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October 30, 2019

HONORABLE CITY COUNCIL

RE: Hostels Ordinances (RECOMMEND APPROVAL WITH MODIFICATIONS)

Background

In 2011, the Fourth General Text Amendment to the Zoning Ordinance (Ord. No. 13-11) included the first provisions in Chapter 61 of the 1984 Detroit City Code (*Zoning*) with respect to youth hostels/hostels as a land use. Council Member Raquel Castaneda-Lopez has requested that the bulk of the regulations for hostels be moved from the Zoning Ordinance into the chapter of the City Code dealing with Public Lodging (Chapter 44 of the 1984 Detroit City Code). With recodification, Chapter 61 of the 1984 Detroit City Code, *Zoning*, is now Chapter 50 of the 2019 Detroit City Code and Chapter 44 is now Chapter 36.

Scope of the *Zoning* Amendment, Chapter 50 of the 2019 Detroit City Code

The Zoning Ordinance amendment repeals the fourteen regulations specified in Sec. 50-12-322 and amends the definition of youth hostel/hostel (Sec. 50-16-462) for consistency with the same definition proposed in the Chapter 36 amendment.

The 2011 hostel ordinance was somewhat atypical of zoning amendments because the list of 14 use regulations included not only zoning/land use provisions but also went into areas more appropriate to licensing specifications or building code regulations or “house rules.”

The proposed Zoning Ordinance text amendment makes no change to the permissibility of hostels: they remain a Conditional Use on land zoned R2, R3, R4, R5, R6, B1, B2, B4, B5, SD1, and SD2. The amended use regulation in Sec. 50-12-322 newly states that hostels are “subject to the provisions of Chapter 36, *Public Lodging*, Article I, *Public Accommodations*, Division 1, *Generally*, Division 3, *Hostels*, and Division 4, *Licenses*, of the 2019 Detroit City Code.”

As part of Zoning, hostel violations were processed as blight violations; as part of Chapter 36, *Public Lodging*, hostel violations will be treated as misdemeanors.

Scope of the *Public Lodging* Amendment, Chapter 36 of the 2019 Detroit City Code

The Chapter 36 provisions for hostels involve the definition and various regulations:

Definition. Sec. 36-1-1 provides the following:

Hostel means an overnight lodging facility offering temporary lodging and services related to hostelling that is operated, managed, or maintained under sponsorship of a nonprofit or for-profit organization, providing beds for rent on a daily basis in individual

rooms or dormitories, and typically characterized by low cost, shared use of a self-service kitchen, common areas, sleeping rooms, and bathroom facilities. This use does not include emergency shelters, rooming houses, single-room-occupancy housing, pre-release adjustment centers, or halfway houses.

The only differences in this definition and the 2011 definition of hostel is that it shortens the land use title from “youth hostel/hostel” to, simply, “hostel;” it also deletes the phrase, “...in a building originally constructed for other than use as a single-family dwelling or two-family dwelling.” The effect of this change would be to make single- and two-family dwellings in the higher intensity zoning districts newly eligible for a change of use to a hostel on a Conditional Use basis. This is one of the Chapter 36 provisions which the City Planning Commission (CPC) has recommended for modification.

Regulations specific to hostels

Ten of the 14 hostel provisions of the 2011 Zoning Ordinance text amendment are preserved or strengthened in the Chapter 36 amendment:

- *Staffing.* Management staffing is required on a 24-hour basis (Sec. 36-1-41(1)).
- *Common space; lockers.* Common interior space is required for residents (Sec. 36-1-41(2)); Individual lockers or a locked luggage room must be provided (Sec. 36-1-41(3)).
- *Smoke alarm.* Per Michigan Building Code, a separate smoke alarm is required for each sleeping room (Sec. 36-1-41(4)).
- *Fire escape plan.* A fire escape plan must be displayed in each guest room (Sec. 36-1-41(5)).
- *Lavatories/showers/handwashing.* One lavatory, one shower, and one handwashing facility is required per 15 sleeping spaces with appropriate lodger privacy (Sec. 36-1-41(7)).
- *Identification.* Government-issued identification is required as a condition of lodging (Sec. 36-1-41(8)).
- *Minors.* Lodging by those under age 18 without parent/guardian/organized group leader is prohibited (Sec. 36-1-41(9)).
- *Occupancy limits.* Buildings, Safety Engineering and Environmental Department determines building occupancy limit (Sec. 36-1-41(11)).
- *Fair Housing.* Hostels are subject to Title VIII of the Fair Housing Act of 1968 (Sec. 36-1-41(12)).
- *Laundry.* Laundry facilities or service for lodgers staying longer than seven days must be provided (Sec. 36-1-41(14)).

Four of the 14 hostel provisions of the 2011 Zoning Ordinance text amendment are changed:

- *Length of stay.* The maximum length of an individual’s stay is increased from 14 to 17 days; the 21-day minimum between stays of repeat visitors remains unchanged (Sec. 36-1-41(6)).
- *Signage.* The specifications for identification signs for hostels are repealed; the generally applicable sign regulations stated in Chapter 4 of the Detroit City Code will apply.

- *House rules.* The “rule of conduct” prohibiting controlled substances and alcohol on the premises is not preserved. Rules relative to check-in/check-out/curfew, animals on premises, and amplified music are preserved (Sec. 36-1-41(10)).
- *Affiliation.* The expectation of a hostel’s affiliation with a national or international hostel association within one year of opening is deleted.

Results of August 1, 2019 CPC public hearing and public discussion

In addition to the CPC staff, Mr. Zach Ormsby from Council Member Castaneda-Lopez’s office and Attorney Tonja Long of the Law Department were present to speak to the proposed amendments to the City Code and to respond to comments and questions.

The Law Department provided the Commission with a revised and shorter version of the amendments to the Public Lodging Chapter (*Chapter 44 of the 1984 Detroit City Code and Chapter 36 of the 2019 Detroit City Code*). The revised draft omitted provisions that were unrelated to hostels and, importantly, it included a requirement that hostels be licensed by the City’s Business License Center.

Two members of the public were present to voice their opinion relative to the ordinances: one spoke in opposition to the amendments as an activist from Russell Woods anticipating problems of prostitution and drugs; the second speaker supported hostels in designated areas of the city. Additionally, one letter of opposition was received from a block club president concerned over potential abuse of indigents and the proposed allowance of alcohol and controlled substances on the premises.

Commissioners asked the Law Department to report back regarding the applicability of ADA requirements to hostels and asked CPC staff to obtain information regarding the status of existing hostels in the city and to request a representative from the Buildings, Safety Engineering and Environmental Department (BSEED) for the September 5th CPC meeting.

The Law Department’s 3-page opinion in response to the ADA question is attached; the existing hostel at 2700 Vermont Street is free of violations and possesses a certificate of occupancy; BSEED staff was present at the September 5th meeting.

In the course of the August 1st meeting, it was noted that both hostels and short term rental properties offered accommodations for transients. While short term rentals are proposed to be limited to a person’s own primary residence, limited to 90 nights’ operation per year and located at least 1,000 feet from another short term rental, hostels could operate 360 days per year unrestricted by a spacing limitation.

Analysis

The CPC notes that the removal of the hostel regulations from the Zoning chapter of the Code to the Public Lodging chapter of the Code is very appropriate. Of particular value is the new requirement that hostels be licensed by the City thus making hostels more accountable and administration and enforcement by the City clearer.

One possible scenario, however, is troubling. The owner of a single- or two-family dwelling located on land zoned R3, R4, R5, R6, B1, B2, B4, B5, SD1, or SD2 could file for a conditional land use hearing for a hostel and, if approved after the required public hearing at BSEED, could

operate as 360-day per year short term rental (Airbnb-type use) with no spacing restriction. This inadvertently creates a loophole relative to the proposed short term rental ordinance provisions approved by the CPC on June 20, 2019.

It should be noted that short term rentals in single- or two-family dwellings are most likely, though not necessarily, to occur on land zoned R1 and R2 where hostels are prohibited. Yet, there are likely hundreds of single- and two-family dwellings in the zoning districts where hostels are conditionally permitted.

The original intention in 2011 of specifying hostels as a land use in a building other than a single- or two-family dwelling was to avoid the establishment of unofficial group homes, particularly in R3 districts, where rooming houses, emergency shelters, assisted living facilities, and nursing homes/rest homes are prohibited. Unofficial group homes have long been a complaint of neighborhood organizations and a challenge for zoning enforcement.

Recommendation

At its meeting of September 5, 2019, the CPC recommended approval of the proposed hostel amendments—Chapter 50 of the 2019 Detroit City Code, *Zoning*, and Chapter 36 of the 2019 Detroit City Code, *Public Lodging*, as submitted by the Law Department—with one amendment involving two sections—one section in each of the two proposed amendments:

- Sec. 50-16-462. The definition of hostel should preserve the wording, “...in a building originally constructed for other than use as a single-family dwelling or two-family dwelling...”
- Sec. 36-1-1. The definition of hostel should be expanded to reflect the current definition in the Zoning chapter to include the wording, “...in a building originally constructed for other than use as a single-family dwelling or two-family dwelling....”

Next steps

As is the case with multi-chapter amendments of the City Code, it is appropriate that the amendments to the two chapters be scheduled for a vote at the same formal session even if the public hearings for each chapter are not held on the same day. The Chapter 50, *Zoning*, amendment awaits approval as to form; the Chapter 36 amendment has been transmitted by the Law Dept. under separate cover.

Respectfully submitted,

ALTON JAMES, Chairperson

Marcell R. Todd, Jr. MRB

Marcell R. Todd, Jr., Director

M. Rory Bolger, Staff

Attachments

- cc: Arthur Jemison, Chief of Infrastructure and Services
Katy Trudeau, PDD
Karen Gage, PDD, Director of Zoning Innovation
David Bell, Director, BSEED
Lawrence Garcia, Corporation Counsel

S U M M A R Y

AN ORDINANCE to amend Chapter 50 of the 2019 Detroit City Code, *Zoning*, by amending Article XII, *Use Regulations*, Sec. 50-12-322, and Article XVI, *Definitions*, Sec. 50-16-462, relative to youth hostels/hostels, for consistency with Chapter 36, *Public Lodging*, Article I, *Public Accommodations*, Division 1, *Generally*, Division 3, *Hostels*, and Division 4, *Licenses* of the 2019 Detroit City Code.

1 BY COUNCIL MEMBER _____:

05Sep2019

2 AN ORDINANCE to amend Chapter 50 of the 2019 Detroit City Code, *Zoning*, by
3 amending Article XII, *Use Regulations*, Sec. 50-12-322, and Article XVI, *Definitions*, Sec. 50-
4 16-462, relative to youth hostels/hostels, for consistency with Chapter 36, *Public Lodging*, Article I,
5 *Public Accommodations*, Division 1, *Generally*, Division 3, *Hostels*, and Division 4, *Licenses* of the 2019
6 Detroit City Code.

7 IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT THAT:

8 Section 1. Chapter 50 of the 2019 Detroit City Code, *Zoning*, Article XII, *Use*
9 *Regulations*, and Article XVI, *Definitions*, is amended by amending Secs. 50-12-322 and 50-16-
10 462 to read as follows:

11 **CHAPTER 50. ZONING.**

12 **ARTICLE XII. USE REGULATIONS**

13 **DIVISION 3. SPECIFIC USE STANDARDS**

14 **Subdivision E. Retail, Service and Commercial Uses; Generally,**
15 **continued**

16 **Sec. 50-12-322. Youth hostels/hostels.**

17 Youth hostels/hostels shall be subject to the following requirements: provisions of
18 Chapter 36, *Public Lodging*, Article I, *Public Accommodations*, Division 1, *Generally*,
19 Division 3, *Hostels*, and Division 4, *Licenses* of the 2019 Detroit City Code.

20 ~~(1) A youth hostel shall provide 24-hour management staffing when occupied.~~

21 ~~(2) A youth hostel shall provide common interior space for residents, which space~~

1 may consist of community kitchen/dining area, lobby, sitting area, or the like
2 and shall provide lockers or locked luggage rooms.

3 (3) ~~Each sleeping room shall have a separate smoke alarm as required in Chapter~~
4 ~~8, Article II, of this Code, *Building Code*.~~

5 (4) ~~A fire escape plan shall be developed and geographically displayed in each~~
6 ~~guest room.~~

7 (5) ~~The accommodations are only to be rented or hired out to an individual for a~~
8 ~~maximum duration of 14 consecutive days. There shall be a minimum of 21~~
9 ~~days between stays for repeat visitors.~~

10 (6) ~~Lavatories and bathing facilities shall be available to all persons using the~~
11 ~~premises.~~

12 (7) ~~In residential and residential PD-zoning districts, one identification sign that~~
13 ~~does not exceed six square feet in area shall be permitted. On a corner lot, the~~
14 ~~maximum size shall be permitted on each street frontage; all signage shall be~~
15 ~~consistent with Chapter 4, Article IV, of this Code, *Advertising*.~~

16 (8) ~~All prospective lodgers shall provide a government issued driver's license,~~
17 ~~photo identification, passport, or international student identification card, as a~~
18 ~~condition of lodging.~~

19 (9) ~~Lodging by minors under the age of 18 years without a parent, legal guardian~~
20 ~~or an adult leader of an organized group shall not be permitted.~~

21 (10) ~~Management shall adopt, inform lodgers of, and strictly enforce rules of~~
22 ~~conduct of its guests to ensure the operation is not detrimental to the health,~~
23 ~~safety, peace or welfare of the neighborhood. All operation rules of and for~~

1 the youth hostel/hostel shall be conspicuously displayed at locations
2 throughout the premises and shall be printed in multiple languages to
3 accommodate foreign travelers. These rules shall include, without limitation,
4 the following:

5 a. ~~Specific check in, check out, day time lock out (for cleaning purposes)~~
6 ~~and a nighttime curfew time where applicable shall be specified and~~
7 ~~enforced by the management;~~

8 b. ~~No controlled substances or alcohol are permitted on the premises;~~

9 c. ~~No pets are permitted (except guide dogs for the disabled); and~~

10 d. ~~No amplified music is allowed in any sleeping area.~~

11 (11) ~~Within a year of obtaining a land use permit, the hostel shall obtain and~~
12 ~~maintain affiliation with Hostelling International USA (HI USA) or other~~
13 ~~national or international hostel association and otherwise promote the~~
14 ~~premises as a hostel catering to national and/or international travelers.~~

15 (12) ~~Building occupancy limits established by the Buildings, Safety Engineering,~~
16 ~~and Environmental Department shall not be exceeded.~~

17 (13) ~~The owner and/or management of the youth hostel/hostel shall comply with~~
18 ~~all provisions of and guidelines of Title VIII of the Fair Housing Act of 1968.~~

19 (14) ~~For lodgers staying longer than seven days, management shall provide linen~~
20 ~~and cleaning service at a minimum once per week.~~

21 **ARTICLE XVI. DEFINITIONS AND RULES OF CONSTRUCTION**

22 **DIVISION 2. WORDS AND TERMS DEFINED**

Subdivision T. Letters "W" Through "Z"

Sec. 50-16-462. Words and terms (Xa-Xz and Ya-Yz and Za-Zz).

For the purposes of this chapter, the following words and phrases beginning with the letters "Xa" through "Xz" and "Ya" through "Yz" and "Za" through "Zz," shall have the meaning respectively ascribed to them by this section:

Yard	The <i>actual</i> (as opposed to <i>required</i>) open area that exists between a lot line and a building or structure. See also "Setback"
Yard, front	A yard extending across the full width of the lot between the front lot line and the nearest part of the principal building or structure.
Yard, rear	A yard extending across the full width of the lot between the rear lot line and the nearest part of the principal building or structure.
Yard, side	A yard extending from the front yard to the rear yard between the side lot line and the nearest part of the principal building or structure, excepting permitted encroachments.
Youth activity center	A type of nonprofit neighborhood center whose primary purpose is to provide education, recreational, cultural, and/or leisure activities for minors, but excludes: [1] an arcade, as defined in <u>Sec. 50-16-113</u> of this Code; [2] a health club; [3] a medical facility; [4] a public dance hall, as defined in <u>Sec. 50-16-171</u> of this Code; [5] a rehabilitation facility; [6] a rental hall, as defined in <u>Sec. 50-16-362</u> of this Code; [7] a residential facility; [8] a restaurant, as defined in <u>Sec. 50-16-362</u> of this Code; and [9] a school.
Youth hostel/hostel	An overnight lodging facility, in a building originally constructed for other than use as a single-family dwelling or two-family dwelling, offering temporary lodging and services related to hostelling that is operated, managed, or maintained under sponsorship of a nonprofit or for-profit organization. Such uses provide , providing beds for rent on a daily basis as in individual rooms or dormitories. Such uses are <u>and</u> typically characterized by low cost, shared use of a self-service kitchen, common areas, sleeping rooms, and bathroom facilities. This type use <u>use</u> does not include emergency shelters, rooming houses, single-room-occupancy housing, pre-release adjustment centers, or "halfway houses".
Zoning Enabling Act	The Michigan Zoning Enabling Act, being MCL 125.3101 <i>et seq.</i>

Zoning Grant	A written decision and order of the Buildings, Safety Engineering and Environmental Department or the Board of Zoning Appeals approving a use or other requested action.
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Section 2. All ordinances or parts of ordinances in conflict with this ordinance are repealed.

Section 3. This ordinance is declared necessary for the preservation of the public peace, health, safety, and welfare of the people of the City of Detroit.

Section 4. This ordinance shall become effective on the eighth (8th) day after publication in accordance with MCL 125.3401(6) and Section 4-118, paragraph 3, of the 2012 Detroit City Charter.

Approved as to Form:

Lawrence T. Garcia
Corporation Counsel



CITY OF DETROIT
LAW DEPARTMENT

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CITY OF DETROIT

MEMORANDUM

TO: City Planning Commission

FROM: Alex Henderson
Assistant Corporation Counsel
Municipal Section, Law Department

DATE: August 9, 2019

RE: ADA Compliance

The City Planning Commission has requested information related to compliance with the Americans with Disabilities Act of 1990 ("ADA") by a place of lodging. The ADA generally prohibits discrimination against persons with disabilities, and provides standards to address such discrimination that must be adhered to by various public and private entities.¹ This memorandum discusses (1) whether places of lodging are required to comply with the ADA, (2) what covered entities must do to comply with the ADA, and (3) what may be done if a covered entity is not compliant with the ADA.

I. Places of Lodging are Required to Comply with the ADA

Title III of the ADA prohibits discrimination on the basis of disability by a private entity who owns, leases (or leases to), or operates a place of public accommodation.² Included among the types of private entities that are considered "public accommodations" for purposes of the ADA are "an inn, hotel, motel, or other place of lodging."³ Accordingly, places of lodging, including hotels, motels, and hostels, are required to comply with the ADA.

¹ See Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101–12213 (2008).

² 42 U.S.C. § 12182, *subchapter 2*; 28 C.F.R. § 36.201(a) (2016).

³ 42 U.S.C. § 12181(7)(A) ("The following private entities are considered public accommodations for purposes of [the subchapter of the ADA pertaining to public accommodations], if the operations of such entities affect commerce-- (A) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms, for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor.") "Commerce," as used in the ADA, is expansive, and thus, a facility may "affect commerce" merely by accepting business from out-of-State visitors. See DEP'T OF JUSTICE, TITLE III TECHNICAL ASSISTANCE MANUAL 1991 SUPPLEMENT § III-E 2000 (Nov. 1993 ed. Supp. 1994).



repositioning furniture.¹⁶ Where barrier removal is not readily achievable, the place of public accommodation must use other available methods to counteract the effect of the barriers to accessibility by persons with disabilities.¹⁷

Buildings that were designed and constructed for first occupancy after January 26, 1993 are required to be readily accessible to and usable by persons with disabilities (except in the rare circumstances where providing accessibility to persons with disabilities would be structurally impracticable due to unique characteristics of terrain).¹⁸ Alterations to a place of public accommodation that began after January 26, 1992 must be completed in a way that ensures that the altered portions of the facility are readily accessible to and usable by persons with disabilities to the maximum extent feasible.¹⁹ However, in regard to places of public accommodation operating in historic buildings or facilities, if it is not feasible to provide physical access for persons with disabilities without threatening or destroying the historic significance of the building or facility, then the place of public accommodation is not required to provide physical access, but it must provide any readily achievable alternative methods through which it can make its goods, services, facilities, privileges, advantages, or accommodations available.²⁰ The United States Department of Justice's 2010 ADA Standards for Accessible Design, which is incorporated by reference in the ADA regulations, provides further requirements for construction of and alterations to places of lodging, such as requiring a certain number of guest rooms that have features to enhance the mobility and accessibility of individuals with disabilities as determined by the total number of guest rooms in a facility.²¹

III. Enforcement

A person who is being subjected to discrimination on the basis of disability by a place of accommodation, or who has reasonable grounds to believe he or she is about to be subjected to such discrimination, may bring a civil action against the person or entity that owns, leases (or leases to), or operates the place of accommodation.²² Alternatively, any individual who believes that he or she or a specific class of persons has been discriminated against on the basis of disability may request the United States Department of Justice to conduct an investigation.²³ The United States Attorney General investigates alleged violations of the ADA or of the regulations promulgated pursuant to the ADA.²⁴

¹⁶ 28 C.F.R. § 36.304(b) (providing examples of steps to remove barriers)

¹⁷ 28 C.F.R. § 36.305.

¹⁸ 28 C.F.R. § 36.301.

¹⁹ 28 C.F.R. § 36.302.

²⁰ 28 C.F.R. § 36.305. It is unclear what readily achievable alternative method would be available for a place of lodging that operates in a historic building.

²¹ 28 C.F.R. § 36.306(c); see also UNITED STATES DEPARTMENT OF JUSTICE, 2010 ADA STANDARDS FOR ACCESSIBLE DESIGN (2010), available at <https://www.ada.gov/reggs2010/2010ADASTandards/2010ADASTandards.htm>

²² 42 U.S.C. § 12188.

²³ 28 C.F.R. § 36.502(b).

²⁴ 28 C.F.R. § 36.502 (a), (c).