

## Staff Report

**GUEST LODGING**

October 13, 2020

**BACKGROUND:**

On November 12, 2019, the City Council adopted ordinances establishing definitions, standards, and enforcement procedures for the licensing of Guest Lodging in specified zoning districts of the City. As a result, Chapter 35 was added to the Ames Municipal Code and Chapters 29 and 13 were amended to include this use. Guest Lodging is defined as:

*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.*

Because Guest Lodging is offered for thirty-one consecutive days or less, it is also referred to as “short-term rental.” The City licensed 28 properties as Guest Lodging (see attached map) during the first six months 2020.

On June 29, 2020, Governor Kim Reynolds signed House File 2641 into law which impacted the local regulation of short-term rentals. An excerpt of House File 2641 including the portion discussing short-term rentals has been included as ‘Attachment A’. **Under this new law, local governments are no longer able to regulate short-term rentals as a distinct activity differently from other residential uses. As a result, licensing regulations, additional parking, special use permits, and separation distances are no longer allowed under the new law.** The new law renders Chapter 35 of the Ames Municipal Code and related components of Chapter 29 (Zoning) as un-enforceable. It has no effect on Chapter 13 (Rental), except for that there is no longer an exception for licensed Guest Lodging establishments needing to comply with the Rental Code.

**The new law does however allow local government to “regulate, prohibit, or limit if enforcement is performed in the same manner as enforcement applicable to similar properties that are not short-term rentals” for such things as the “protection of public health and safety related to fire and building safety, sanitation, or traffic control” and “residential use and zoning purposes related to noise, property maintenance, or nuisance issues”.** This means that short-term rentals are still subject to zoning as a residential use and importantly are included under the purview of Chapter 13, Rental Housing.

With this staff report staff seeks direction from City Council on how to proceed with updating the Ames Municipal Code. Staff recommends basic housekeeping amendments Chapter 29 Zoning and Chapter 35 Guest Lodging due to limited discretion for options under the new state law. **However, options still exist for how or if to apply the Rental Code to short-term rental properties that are owner occupied homes, non-owner occupied short-term rental are already subject to the Rental Code and will continue to be subject to it even if there are no changes.**

Owner-occupied rental properties enjoyed two types of exceptions that regular rental properties did not benefit from under the Guest Lodging standards. The primary benefit is that if an owner-occupied home was licensed under the Chapter 35 Guest Lodging standard it was exempt from the full rental code. If Chapter 35 is repealed, then all rentals regardless of duration of the stay are subject to full compliance with all aspects of the Rental Code, with only the narrow exception of a single roomer allowance within an owner-occupied home. A roomer is an individual, it does not include a couple or family within its definition.

Excerpt Ames Municipal Code Section 13.201. TERMS DEFINED

*Owner-Occupied Dwelling Unit: Any townhouse, condominium, or detached dwelling that is occupied as a dwelling by the owner or owner's relative ... may include a live-in nanny; live-in nurse; one live-in exchange student; or one roomer. If there is more than one roomer, nanny, live-in nurse or live-in exchange student in the unit, the unit will be considered a rental unit, and not an owner-occupied dwelling unit.*

*Roomer. A person who occupies a rooming house or rooming unit.*

## **OPTIONS:**

Staff believes there are three options for how to proceed with updating our ordinance to align with the state law.

### **Option 1- Maintain the Current Rental Housing Code as Is. (All rentals must register, except for the properties with a Roomer)**

Any short-term rental would be required to comply with Chapter 13, Rental Code, and obtain a Letter of Compliance, unless exempted under the one-roomer clause. The only distinction between an owner occupied rental and a non-owner-occupied home for code compliance is the roomer exception. Under this option, whether owner occupied or not, once the property is a registered rental property it is subject to all aspects and improvement requirements of the Rental Code. Under this standard a short-term rental could operate with no license of any type if they housed only a single guest at a time as a roomer. Housing of more than one guest at a time would not qualify for the roomer exception.

This option includes repeal of Chapter 35 and revisions to Chapter 29.

**Option 2- Exempt Owner-Occupied Homes used as a Short-Term Rentals with defined standards. (Expands exemptions for owner-occupied homes)**

This option is an expansion on the one-roomer exemption for owner-occupied units. The City could redefine and broaden owner-occupied exceptions within the Rental Code. **With this approach, if a property owner meets the defined standards, they would not register the property as a rental property with the City.** This type of approach would need to be narrowly crafted to avoid creating loopholes for regular rental properties that are truly household living with longer leases. **Two ideas for this are changing a roomer to be up to two adults within one room or to set a threshold of days for use as a short-term rental before requiring registration.**

For comparison, under the City's previous Guest Lodging Hosted Homeshare, the City Council exempted use of the property from the Rental Code for up to two adults if the primary resident was present. For owner-occupied Homeshares we exempted properties from full Rental Code compliance when operated within occupancy limits, parking, and for no more than 90 days a year. However, with no license requirement, it would be harder to monitor compliance with these types of standards than under the prior licensing system of Chapter 35.

This option includes repeal of Chapter 35 and revisions to Chapter 13 and Chapter 29.

**Option 3- Optional Licensing of Owner-Occupied Home as Exempt from the Rental Code (Maintains current standards for owner-occupied homeshares)**

Although we can no longer require all short-term rentals obtain a license from the City, the City's Guest Lodging license could be modified into an optional process that allows for exemption from the full Rental Code. This process would only apply to owner-occupied homes. **The intent is that if you choose to operate under constraints of essentially the current less stringent Guest Lodging standards under Chapter 35, you would be exempt from Rental Code. However, if you were not interested in voluntarily operating under the Guest Lodging standard in order to have greater occupancy or more days of guest stays, you could choose to register the property as a rental property and operate it with greater latitude as fully a compliant rental property.** Under this system we would apply as many of the current standards as possible to Homeshares and Hosted Homeshares. However, it appears we cannot charge an annual licensing fee for this process. We likely could still charge an inspection fee when required.

This option includes revisions to Chapter 35 and Chapter 29.

**STAFF COMMENTS:**

Each of the above options have a distinct approach to regulating short-term rentals within the new standards created by the state. Option 1 treats essentially all rental properties the same with equal Code compliance for health and safety standards found within the Rental Code. Option 2 provides the most relief from Rental Code and would essentially treat short-term rentals as an accessory use to an owner-occupied home similar to the current roomer

exception. Option 3 creates an optional licensing process, similar to the current mandatory process, to allow for an owner-occupied home to take advantage of exemptions from full Rental Code compliance.

With City Council's direction on the issue of how to address short-term rentals for owner-occupied homes, staff can prepare the appropriate amendments to Chapters 13, 29, and 35. Staff is not anticipating substantial outreach to complete the update, because essentially the standards have previously existed or are current standards that were thoroughly reviewed in 2019. If Council anticipates specific plans for public outreach, staff would need this direction as well.

## ATTACHMENT 'A'

### Excerpts from House File 2641, pps. 73-75

#### DIVISION XXV SHORT-TERM RENTAL PROPERTIES

Sec. 148. Section 414.1, subsection 1, Code 2020, is amended by adding the following new paragraph: NEW PARAGRAPH, e.

(1) For purposes of this paragraph, "*short-term rental property*" means any individually or collectively owned single-family house or dwelling unit; any unit or group of units in a condominium, cooperative, or timeshare; or an owner-occupied residential home that is offered for a fee for thirty days or less. "*Short-term rental property*" does not include a unit that is used for any retail, restaurant, banquet space, event center, or other similar use.

(2) A city shall not adopt or enforce any regulation, restriction, or other ordinance, including a conditional use permit requirement, relating to short-term rental properties within the city. A short-term rental property shall be classified as a residential land use for zoning purposes.

(3) Notwithstanding subparagraph (2), a city may enact or enforce an ordinance that regulates, prohibits, or otherwise limits short-term rental properties for the following primary purposes if enforcement is performed in the same manner as enforcement applicable to similar properties that are not short-term rental properties:

(a) Protection of public health and safety related to fire and building safety, sanitation, or traffic control.

(b) Residential use and zoning purposes related to noise, property maintenance, or nuisance issues.

(c) Limitation or prohibition of use of property to house sex offenders; to manufacture, exhibit, distribute, or sell illegal drugs, liquor, pornography, or obscenity; or to operate an adult-oriented entertainment establishment as described in section 239B.5, subsection 4, paragraph "a".

(d) To provide the city with an emergency contact for a short-term rental property.

(4) A city shall not require a license or permit fee for a short-term rental property in the city.

**ATTACHMENT 'B'**  
**Approved Guest Lodging Types 2019 - Summation Tables**



*Guest Lodging Types as an Accessory Use*

*(This summary is provided as a comparison of the basic differences but does not reflect the entire code.)*

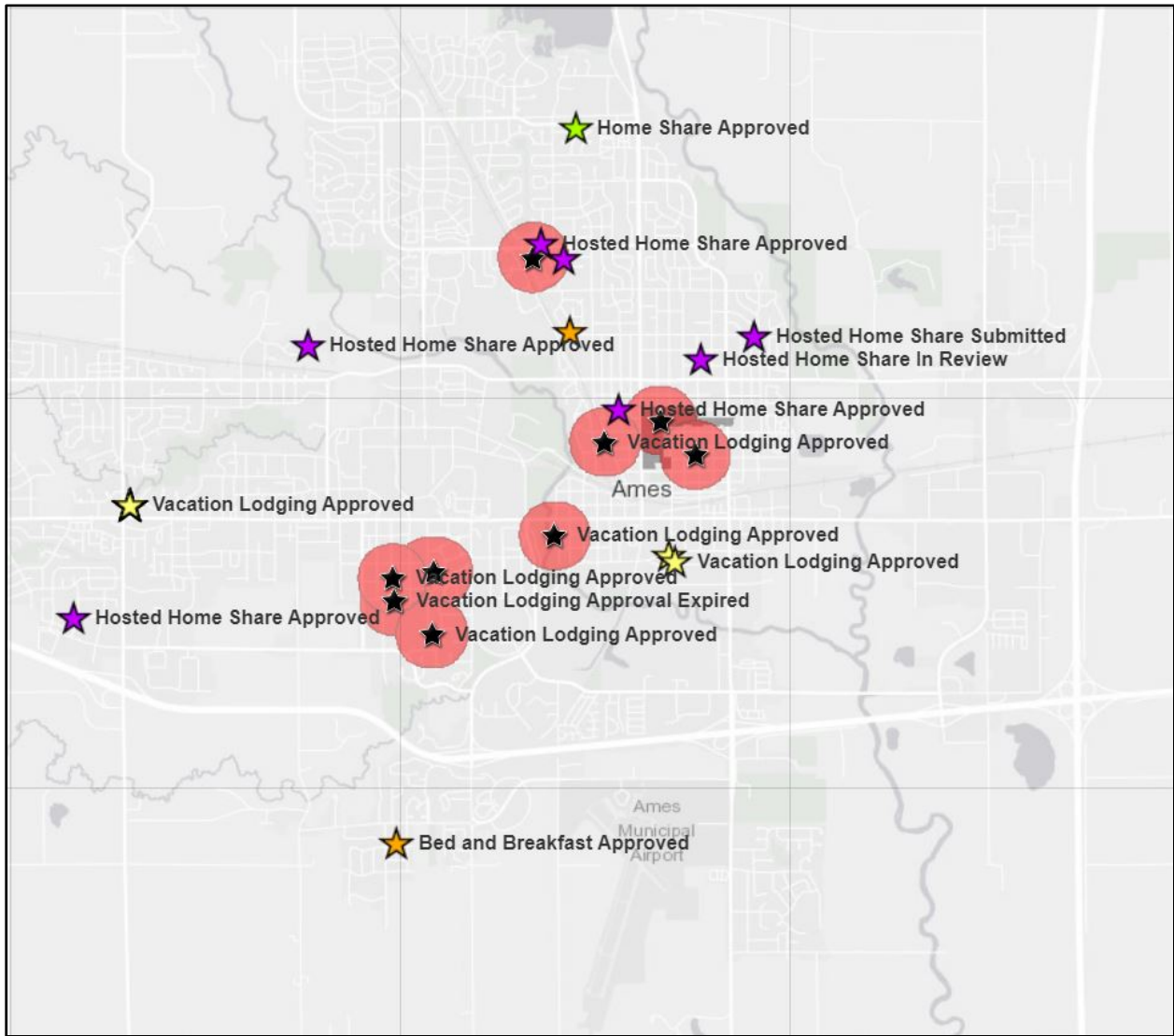
Type	Hosted Home Share	Home Share	Apartment Share
			
	Owner Required to be Present	Owner <u>Not</u> Required to be Present	Tenant <u>Not</u> Required to be Present
Description	Primary Residence	Primary Residence	Primary Residence
	Partial Dwelling	Entire Dwelling	Partial or Entire Apartment Dwelling
License	Required, Annual Renewal	Required, Annual Renewal	Required, Annual Renewal
Approval Process	Administrative Approval as an Accessory Use	Administrative Approval as an Accessory Use	Administrative Approval as an Accessory Use
Fire Safety Requirements	Fire Safety Checklist & Inspection	Fire Safety Checklist & Inspection	Fire Safety Checklist (LOC exempts from additional inspection)
Maximum # of Bedrooms	2 Guest Lodging Bedrooms	N/A	N/A
Maximum # of Guests	2 Adults	2 Adults per Bedroom; Not to Exceed 5 Adults	1 More Adult than # of Bedrooms; Not to Exceed 5 Adults
Number of Guest Contracts Concurrently	1 Guest Contract	1 Guest Contract	1 Guest Contract
Maximum # of Days / Year	No Maximum	90 Days per Annual Renewal Period	No Maximum
Maximum Stay	31 Consecutive Days	31 Consecutive Days	31 Consecutive Days
Parking	No Additional Parking Required	1 Space per Guest Bedroom; Maximum of 5 Spaces Required	No Additional Parking Required
Allowed in These Zoning Districts	A, RL, RM, UCRM, RH, RLP, NC, CCR, DSC, CSC, S-SMD, DGC, O-SFC, O-LMU, F-VR, FS-RL, FS-RM & F-PRD	A, RL, RM, UCRM, RH, RLP, NC, CCR, DSC, CSC, S-SMD, DGC, O-SFC, O-LMU, F-VR, FS-RL, FS-RM & F-PRD	RL, RM, UCRM, RH, NC, CCR, DSC, CSC, S-SMD, DGC, O-SFC, O-LMU, F-VR, FS-RL, FS-RM & F-PRD

## Guest Lodging Types as a Principal Use

(This summary is provided as a comparison of the basic differences but does not reflect the entire code.)

Type	Bed & Breakfast Establishment	Vacation Lodging - Single & Two-family	Vacation Lodging - Apartment Dwellings
			
	Owner Required to be Present	Owner <u>Not</u> Required to be Present	Owner <u>Not</u> Required to be Present
Description	Primary Residence	Investment Property	Investment Property
	Partial Dwelling	Entire Dwelling	Entire Dwelling
License	Required, Annual Renewal	Required, Annual Renewal	Required, Annual Renewal
Approval Process	Special Use Permit followed by Administrative Approval	Letter of Compliance Required & Special Use Permit followed by Admin. Approval. 1000-foot separation distance applies	Letter of Compliance Required & Special Use Permit followed by Admin. Approval. May be exempt from the SUP process based on Zoning
Fire Safety Requirements	Fire Safety Checklist & Inspection	Fire Safety Checklist (LOC exempts from additional inspection)	Fire Safety Checklist (LOC exempts from additional inspection)
Maximum # of Bedrooms	5 Guest Lodging Bedrooms	N/A	N/A
Maximum # of Guests	2 Adults per Bedroom	5 Adults (Rental Code Occupancy Standards)	5 Adults (Rental Code Occupancy Standards)
# of Concurrent Guest Contracts & Lodging Units per Parcel	1 Guest Contract per Approved Guest Lodging Bedroom	1 Guest Contract per Dwelling Unit. 1 Guest Lodging Unit per Parcel	1 Guest Contract per Dwelling Unit. 1 or No More than 10% of Dwelling Units per Parcel
Maximum # of Days / Year	No Maximum	No Maximum	No Maximum
Maximum Stay	31 Consecutive Days	31 Consecutive Days	31 Consecutive Days
Parking	1 Reserved Space per Guest Bedroom, Plus 1 Space for Owner	1 Space per Guest Bedroom; Maximum of 5 Parking Spaces Required	1 Space per Guest Bedroom; Maximum of 5 Required ( <i>zones with less parking required per apartment unit are exempt</i> )
Allowed in These Zoning Districts	A, RL, RM, UCRM, RH, NC, S-SMD, O-SFC, FS-RL, & FS-RM	A, RL, RM, UCRM, RH, NC, S-SMD, O-SFC, F-VR, FS-RL, FS-RM, & F-PRD	RM, UCRM, RH, NC, CCR, DSC, CSC, S-SMD, DGC, O-SFC, O-LMU, F-VR, FS-RM, & F-PRD

**ATTACHMENT C**  
**Map of Guest Lodging Licenses Issued Dec 2019 – Jun. 2020**



Red circles represent the 1000-foot separation required for single and 2-family Vacation Lodging units.