NO CHANGE FROM PREVIOUS READING

5(a)

CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

Date: January 26, 2016

ITEM: Short Term Rentals – Amend Title 9 (Zoning), Chapter 2 (Zoning Rules And Definitions), Section 2-2 (Definitions); Amend Title 9 (Zoning), Chapter 5 (Agricultural/Open Space And Residential Zoning District) Section 4 (Specific Use Regulations), and Section 8 (Open Space/Agricultural And Residential Use Regulations), Subsection C (Use Matrices); Amend Title 9 (Zoning), Chapter 6 (Commercial, Office, and Industrial Zoning Districts), Section 4 (Specific Use Regulations) and Section 6 (Commercial, Office, and Industrial Use Regulations), Subsection C, Table 6.1 (Use Matrix Division I); Amend Title 9 (Zoning), Chapter 15 (Off-Street Parking and Loading), Section 7: Number of Parking Spaces Required, Subsection E; Amend Title 3 (Business And Licensing), Chapter 3 (Hotel And Motel Tax), Section 2 (Definitions); and Amend Title 8 (Building Regulations), Chapter 2, Article A (Building Codes) Section 29 (Rental Housing) to amend definitions and regulation pertaining to residential rentals – City Initiated – AO-002907-2015

ORDINANCE: Approval of Second Reading, Waive Third and Adopt in Final Form

FINANCIAL IMPACT: Undetermined.

BACKGROUND: Staff is requesting an amendment to the following sections of City Code:

- Title 3: *Business And Licensing*, Chapter 3: *Hotel and Motel Tax*, Section 2: *Definitions* to add definitions for short and long-term rentals.
- Title 8: *Building Regulations*, Chapter 2, Article A: *Building Codes*, Section 29: *Rental Housing* to modify the "Family" definition stated to be consistent to that included in the Zoning Code.
- Title 9: *Zoning*, Chapter 2: *Zoning Rules and Definitions*, Section 2-2: *Definitions* to modify and /or eliminate definitions pertaining to various dwelling types currently included in code and to add necessary definitions to define short and long-term rentals, transient persons, and Campground facilities.
- Title 9: *Zoning*, Chapter 5: *Agricultural/Open Space and Residential Zoning District*, Section 4: *Specific Use Regulations* to establish regulations requiring owner occupancy during duration of stay for any rental of 31 consecutive days or less (short-term rental).
- Title 9: *Zoning*, Chapter 5: *Agricultural/Open Space and Residential Zoning District*, Section 8: *Open Space/Agricultural and Residential Use Regulations,* Subsection C: *Use Matrices* to clarify in what zoning districts residential rentals are allowed.
- Title 9: *Zoning*, Chapter 6: *Commercial, Office and Industrial Zoning District*, Section 4: *Specific Use Regulations* to add regulations defining the maximum duration of stay for campground facilities.
- Title 9: *Zoning*, Chapter 6: *Commercial, Office and Industrial Zoning District*, Section 6: *Commercial, Office, and Industrial Use Regulations,* Subsection C, Table 6.1- *Use Matrices Division I* to remove terms associated with dwelling types that are no longer applicable and defined in the Zoning Code.
- Title 9: *Zoning*, Chapter 15: *Off-Street Parking and Loading*, Section 7: *Number of Spaces Required*, Subsection E: *Individual uses not part of a Planned Commercial Center* to specify requirements for guest parking at rental properties.

Previous Council Action:
Vote: 5-0 approval
Date: January 11, 2016
Motion: Approval of the First Reading of the ordinance

OUTSTANDING ISSUES: There are no outstanding issues.

RECOMMENDATION: Based upon the preceding review and a finding of consistency with the Comprehensive Plan, the Plan and Zoning Commission recommends the City Council approve the first reading to amend City Code

to amend definitions and regulation pertaining to short term residential rentals, subject to the applicant meeting all City Code requirements.

Lead Staff Member: J. Bradley Munford

Staff Reviews:

Department Director	
Appropriations/Finance	
Legal	
Agenda Acceptance	RTJ

PUBLICATION(S) (if applicable)

Published In	Des Moines Register	
Date(s) Published	November 27, 2015	
Letter sent to surrounding property owners		N/A

SUBCOMMITTEE REVIEW (if applicable)

Committee	Development & Planning		
Date Reviewed	November 5, 2015		
Recommendation	Yes ☒	No ☐	Split ☐

ATTACHMENT:

Exhibit I - Proposed Ordinance

Prepared by: J.B. Munford, West Des Moines Development Services, PO Box 65320, West Des Moines, IA 50265, 515-222-3620
When Recorded, Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

ORDINANCE NO.

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2015, TITLE 9 (ZONING), CHAPTER 2 (ZONING RULES AND DEFINITIONS), SECTION 2-2 (DEFINITIONS); TITLE 9 (ZONING), CHAPTER 5 (AGRICULTURAL/OPEN SPACE AND RESIDENTIAL ZONING DISTRICT), SECTION 4 (SPECIFIC USE REGULATIONS) AND SECTION 8 (OPEN SPACE/AGRICULTURAL AND RESIDENTIAL USE REGULATIONS), SUBSECTION C (USE MATRICES); TITLE 9 (ZONING), CHAPTER 6 (COMMERCIAL, OFFICE, AND INDUSTRIAL ZONING DISTRICTS), SECTION 4 (SPECIFIC USE REGULATIONS) AND SECTION 6 (COMMERCIAL, OFFICE, AND INDUSTRIAL USE REGULATIONS), SUBSECTION C, TABLE 6.1 (USE MATRIX DIVISION I); AMEND TITLE 9 (ZONING), CHAPTER 15 (OFF-STREET PARKING AND LOADING), SECTION 7: NUMBER OF PARKING SPACES REQUIRED, SUBSECTION E; TITLE 3 (BUSINESS AND LICENSING), CHAPTER 3 (HOTEL AND MOTEL TAX), SECTION 2 (DEFINITIONS); AND TITLE 8 (BUILDING REGULATIONS), CHAPTER 2, ARTICLE A (BUILDING CODES), SECTION 29 (RENTAL HOUSING) TO AMEND DEFINITIONS AND REGULATION PERTAINING TO RESIDENTIAL RENTALS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

Section 1. Amendment. Title 9: Zoning, Chapter 2: Zoning Rules and Definitions, Section 2-2: Definitions is hereby amended by deleting the highlighted strike-thru text and inserting the italicized and bolded text accordingly in alphabetical order:

~~Boarding House: A building other than a hotel where, for compensation, meals and lodging are provided for four (4) or more persons, but shall not include rest homes~~

Campground (Sporting and Recreational Camps): Permanent buildings, temporary buildings or vehicles including but not limited to cabins, tents, camp trailers, travel trailers, motor homes, or similar movable or temporary sleeping quarters of any kind established or maintained as a temporary living quarter for recreation, religious, education or vacation purposes.

Dwelling: A building or portion thereof used exclusively for residential purposes, including one-family, two-family and multiple-family dwellings, but not including hotels, motels, ***and*** nursing homes~~, boarding, rooming, and lodging houses~~

Hotel: Any commercial building containing six (6) or more guest rooms intended or designed to be used or which are used, rented or hired out to be occupied by ***transient persons***, or which are occupied for sleeping purposes by guests. ***These facilities customarily provide maid service, upkeep of furniture and bed linens and a 24 hour staffed front desk service.***

Motel or Motor Hotel: A commercial building or group of two (2) or more buildings designed to provide sleeping accommodation for transient ***persons*** or overnight guests, with garage attached or parking facilities conveniently located to each such unit. ***These facilities customarily provide maid service, upkeep of furniture and bed linens and a 24 hour staffed front desk service***

~~**Lodging House:** Any building or portion thereof, containing not more than five (5) guest rooms which are used by not more than five (5) guests where rent is paid in money, goods, labor or otherwise. A lodging house shall comply with all the requirements of this Code for dwellings[3]. (Ord. 430, 8-11-1969)~~

Long-term Rental: Lodging within a dwelling unit available for use or is used to accommodate guests paying a fee or other compensation for a period of more than 31 consecutive days.

~~**Rooming House:** A residential building used, or intended to be used, as a place where sleeping accommodations are furnished or provided for pay, but which does not maintain a public dining room or cafe in the same building, nor in any building in connection therewith. (Ord. 430, 8-11-1969)~~

Short-term Rental: Lodging within a dwelling unit available for use or is used to accommodate guests paying a fee or other compensation for a period of less than 31 consecutive days.

~~**Tourist Cottage:** A single-family dwelling used as one of the units of a tourist park.~~

~~**Tourist Home:** A residential building in which rooms are available for rental purposes as overnight sleeping accommodations primarily for automobile travelers, said building located either singularly or as a part of a tourist park.~~

~~**Tourist Park:** Any lot or plot of real property upon which three (3) or more single-family camp cottages, or two (2) or more trailers, or any combination of tourist cottages or tourist homes or trailers, are located and maintained for the accommodation of transients, where a charge is or is not made. (Ord. 430, 8-11-1969)~~

Transient Person: Any person or persons who, obtains lodging or the use of any lodging space for any period of less than 31 consecutive days and whose permanent address for legal purposes is not the lodging unit occupied.

Section 2. **Amendment.** Title 9: Zoning, Chapter 5: Agricultural/Open Space and Residential Zoning District, Section 4: Specific Use Regulations is hereby amended by adding a Subsection 'D' and inserting the following italicized and bolded text:

D. No Dwelling Unit, Residential Unit or Detached Townhome or any portion thereof as defined in Title 8: Building Regulations, Chapter 2A and Title 9: Zoning, Chapter 2: Zoning Rules and Definitions, Section 2: Definitions shall be rented for a period of thirty one (31) days or less unless the dwelling unit, residential unit or detached townhome is owner-occupied, with the owner on-site and present at the time of and for the duration of the rental.

All dwelling units, residential units and detached townhomes rented for a period of thirty one (31) days or less shall be subject to the requirements of Title 8: Building Regulations, Chapter 2, Article A: Building Codes, Title 9: Zoning, and Iowa Code Chapter 423A. subject to the exemptions provided therein, and any requirements imposed by the Iowa Department of Inspections and Appeals.

Section 3. **Amendment.** Title 9: Zoning, Chapter 5: Agricultural/Open Space and Residential Zoning District, Section 8: Open Space/Agricultural and Residential Use Regulations, Subsection C: Use Matrices is hereby amended by deleting the highlighted strike-thru text and inserting the italicized and bolded text:

C. Use Matrices:

TABLE 5.1 RESIDENTIAL USES

Land Uses	OS	RE	RS	R-1	SF-CR	SF-VJ	MH	RM	RH
Single-family dwelling:									
Attached								P	P
Detached	P	P	P	P	P	P	P		
Multi-family dwelling								P	P
Second dwelling unit	P	P	Pc	Pc					
Mobile homes	P	P	P	P	P	P	P		
~~6515 Mobile home developments~~	~~P~~						~~P~~		

Short term rental:									
Owner occupied	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~
Not owner occupied									
Long term rental:	***P***	***P***	***P***	***P***	***P***	***P***	***P***	***P***	***P***
~~7011 Bed and breakfast~~	~~Pc~~	~~Pc~~	~~Pc~~	~~Pc~~	~~Pc~~	~~Pc~~	-	-	-
~~7021 Rooming and boarding house with less than 2 rented rooms~~	~~Pc~~	~~Pc~~	~~Pc~~	~~Pc~~	~~Pc~~	~~Pc~~	~~P~~	~~P~~	~~P~~
~~7021 Rooming and boarding house with more than 2 rented rooms~~	~~Pc~~	-	-	-	-	-	-	-	-
~~7011 Organization hotels and lodging on a membership basis~~	~~Pc~~	~~Pc~~	~~Pc~~	~~Pc~~	~~Pc~~	~~Pc~~	~~P~~	~~P~~	~~P~~
805 Nursing and personal care	P	Pc	Pc	Pc	Pc	Pc	P	P	P
8351 Child and day care services:									
Childcare home - 5 children or less[1]	P	P	P	P	P	P	P		
Child development home maximum 6 full time children (state license category A or B)[1]	P	P	P	P	P	P	P		
7+ full time children (child development home - state license category C)									
7+ full time children (childcare center)							Pc	Pc	Pc

Note:
1. In-home daycare uses require a home occupation permit issued by the city in addition to any state requirements.

Section 6. **Amendment.** Title 9: Zoning, Chapter 6: Commercial, Office and Industrial Zoning District, Section 4: Specific Use Regulations is hereby amended by deleting the highlighted strike-thru text and inserting the italicized and bolded text:

A. The following regulations shall be applied to the specific uses listed below in any district where that use is allowed:

1. Day nursery schools and childcare centers shall be allowed, provided that no building, structure or accessory use for property so used, is located no closer than thirty feet (30') from any other principal building on any other lot in a residential district. In addition there must be an established and well maintained, fenced play lot of no less than one thousand (1,000) square feet in area for the first twenty (20) or less children under care, with twenty five (25) square feet added to such play lot area for each additional designated child capacity of the principal building.

2. The best practical means known for the disposal of refuse matter or water carried waste, and abatement of obnoxious or offensive odor, dust, smoke, gas, noise or similar nuisance, shall be employed for any use within this chapter.

3. Residential uses shall be prohibited within the commercial, office and industrial districts, except that a residence for a caretaker for a property and residential uses located above nonresidential uses in the Valley Junction historical ~~commercial~~ ***business*** district may be permitted with the review and approval by the board of adjustment through the permitted conditional use permit (Pc) process ***and multi-family residential uses within the Support Commercial zoning district when incorporated and approved by the City Council as part of a mixed-use building and/or development.***

4. ***The maximum number of consecutive nights tents, camp trailers, travel trailers, motor homes, or similar movable or temporary sleeping quarters may occupy a campground is 15. After 15 nights, the temporary sleeping quarters must be removed from the campground for a minimum of 3 consecutive nights.***

Section 7. **Amendment.** Title 9: Zoning, Chapter 6: Commercial, Office and Industrial Zoning District, Section 6: Commercial, Office and Industrial Use Regulations, Subsection C Table 6.1 – Use Matrix Division I is hereby amended by deleting the highlighted strike-thru text and inserting the italicized and bolded text:

SIC CODES	RC	CMC	NC	CVC	SC	VJC	VJHB	WR	BP	VJLI	LI	GI	OP	PCP	OS
70 Hotels, rooming houses, camps, and other lodging places															
701 Hotels and motels	P				P	P		P						P	

~~702 Rooming and boarding houses~~							~~Pc~~								
703 Camps and recreational vehicle parks															Pc
~~704 Organization hotels and lodging houses, on membership basis~~	~~-~~	~~-~~	~~-~~	~~-~~	~~Pc~~	~~Pc~~	~~-~~	~~Pc~~	~~-~~	~~-~~	~~-~~	~~-~~	~~-~~	~~-~~	~~Pc~~

Section 8. Amendment. Title 9: Zoning, Chapter 15: Off-Street Parking and Loading, Section 7: Number of Parking Space Required, Subsection E: Individual uses Not Part of a Planned Commercial Center is hereby amended by deleting the highlighted strike-thru text and inserting the italicized and bolded text:

Residential	
~~SIC Code/Land Use~~	Requirement In All Districts Except VJHB (All requirements listed for each land use are the minimum that must be met)
Single-family attached and detached dwelling	*2 spaces per dwelling unit *Tandem parking allowed *1 space per 100 square feet of GFA for a building or portion of a building designated for multipurpose recreational uses
Multi-family dwelling	*Efficiency apartment - 1.5 spaces per unit 1-2 bedroom units - 2.0 spaces per unit 3+ bedroom units - 2.5 spaces per unit *A maximum of 0.67 covered spaces per unit shall be allowed to count toward meeting the required number of parking spaces *1 space per 300 square feet of GFA for lease management offices *1 space per 100 square feet of GFA for a building or portion of a building designated for multipurpose recreational uses
Manufactured housing park	*2 spaces per unit *1 space per 10 units required as visitor parking *Tandem parking allowed *1 space per 300 square feet of GFA for lease management offices

	*1 space per 100 square feet of GFA for a building or portion of a building designated for multipurpose recreational uses
Manufactured housing park	*2 spaces per unit *1 space per 10 units required as visitor parking *Tandem parking allowed *1 space per 300 square feet of GFA for lease management offices ***1 space per 100 square feet of GFA for a building or portion of a building** designated for multipurpose recreational uses
805 Congregate care facility	*1 space per 4 beds *1 space per 2 employees on the maximum shift
Residential daycare facility (7-12 children/clients)	*2 spaces in addition to those required for the primary residence
Senior housing	*1 space per unit *1 space per 100 square feet of GFA for a building or portion of a building designated for multipurpose recreational uses
7011 Bed and breakfast***/Short term rental/Long term rental***	*2 spaces required for the dwelling unit *1 space per guestroom
704 Dormitory/fraternity/sorority	*1 space per 100 square feet of GFA

Section 4. <u>Amendment.</u> Title 3: Business and Licensing, Chapter 3: Hotel and Motel Tax, Section 2: Definitions is hereby amended by deleting the highlighted strike-thru text and inserting the italicized and bolded text:

3-3-2: DEFINITIONS:

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this Chapter, have the meanings in this Section:

HOTEL and MOTEL: Any hotel, motel, inn, ~~public lodging house, rooming house or tourist court~~, or any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals, except the gross receipts from the renting of sleeping rooms in dormitories and in memorial unions of all State of Iowa universities and colleges.

Long-term Rental: Lodging within a dwelling unit available for use or is used to accommodate guests paying a fee or other compensation for a period of more than 31 consecutive days.

RENTING and RENT: Any kind of direct or indirect charge for any room, apartment or sleeping quarter in a hotel ~~or~~ motel ~~as defined above~~ ***or short term or long-term rental as defined therein.***

Short-term Rental: Lodging within a dwelling unit available for use or is used to accommodate guests paying a fee or other compensation for a period of less than 31 consecutive days.

Section 5. Amendment. Title 8: Building Regulations, Chapter 2 Article A: Building Codes, Section 29: Rental Housing is hereby amended by deleting the highlighted strike-thru text and inserting the italicized and bolded text:

SINGLE-FAMILY HOUSING CRITERIA: The West Des Moines zoning ordinance and official zoning map currently designate where single-family (one-family) dwelling units, two-family dwelling units, and multiple dwelling units may be located within the city. The zoning ordinance definitions are also utilized as approval criteria for determining where rental units may be located. The following zoning ordinance definitions are utilized to establish whether a dwelling unit meets current zoning and rental housing criteria:

Dwelling Unit: One or more habitable rooms ***which are*** occupied, or are intended ***or*** designed to be occupied, by one family with facilities for living, sleeping, cooking and eating.

~~Family: Any number of individuals living together as a single housekeeping unit and doing their cooking on the premises, as distinguished from a group occupying a boarding or rooming house or hotel.~~

Family:

A. Definition: A person living alone or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities:

1. Any number of people related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship;

2. No more than three (3) unrelated people and any children related to any of them;

3. Not more than eight (8) people who are:

a. Residents of a "family home" as defined in section 414.22 of the Iowa Code and this section; or

b. "Handicapped" as defined in the fair housing act, 42 USC section 3602(h). This definition does not include those persons currently illegally using or addicted to a "controlled substance" as defined in the controlled substances act, 21 USC section 802(6).

4. The definition of a "family" does not include:

a. Any society, club, fraternity, sorority, association, lodge, combine, federation, coterie, or like organization;

b. Any group of individuals whose association is temporary or seasonal in nature; and

c. Any group of individuals who are in a group living arrangement as a result of criminal offenses.

Kitchen: Any room or portion of a building used, intended or designed to be used for cooking and preparation of food, including any room having a sink and provisions for either a gas or electric stove.

~~One-Family Dwelling~~ ***Dwelling, Single-Family Detached***: A detached building, on a building site, designed for and used exclusively for residential purposes by one family and containing one dwelling unit.

In addition to the definitions, the following criteria shall be utilized to determine if the intent of the zoning requirements have been met for single-family (one-family) dwelling units: There shall not be more than one lease between the property owner and the tenant (tenants) for each single-family zoned property address. Subleases between tenants are a private issue and shall not be subject to city scrutiny, provided all other criteria have been met.

A. There shall not be more than one kitchen for each single-family zoned property address. Exception: Additional sinks, wet bars, or kitchen areas will not be considered an additional kitchen provided walls, floors, and locking doors, as specified below, do not separate the dwelling into multiple tenant use.

B. There shall not be more than one electric meter, gas meter, or water meter for each single-family zoned property address.

C. There shall not be any walls or floor/ceiling assemblies in any single-family zoned property address, which separate the one-family dwelling into more than one unit. Determining factors shall include locked or locking interior doors, and separate entrances which make portions of the unit inaccessible to all "family" members. (Ord. 2025, 4-7-2014)

Section 9. Repealer. All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

Section 10. Savings Clause. If any section, provision, sentence, clause, phrase or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

Section 11. Violations and Penalties. Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in Section 1-4-1 of the City Code of the City of West Des Moines, Iowa.

Section 12. Other Remedies. In addition to the provisions set out in the Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

Section 13. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed by the City Council on the _____ day of _____, 2016, and approved this _____ day of _____, 2016.

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan T Jacobson, City Clerk

The foregoing Ordinance No. _____ was adopted by the Council for the City of West Des Moines, Iowa, on _____, 2016, and was published in the Des Moines Register on _____, 2016.

_____
Ryan T. Jacobson, City Clerk