

ORDINANCE NO.

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY ENACTING A NEW CHAPTER 35, GUEST LODGING CODE THEREOF FOR THE PURPOSE OF REGULATING GUEST LODGING IN THE CITY OF AMES, IOWA; PROVIDING A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ENACTED, by the City Council for the City of Ames, Iowa, that:

Section One. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by enacting a new Chapter as follows:

“[NEW] Chapter 35 GUEST LODGING CODE

Sec. 35.100. TITLE, PURPOSE AND SCOPE.

These regulations shall be known as the Guest Lodging Code of the City of Ames, hereinafter referred to as “this code.”

In the adoption of this code, the City finds that the Guest Lodging of dwelling units has the potential to be incompatible with surrounding residential uses. Therefore, special regulation for short-term occupancy is necessary to ensure that these uses will be compatible with surrounding residential uses and will not materially alter the character of neighborhoods in which they are located. This code provides reasonable and necessary regulations for the licensing and operation of Guest Lodging in order to:

- (1) Ensure the safety, welfare and convenience of guests, owners and neighboring property owners throughout Ames;
- (2) Help maintain the City’s needed housing supply for household living; and
- (3) Protect the character of the City’s neighborhoods by limiting the operations, number, and concentration of Guest Lodging in residential zones.

Sec. 35.200. DEFINITIONS.

For the purposes of this code, the following words, terms and phrases have the meanings set forth herein. Where terms are not defined herein but are defined elsewhere, such as in *Ames Municipal Code Chapter 13, Rental Housing Code or Chapter 29, Zoning Ordinance*, such terms have the meanings ascribed therein.

Apartment Share means the Guest Lodging of a portion or the entire dwelling unit within an apartment building that is the primary residence of the tenant.

Applicant means a property owner or agent of a property owner who has filed an application for a Guest Lodging license.

Bed & Breakfast Establishment means the Guest Lodging of a portion of a dwelling unit that is the primary residence of the property owner, where the property owner is present and provides lodging, and may provide breakfast for overnight guests.

Bedroom, Approved means any room or space used or intended to be used for sleeping purposes that is found to be in compliance with the standards of *Ames Municipal Code Chapter 13*.

Enforcement Officer means that person or persons designated by the City Manager who is responsible for the administration and enforcement of this code.

Dwelling Unit means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Guest Contract means one or more persons who act as a single group and as a single reservation and payment for a Guest Lodging.

Guest Lodging means the advertising, offering, or otherwise making available use of a dwelling unit for overnight lodging for a period of thirty-one (31) consecutive days or less in exchange for money, goods, labor or service. Guest Lodging does not include any hotel or motel facility.

Guest Lodging License means the regulatory license required by this code.

Home Share means the limited Guest Lodging of the entire dwelling unit that is the primary residence of the property owner, while the property owner is not present.

Hosted Home Share means the limited Guest Lodging of a portion of a dwelling unit that is the primary residence of the property owner, while the property owner is present. For the purposes of this definition, “present” means the property owner is staying in the dwelling overnight during the Guest Lodging.

Letter of Compliance means a document issued by the Inspection Division, stating the premises have been inspected and found to be in compliance with *Ames Municipal Code Chapter 13, Rental Housing Code*, on the date of inspection.

Owner means any person, agent, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Primary Residence means a dwelling unit that is the only place where a person has a true, fixed, and permanent home, and to where, whenever the person is briefly and temporarily absent, the person intends to return. A person may have only one primary residence.

Vacation Lodging means the Guest Lodging of an entire dwelling unit, which is not required to be the owner’s primary residence and which is commonly, but not exclusively, made available for through an online marketplace or website as a form of Guest Lodging. Vacation Lodging may be offered on an ongoing basis throughout the year as long as each guest contract is for thirty-one (31) days or less.

Sec. 35.300. GUEST LODGING LICENSING

License Required. No person or entity may advertise, offer, let, operate, or otherwise make available Guest Lodging without a current Guest Lodging license issued by the City of Ames in accordance with the provisions of this code.

35.400 GUEST LODGING STANDARDS

Application. Any property owner or entity intending to allow or carry on the business of offering Guest Lodging on their property must submit a written application with the Enforcement Officer demonstrating that the proposed Guest Lodging meets the required standards of this code. To receive approval, an applicant must demonstrate that all applicable standards listed below have been met:

- (1) **Applicant is the Property Owner.** A license must be obtained and renewed annually by the property owner and will be issued in the property owner’s name. Each dwelling unit must be licensed individually.
 - (a) **Primary Residence.** The dwelling unit must be the primary residence of the property owner for a Home Share, Hosted Home Share, or Bed & Breakfast Establishment, or the primary residence of the tenant for an Apartment Share.
- (2) **Zoning.** The dwelling unit is located in a zoning district permitting the unit’s use as Guest Lodging, as identified in the zoning use tables found in *Chapter 29, Zoning Ordinance*.
 - (a) Bed & Breakfast Establishment and Vacation Lodging owners must obtain a Special Use Permit from the Zoning Board of Adjustment, prior to receiving a Guest Lodging license.
 - (b) Exemptions. Apartment dwellings located in certain zoning districts are exempt from the Special Use Permit requirement as identified in the zoning use tables found in *Chapter 29, Zoning Ordinance*.

(3) **Occupancy.**

- (a) Hosted Home Shares are limited to a maximum of two approved bedrooms and two adults as guests per dwelling unit. The applicant must specify which portions of the dwelling unit will constitute the licensed premises available for use for the Guest Lodging.
- (b) Bed & Breakfast Establishments are limited to a maximum occupancy of two adults per approved bedroom. No more than five bedrooms may be approved.
- (c) Home Shares are limited to a maximum of two adults per approved bedroom, not to exceed a total of five adults per dwelling unit.
- (d) Apartment Shares are limited to the occupancy standards of *Ames Municipal Code Chapter 13, Rental Housing Code*.
- (e) Vacation Lodging must align with the occupancy limitations of *Ames Municipal Code Section 13.503* and in no instance may occupancy exceed a total of five adults per dwelling unit of guests and residents, or any combination thereof.

(4) **Off-Street Parking.** Parking is provided according to the requirements of the *Zoning Ordinance Section 29.406* and the following:

- (a) Hosted Home Shares - No additional parking required.
- (b) Bed & Breakfast Establishments - 1 reserved space per guest bedroom, plus 1 space for the owner.
- (c) Home Shares - 1 space per bedroom (maximum required - 5 spaces).
- (d) Apartment Shares – No additional parking required.
- (e) Vacation Lodging - 1 space per bedroom (maximum required - 5 spaces). An apartment dwelling is not subject to this standard if it is located in a zoning district which requires less parking than 1 space per bedroom.

(5) **Additional Vacation Lodging Restrictions.**

(a) **Non-Conforming Apartment Dwellings.**

- (i) An apartment dwelling that is a non-conforming use within its zoning district is not eligible to be licensed as Vacation Lodging.

(b) **Housing Rental Code Compliance.**

- (i) It is unlawful for Vacation Lodging to advertise or operate without a valid Letter of Compliance in effect.
- (ii) Vacation Lodging must receive a Letter of Compliance, prior to making application for a Guest Lodging license. *See Ames Municipal Code Chapter 13*. Transitional Letters of Compliance do not satisfy the Letter of Compliance requirement.
- (iii) Should an existing Letter of Compliance expire or be revoked during the licensing period, the Guest Lodging license will be considered as suspended and may be revoked.

(c) **Active Operation.** A Vacation Lodging unit must be actively utilized for Guest Lodging purposes during a majority of the year, or it may risk non-renewal.

(d) **Percentage of Dwelling Units as Vacation Lodging within One Parcel.**

- (i) The use of apartment dwellings as Vacation Lodging within a single parcel or common development is restricted to the greater of one Guest Lodging unit or up to 10% of the total number of units located within a parcel or common development.
- (ii) Vacation Lodging is not permitted as second principal use on a site with a single-family dwelling.
- (iii) When in a commercial or mixed use building, Vacation Lodging is not permissible on the ground floor.

(e) **Separation Requirement.**

- (i) A 1000-foot separation distance between properties licensed as Vacation Lodging units shall be enforced when approving single or two-family residences as Vacation Lodging, within certain low density and mixed density zoning districts. These include: A, RL, UCRM, F-VR, FS-RL, F-PRD, and O-SFC.
- (ii) The separation distance does not apply to apartment dwellings.
- (iii) The separation distance is calculated by the City of Ames Geographic Information System (GIS) from the property line of the applicant's property outward 1000 feet and prohibits approval of Vacation Lodging for any property that lies either in whole or in part within the separation distance.
- (iv) Requests for an exemption from the Separation Requirement may be granted during a short initial period. To be eligible for an exemption from the Separation Requirement,
 - (A) The property must have a valid Rental Code Letter of Compliance that was issued prior to October 1, 2019; and
 - (B) The property owner must submit a complete application for a Vacation Lodging Special Use Permit between December 1-16, 2019.
 - (C) The property owner must apply for the Guest Lodging License within 30 days of the ZBA approval of the Special Use Permit.

Exemption from the Separation Requirement is subject to a Vacation Lodging Special Use Permit being granted by the Zoning Board of Adjustment.

Exemption from the Separation Requirement will terminate if the Guest Lodging license for the unit has been suspended, revoked, or has lapsed. Exemption from the Separation Requirement is not transferrable to any subsequent owner of the property.

- (6) **Tax Compliance.** At time of renewal, documentation must be provided indicating that required taxes for the previous year have been paid pursuant to *Ames Municipal Code Section 24.3*.
- (7) **Fire Safety Requirements.** All units must be evaluated with a checklist for fire-safety and owners must ensure continued compliance with fire safety regulations included in *Ames Municipal Code Chapter 13, Division VIII*.
- (8) **Inspection.** Upon application for a license, all Guest Lodging units must be made available for City verification and inspection for compliance. Refusal by the applicant to allow such inspection shall be grounds for denial of a license. Subsequent inspections may be conducted as part of a regular periodic inspection program or as required to verify correction of deficiencies, or as necessitated by complaints.
- (9) **Additional Operational Requirements.** In addition to initial application requirements, the following also apply:
 - (a) **Concurrent Guest Contracts Not Allowed Within a Dwelling Unit.** Accommodations must be offered as one guest contract only. Bed & Breakfast Establishments are exempt from this limitation and may offer one guest contract per approved bedroom.
 - (b) **Maximum Number of Days per Annual Renewal Period (for Home Shares only).** Home Shares are limited to a total of 90 days per annual renewal period, with each guest contract including a period of 31 days or less.
 - (c) **Mandatory Postings of License.** A copy of the Guest Lodging license issued by the City must be displayed in a prominent location within the interior of the dwelling near the front door.
 - (d) **Registry of Guests.** Each owner or host must keep a registry of guests accommodated during the licensing period. The guest registry must be available for inspection by the City upon request.
 - (e) **Responsiveness to Complaints.** The owner must respond to complaints in a reasonably timely manner and shall maintain a record of the actions taken in response. This record must be available for

inspection by the City upon request.

Sec. 35.500. ADMINISTRATIVE PROCEDURES.

- (1) **Administrative Rules.** The Enforcement Officer shall have the authority to establish administrative rules and regulations consistent with this code, for the purpose of interpreting, carrying out, and enforcing it.
- (2) **Application Review and Issuance of License including Renewal.**
 - (a) **Application Form.** Application for a Guest Lodging license or license renewal must be on forms provided by the City.
 - (b) **License Fee.** The application fee for a Guest Lodging license or license renewal must be as established by resolution of the City Council. These fees are in addition to any other permit or registration fees that may be required.
 - (c) **Application Submittal and Review.** Complete and accurate information must be provided to the City.
 - (i) **Staff review.** The application will be reviewed by staff within five working days for completeness.
 - (ii) **Incomplete Application.** Any application that does not include all required information will be considered incomplete. In such cases, the City will notify the applicant in writing, explaining the information required. If the applicant does not provide the required information within 31 days of the notice, **the application will be deemed withdrawn/denied for lack of responsiveness with no return of application fees.**
 - (iii) **Inspection.** All premises being considered for licensure as Guest Lodging must be subject to inspection by the City for the purpose of investigating and determining compliance with the requirements of this code. Should the premises not be made available for inspection when requested, the application will be considered incomplete.
 - (iv) **Approval.** A complete application in compliance with this code will be approved and granted a one-year license.
 - (v) **Conditional Approval.** When circumstances do not warrant a full one-year license, a conditional approval may be granted. A conditional approval allows an applicant to operate while coming into full compliance or while correcting a violation. A conditional approval is time limited for no more than three months and is not renewable.
 - (vi) **Denial including Non-Renewal.** Any violation of the provisions of this code may be considered during the application review and may result in denial or non-renewal. Verified complaints with notice of corrective action involving violations of the zoning code, building code, and/or applicable laws or regulations may be a basis for denying a license. A property owner may not reapply for a license for a period of 12 months for that dwelling unit, if denied a Guest Lodging license based upon this section.
 - (vii) **Notification.** Within 31 days of determining the receipt of a complete application, the applicant will be notified of approval, denial, or additional information needed to approve the request.
- (3) **Term**
 - (a) All licenses shall terminate after one year. Annual applications must be submitted by the property owner, prior to expiration of the license.
 - (b) If a Guest Lodging license expires, the dwelling unit may not be used or occupied as Guest Lodging until such time as a subsequent license has been granted for that unit.
- (4) **Transferability.** The license must be issued in the name of the property owner and is not transferable to a subsequent owner or to another property.
- (5) **Revocation.**

- (a) The Enforcement Officer may immediately revoke or temporarily suspend a Guest Lodging license based upon any of the following, if it is found that:
 - (i) A required Letter of Compliance has either expired or been revoked;
 - (ii) The licensee, designated operator, or guest has violated any of the provisions of this code or conditions of the license;
 - (iii) The applicant has made a false statement of material fact on an application for a Guest Lodging license;
 - (iv) The licensee, designated operator, or guest has violated any federal, state, or city law or regulation pertaining to the use of the property as Guest Lodging; or
 - (v) The Chief of Police or Fire Chief and/or their designees have determined that the Guest Lodging would pose a serious threat to public health, safety, or welfare.
 - (b) The Enforcement Officer shall send or deliver written notice to the property owner stating the basis for the decision of revocation or suspension, the effective date of the revocation or suspension, the right to appeal the decision, and the procedure for filing an appeal. Any notice of suspension must include information about possible corrective action and time for compliance, as applicable.
 - (c) Upon revocation of a license, the dwelling unit or parcel described in the license is ineligible to receive another license pursuant to this code for one year from the date of revocation.
- (6) **Violations and Penalties.** In addition to the aforementioned actions of revocation, suspension, denial or non-renewal of a license, any violation of any provision of this code may also be enforced as a municipal infraction by the Enforcement Officer. The penalty for a first violation shall be \$500. The penalty for each subsequent violation shall be \$750.

Sec. 35.600. APPEALS.

Any party aggrieved by the Enforcement Officer's decision to deny, suspend, revoke, or issue a license may appeal the determination to the Zoning Board of Adjustment within 31 days, under the procedures set forth in the *Zoning Ordinance Section 29.1403(8)*.

Section Two. Violation of the provisions of this ordinance shall constitute a municipal infraction punishable as set in this ordinance.

Section Three. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent of such conflict, if any.

Section Four. This ordinance shall be in full force and effect from December 1, 2019, and after its passage and publication as required by law. Enforcement of this ordinance shall begin on March 1, 2020.

Passed this _____ day of _____, _____.

Diane R. Voss, City Clerk

John A. Haila, Mayor