

Date July 11, 2011

RESOLUTION EXTENDING THE TEMPORARY MORATORIUMS ON:

- 1) THE ESTABLISHMENT OF ANY FREESTANDING LIQUOR STORES IN THE "C-3", "C-3A", "C-3B", AND "C-3R" DISTRICTS; AND
- 2) THE ESTABLISHMENT OF ANY BUSINESSES ENGAGED IN THE SALE OF ALCOHOLIC LIQUORS FOR OFF-PREMISES CONSUMPTION IN THE "C-1" DISTRICT AND AT ANY LOCATION WHICH HAS NOT RECEIVED CONDITIONAL USE APPROVAL FROM THE ZONING BOARD OF ADJUSTMENT

WHEREAS, on April 25, 2011, by Roll Call No. 11-0748, the City council imposed a temporary moratorium effective through July 11, 2011, on the commencement of any freestanding liquor store 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,

WHEREAS, on May 23, 2011, by Roll Call No. 11-0914, the City Council imposed a temporary moratorium effective through August 9, 2011, on the commencement of any new business selling alcoholic liquors for off-premises consumption and on the conversion of any existing business to one selling alcoholic liquors for off-premises consumption, at any location within the "C-1" Neighborhood Retail Commercial District, and at any location outside the "C-1" District which has not been reviewed and approved by the Zoning Board of Adjustment pursuant to Section 134-954 of the Zoning Ordinance; and,

WHEREAS, the Community Development Department and Plan and Zoning Commission are preparing amendments to the Zoning Ordinance to address the concerns identified by the City Council in the resolutions establishing the two temporary moratoriums identified above, as more specifically described in the accompanying Council Communication; and,

WHEREAS, the extension of the two temporary moratoriums is necessary and appropriate to prevent the establishment of such businesses before the Plan and Zoning Commission and the City Council have an opportunity to consider and enact appropriate amendments to the Zoning Ordinance.

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

Date July 11, 2011

1. 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, improvement or operation of such a business within such districts. 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 new business selling alcoholic liquors for off-premises consumption shall be commenced, and no existing business shall be converted to one selling alcoholic liquors for off-premises consumption, at any location within the "C-1" Neighborhood Retail Commercial District. No new business selling alcoholic liquors for off-premises consumption shall be commenced, and no existing business shall be converted to one selling alcoholic liquors for off-premises consumption, at any location outside the "C-1" District which has not been reviewed and approved by the Zoning Board of Adjustment pursuant to Section 134-954 of the Zoning Ordinance. The conversion of any businesses premises from one at which alcoholic liquor is not sold, to one at which alcoholic liquor is sold, is a material change in use requiring a new certificate of occupancy.
3. The City Staff shall not issue any approval, permit, license or certificate of occupancy for any development or business activities which are prohibited by paragraphs 1 and 2, above.
4. The temporary moratorium identified above shall remain in full force and effect until September 13, 2011, unless terminated or extended by further action of the City Council. The City Council hereby expresses its intent to immediately terminate these moratoriums if the City Council determines at any time that no further amendment to the Zoning Ordinance is warranted.
5. Any party may by written application to the City Clerk request relief from the effect of these moratoriums 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 the applicable moratorium is causing the applicant unnecessary hardship, the City Council shall allow such relief from the moratorium as is necessary to remedy such unnecessary hardship.
6. The Community Development Department and Plan and Zoning Commission are hereby directed to diligently proceed with consideration of the appropriate amendments to the

★ Roll Call Number

11-1253

Agenda Item Number

59

-3-

Date July 11, 2011

Zoning Ordinance to address the concerns identified in the resolutions that initially established the temporary moratoriums 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 no later than at its meeting on September 12, 2011.

(Council Communication No. 11-451)

MOVED by Hensley to adopt.

FORM APPROVED:

Roger K Brown

Roger K. Brown, Assistant City Attorney  
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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

T. M. Franklin 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