



Roll Call Number

17-1131

WITHDRAWN

Agenda Item Number

Ex. 2

Date June 26, 2017

RESOLUTION IMPOSING A TEMPORARY MORATORIUM ON THE  
CREATION OF NEW DWELLINGS AND TRANSIENT LODGING WITHIN  
ACCESSORY BUILDINGS IN THE RESIDENTIAL DISTRICTS

WHEREAS, City of Des Moines has historically allowed "[t]he taking of boarders or the leasing of rooms by a resident family, provided the total number of boarders and roomers does not exceed two per building", as a permitted accessory use in all residential zoning districts; and,

WHEREAS, the conversion of existing accessory buildings and the construction of new accessory buildings in residential districts to contain dwelling units, lodging rooms and transient lodging has become a matter of concern in the City of Des Moines because of the potential for such uses to adversely affect the character of the neighborhood by increasing the transient population, traffic and the competition for the available on-street parking, and evening and nighttime noise; and,

WHEREAS, the appropriate zoning regulations to be imposed upon the conversion of existing accessory buildings and the construction of new accessory buildings in residential districts to contain dwelling units, lodging rooms and transient lodging is now being addressed as part of the recent adoption of *Plan DSM, Creating our Tomorrow* and the pending writing and adoption of a new Zoning Ordinance and the associated Site Plan Regulations; and,

WHEREAS, the City Council fully supports the application and enforcement of existing zoning regulations that prohibit dwelling units, lodging rooms and transient lodging in accessory buildings until such time as these matters are addressed in the new Zoning Ordinance; and,

WHEREAS, the approval of additional dwelling units, lodging rooms and transient lodging in accessory buildings in residential districts before adoption of the new Zoning Ordinance will inevitably result in the creation of legal non-conforming uses that do not conform to the conditions and restrictions determined to be appropriate through the process of writing and adoption of the new Zoning Ordinance.

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

1. A temporary moratorium is hereby imposed on the conversion of existing accessory buildings and the construction of new accessory buildings in residential districts to contain dwelling units, lodging rooms or transient lodging.
2. A temporary moratorium is hereby further imposed on the conversion of existing dwelling units and lodging rooms within accessory buildings in residential districts to transient lodging use.

( continued )



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3. This resolution is not intended to approve or legalize the use of any existing dwelling unit, lodging room or transient lodging which does not on the date of this resolution conform to following existing legal requirements. Any such existing non-conforming dwelling unit, lodging room and transient lodging may be denied legal conforming status under the new Zoning Ordinance.
  - a. The use of any premises for transient lodging must be registered with the Iowa Department of Revenue and the operator must hold a sales tax permit to offer lodging for rent at the premises as required by Iowa Code Chapter 423A, unless such lodging qualifies for an exemption from such requirement under Iowa Code §423A.5.
  - e. The use of any premises for rental housing must conform to the Residential Property Maintenance Code, Chapter 60, Article II of the City Code, and the owner must hold a valid rental certificate as required by Section 60-30 of the City Code.
4. The Community Development Department shall not issue any building permits or rental certificates for the conversion of existing accessory buildings and the construction of new accessory buildings in residential districts to contain dwelling units, lodging rooms or transient lodging, unless an application for a permit to commence such work has been filed by the date of this resolution.
5. The moratorium hereby imposed shall commence immediately and shall remain in effect until the earlier of the adoption of a new Zoning Ordinance that repeals and replaces Chapter 134 of the City Code, or January 9, 2018. The City Council hereby expresses its intent to immediately terminate this moratorium if the City Council determines at any time that the continuation of this moratorium is no longer warranted and in the public interest.
6. Any party aggrieved by this moratorium 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 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.
7. The Community Development Department and Plan and Zoning Commission are hereby directed to diligently proceed with investigation and consideration of the following issues as part of the writing and adoption of the new Zoning Ordinance:
  - a. The impact upon residential neighborhoods of dwelling units, lodging rooms and transient lodging within accessory structures;



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- b. The appropriate zoning districts in which to allow dwelling units, lodging rooms and transient lodging within accessory buildings, and the appropriate conditions for such uses in each district where allowed.
8. For the purposes of this resolution, unless the context otherwise requires:
- a. "Accessory building" means a secondary structure on the same lot with, and separate from, the principal structure.
  - b. "Lodging" and "Lodging room" means rooms, apartments, or sleeping quarters or any place where sleeping accommodations are furnished.
  - c. "Transient Lodging" means lodging which is rented by the same person for a period of 31 consecutive days or less.

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

FORM APPROVED:

*Roger K. Brown*

Roger K. Brown

Assistant City Attorney

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( Sponsored by Council Member Christine Hensley )

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

\_\_\_\_\_  
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.

\_\_\_\_\_  
City Clerk