



12-0572

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Date April 9, 2012

RESOLUTION INITIATING AN AMENDMENT TO THE ZONING ORDINANCE TO FURTHER REGULATE THE ALLOWED LOCATION OF BUSINESSES ENGAGED IN THE SALE OF ALCOHOLIC LIQUOR FOR OFF-PREMISES CONSUMPTION, AND IMPOSING A TEMPORARY MORATORIUM

WHEREAS, a recent change in the Iowa Alcoholic Beverage Control Act has removed a longstanding prohibition against the issuance of a Class E Liquor Control License for the sale of alcoholic liquor for off-premises consumption from any premises at which gasoline is sold; and,

WHEREAS, since this change in the state law became effective on July 1, 2011, a total of 15 businesses in Des Moines, including eleven gas stations/convenience stores, have obtained licenses to sell alcoholic liquor for off-premises consumption; and,

WHEREAS, by Ordinance No. 15,059 passed October 24, 2011, the City Council made the sale of alcoholic liquor by Limited Food Sales Establishments and Limited Retail Sales Establishments (those under 10,000 square feet in size), by Gas Stations/Convenience Stores, and by Liquor Stores subject to receipt of a conditional use permit from the Zoning Board of Adjustment in an attempt to address the detrimental impact such businesses sometimes impose upon adjoining properties and the neighborhoods in which they are located; and,

WHEREAS, the City Council believes that the existing limitations on the sale of alcoholic liquor by Limited Food Sales Establishments, Limited Retail Sales Establishments, Gas Stations/Convenience Stores, and Liquor Stores have been inadequate to stop the proliferation of businesses engaged in the sale of alcoholic liquor, and the detrimental impact that the density of such businesses can have adjoining properties and the neighborhoods in which they are located; and,

WHEREAS, a temporary moratorium on the commencement of any business selling alcoholic liquors for off-premises consumption and upon the conversion of any existing business to one selling alcoholic liquors for off-premises consumption, from any business premises which is operated as a Limited Food Sales Establishment, Limited Retail Sales Establishment, Gas Station/Convenience Store or Liquor Store, is necessary and appropriate to preserve the status quo until appropriate regulations can be considered and adopted to address the detrimental impact that the proliferation of such businesses is having within the City of Des Moines.

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

- 1. 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, from any business premises which is operated as a Limited Food Sales Establishment, Limited Retail Sales Establishment, Gas Station/Convenience Store or Liquor Store. The conversion of any Limited Food Sales Establishment, Limited Retail Sales Establishment or Gas Station/Convenience Store 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. The City Staff shall not issue any approval, permit, license or certificate of occupancy for any development or business activities which are prohibited by this section.
2. This moratorium shall take effect immediately upon the adoption of this resolution and shall expire on June 26, 2012, (after a term of 78 days), unless terminated or extended by further action of the City



Roll Call Number

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Council. The City Council hereby expresses its intent to immediately terminate this moratorium if the City Council determines at any time that no further amendment to the Zoning Ordinance is warranted.

- 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 appropriate amendments to the Zoning Ordinance to address the concerns identified in the preamble 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 June 11, 2012.

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