

Staff Report

**Vacation Lodging**

July 23, 2019

**BACKGROUND:**

City Council provided direction on June 18, 2019 to have this item brought back concurrent with the City Council's broader discussion related to Rental Housing regulations of Chapter 13 of the Ames Municipal Code. In coordination with a follow-up to that discussion on this same agenda, staff is returning this item to the Council for discussion and consideration.

At the City Council meeting on April 23, 2019, Council had indicated a desire to have a separate discussion and determination on the appropriateness of permitting Vacation Lodging (previously referred to as Vacation Rentals) in single family areas in light of the changes in state law regarding rental limitations. Staff was directed to remove the specific use from consideration of the proposed ordinances establishing Guest Lodging licensing (previously referred to as Short-Term Rentals) that are also on this agenda for consideration and possible first reading. Although Vacation Lodging is not a rental use subject to the state law changes, it had intertwined expectations related to the Rental Code and the previous Rental Cap Neighborhoods.

**Therefore, the purpose of this staff report is to give Council the opportunity to review, discuss, and determine if, or how to, move forward with code language governing Vacation Lodging. As a reference, a summary of the former draft language for Vacation Lodging is included within the Addendum.**

**Vacation Lodging means the use of an entire dwelling unit that is not the owner's primary residence for short term lodging and is the dwelling is generally offered as available for commercial purposes through an online marketplace. Vacation Lodging may be offered on an ongoing basis throughout the year as long as each guest contract is for 31 days or less. This definition treats the use as a principal use of lodging rather than as an accessory use to household living as is the case with the other short term lodging options**

In October 2018, Staff's snapshot inventory indicated that 28 listings (out of a total of 51) or 55% were entire dwelling unit (Vacation Lodging) offerings. These units were generally dispersed geographically throughout the city as well as being dispersed among the various zoning districts. **Staff anticipates that the number of Vacation Lodging dwellings would increase with legalization and awareness of the short-term rental options available, as**

**Staff has received many numerous inquiries from investors. In addition, offerings for Vacation Lodging appears to be growing both locally and as a national trend.**

**Staff reviewed a sampling of approaches by other cities on this topic. Most communities recognize a difference between a hosted home share as an incidental, accessory use to Household Living and Vacation Lodging as a different type of use, which is more impactful of neighborhoods.** The primary concerns with allowing a short term lodging use in a residential area are impacts to housing supply for true household living needs and the transient nature of occupants (atypical parking needs, activity levels, familiarity with individuals, frequent changing of occupants).

A large variation of approaches is utilized around the country as a means of restricting Vacation Lodging along with licensing. Some of these include:

- Prohibit all together (some cities are backtracking from previously permitting to restricting, such as Nashville)
- Allow only in higher density/commercial zoning districts
- Cap the % of licenses that may issued
- Impose a separation distance between licensed Vacation Lodging units

If the City Council chose to proceed with allowing for the use, the following are five methods that may address concerns related to use.

**Option 1- Original Proposal April 28<sup>th</sup>- Allow Vacation Lodging as previously proposed in all zoning districts where Guest Lodging may occur subject to a Special Use Permit.**

Continue with previously proposed language requiring a Letter of Compliance and a Special Use Permit with the exceptions and exemptions for apartment rentals. The original process included a Special Use Permit requirement within low density areas to address unique conditions of a property or neighborhood. The Special Use Permit process can address individual concerns of a site, but does not address cumulative issues of a high concentration of units very well.

**The primary concern with this option is that with the removal of the Rental Cap, there is an increased likelihood of pressure for acquiring homes for investment purposes in near campus areas and leading to potential over concentration of the use along with high levels of rental occupied properties.**

**Option 2- Limit Vacation Lodging Based Upon Citywide Base Zoning Districts.**

City Council could limit by base zoning district citywide where the use is allowable. **City Council could choose to allow the use in higher density areas and prohibit it in low density residential zoning districts and areas intended for single family conservation,** such as: RL & FS-RL, PRD, UCRM, O-SFC. Based upon Staff's snapshot inventory (October 2018), 21% of Vacation Lodging units were located within the above mentioned low density residential zoning districts. This approach would allow for use of apartments for this use subject to the proposed 10% limitation originally discussed in the draft ordinances from the

April 28<sup>th</sup>. The proposed zoning districts allowing the apartment use included: RM, RH, FS-RM, NC, CCR, DSC, CSC, AND DGC.)

**Restrictions of use within a zoning district is a common approach within the zoning ordinance. Prohibiting the use is the only direct way to address concentration or cumulative issues of allowing the use.**

**Option 3- Limit Vacation Lodging by an Overlay**

**If concentration issues are the primary concerns for certain areas of the City but not uniformly across the City, using overlay would be appropriate.** Based upon Staff's snapshot inventory (October 2018), 11% of Vacation Lodging units were located within low density residential university-impacted neighborhoods.

This option could be accomplished by creating a new overlay for specific areas established within either the Zoning Ordinance if it requires specific use related controls, or it could be an element of the Chapter 35 Licensing.

**Option 4- Separation Distance**

**If the primary concern with the use is over concentration and cumulative impacts of the use, a minimum separation distance could be created for lower density residential areas. This would assume a Special Use Permit is required, but include a specific distance separation requirement.**

An example of this approach is a 500-foot separation standard for supervised transitional living uses in the Zoning Ordinance. A property owner would require approval of a variance to operate Vacation Lodging if they did not meet a separation standard. The simplest approach is a uniform radial distance requirement, likely similar to city block length of 300 feet or the 500-foot separation of a transitional home.

**Option 5- Licensing Requirements**

**A different approach from land use management would be to change the licensing and operational requirements** as described in the proposed Chapter 35 ordinance on this agenda. Additional or different standards could be added to address operational or conduct concerns. One concept proposed on April 28<sup>th</sup> was to include a "local" contact as a requirement. Staff did not initially propose this requirement due to uncertainty in what specific issues it could address about operations, especially if the issue is guest conduct based vs property upkeep. If City Council believes this would create better accountability we would need to identify what an appropriate proximity to the City is and intended level of responsiveness to contact by City officials.

**STAFF COMMENTS:**

If City Council finds it appropriate to direct staff to bring draft language of a text amendment forward for a public hearing any one of these options are seen by staff as readily able to be

implemented. Staff presumes that with any direction to proceed on allowing the use, Council would intend for licensing of the units to be required in addition to the compliance with the Rental Code. **If City Council does not choose to allow for the Vacation Lodging use, with approval of the proposed ordinances on this agenda, the City would allow for primary residents of homes to operate short term lodging uses, just not absentee whole house lodging as a principal use.**

## **ADDENDUM**

### **Previously Proposed Text related to Vacation Lodging**

Vacation Lodging is an investment property that is made continuously available for short-term usage.

The allowance of Vacation Lodging as a transient occupancy use in residentially zoned areas has the potential to be incompatible with surrounding residential uses. Therefore, special regulation for short-term occupancy is necessary to ensure that Vacation Lodging use will be compatible with surrounding residential uses and will not materially alter the character of neighborhoods in which they are located.

Of the short-term rental types, the on-going transitory use of the dwelling makes Vacation Lodging the most impactful on a neighborhood. As such, Vacation Lodging cannot be considered an accessory use to Household Living. Rather, it would be considered to be a new type of principal use under short-term lodging.

In order for Vacation Lodging to be licensed, the dwelling would first require registration and inspection under the City's Rental Housing Code. Occupancy limitations would be aligned with the Rental Housing Code, Section 13.503. and would not exceed a total of five adults.

Additionally, Vacation Lodging would be subject to the scrutiny of the special use permitting process to address unique conditions of an area and individual property. A licensing application would be required that would be administratively approved, once both rental code compliance and the special use permit is granted. Rental apartments would be licensed with one license per parcel or development. However, a 10% restriction would be placed upon the total percentage of rental apartment units allowed as Vacation Lodging. Rental apartments located in a Residential Low Density (RL) zoning district would not be permitted to operate as Vacation Lodging. Conversely, rental apartments would be exempt from the special use permit requirement in certain commercial and higher density residential zoning districts. The zoning tables located within the Zoning Ordinance would provide guidance.

### **Summary of previous Vacation Lodging standards:**

- Annual License required
- Applicant is the Property Owner
- Local Contact Information / Property Representative required
- Available in any housing type
- The dwelling unit is located in a zoning district permitting their use: A, RL, RM, UCRM, RLP, RH, F-VR, FS-RL, FS-RM, F-PRD, S-SMD, NC, CCR, DSC, CSC, or DGC, with the exception that apartment rentals located within the RL zoning district may NOT be utilized as Vacation Lodging.
- Occupancy Limitations based upon Ames Municipal Code Section 13.503; may not exceed five adults.
- Off-Street Parking- 1 space per bedroom (maximum required - 5 spaces). Apartment rentals in zones with less parking required are not subject to this standard.
- Subject to Tax Compliance.
- Special Apartment Restrictions or Exemptions-
  - RL Zoning. Apartment rentals located within the RL zoning district may NOT be utilized as Vacation Lodging.

- Percentage of Apartment Rentals within One Parcel. The short-term usage of apartment rentals as Vacation Lodging [by the property owner] within a single parcel or common development is restricted to the greater of one dwelling unit or up to 10% of the total number of units located within a parcel or common development.
- Letter of Compliance- may not advertise or operate without a valid LOC in effect.
- Special Use Permit required prior to licensing. Exemptions included for apartment rental units located in certain zoning districts, including: RM, RH, FS-RM, NC, CCR, DSC, CSC, AND DGC.
- Concurrent Guest Contracts not allowed within a dwelling unit.
- Mandatory postings of license.
- Registry of Guests required.
- Ongoing Compliance required and responsiveness to any complaints.
- Same Application Submittal and Review, approval, non-renewal, and revocation as Guest Lodging.
- Considered as a new principle use within the Zoning Ordinance (Chapter 29) under Short-Term Lodging, within the zoning district tables.