liquor stores in the "C-3", "C-3A", "C-3B" and "C-3R" Districts is necessary and appropriate to prevent such development from occurring until the Plan and Zoning Commission and the City Council have an opportunity to consider such proposal; NOW THEREFORE,

BE IT RESOLVED by the City Council for the City of Des Moines, Iowa, as follows:

1. As used in this resolution, a "freestanding liquor store" shall mean a business holding a Class "E" Liquor Control License which is not operated as either a grocery store or pharmacy at least 60 percent of whose gross revenue is derived from the sale of merchandise other than tobacco products, liquor, wine or beer.

2. No freestanding liquor store shall be commenced within the "C-3" Central Business District Commercial District, "C-3A" Central Business District Support Commercial District, "C-3B" Central Business Mixed-Use District or "C-3R" Central Business District Mixed-Residential District, and no structures shall be constructed or altered for such a business, and no site plans, building permits or new liquor licenses shall be approved or issued for the construction,



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improvement or operation of such a business within such districts. The City Staff shall not issue any permit or site plan approval for any development which is prohibited by this section.

3. Any party may by written application to the City Clerk request relief from the effect of this moratorium where necessary to avoid unnecessary hardship. The application shall identify the basis for the applicant's contention that the moratorium is causing unnecessary hardship. The application shall be presented for consideration by the City Council at the first regularly scheduled Council meeting more than ten days following the date such application is filed with the City Clerk. If the City Council determines that the application of this moratorium is causing the applicant unnecessary hardship, the City Council shall allow such relief from this moratorium as is necessary to remedy such unnecessary hardship.

4. The Community Development Department and Plan and Zoning Commission are hereby directed to diligently proceed with consideration of the proposed amendment to the Zoning Ordinance to no longer allow freestanding liquor stores in the "C-3", "C-3A", "C-3B" and "C-3R" Districts as identified above. The Community Development Department and Plan and Zoning Commission shall endeavor to complete their report and recommendation for receipt by the City Council at its meeting on June 27, 2011.

5. This moratorium shall take effect immediately upon the adoption of this resolution and shall expire on June 28, 2011 (after a term of 64 days), unless terminated or extended by further action of the City Council. The City Council hereby expresses its intent to immediately terminate this moratorium if the City Council determines at any time that the proposed amendment to the Zoning Ordinance should be rejected.

MOVED by Meyer to adopt a 90-day moratorium and bring this back at the July 11 Council meeting.

FORM APPROVED:

Roger K Brown
Roger K. Brown, Assistant City Attorney

Sponsored by Mayor T.M. Franklin Cownie

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

MOTION CARRIED 7 APPROVED
T.M. Franklin Cownie
Mayor

CERTIFICATE

I, DIANE RAUH, 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.

Diane Rauh
City Clerk