

ORDINANCE NO. 14,097

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by repealing the first unnumbered paragraph of subsection (4) of Section 134-64, and by enacting a new first unnumbered paragraph of subsection (4) of Section 134-64, and by adding and enacting a new Article III, Division 30, Section 134-1245 to the Zoning Ordinance establishing Capitol Dominance Overlay Districts.

WHEREAS, by a Memorandum of Understanding dated October 25, 2001, the City Manager of the City of Des Moines and the Director of the Iowa Department of General Services undertook to pursue the shared goals of preserving the dominance of the dome of the Capitol Building and the view of the Capitol Building from prominent public viewing points, and of improving the appearance of the west lawn of the Capitol Building; and,

WHEREAS, the Memorandum of Understanding identifies specific steps the City Manager and the Director agreed to concurrently pursue to achieve the shared goals; and,

WHEREAS, the City Council has undertaken to establish the Capitol Dominance Overlay Districts and to rezone the area around the Capitol Building to impose the Capitol Dominance Overlay District regulations in reliance upon the undertakings by the Director in the Memorandum of Understanding, and the timely completion of the actions anticipated therein to be performed by the Department of General Services; and,

WHEREAS, the City Council retains the authority to repeal the Capitol Dominance Overlay Districts in the event the Department of General Services does not accomplish the actions anticipated of it.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as amended by Ordinance No. 13,905 passed January 22, 2001, and as amended by Ordinance No. 13,906 passed January 22, 2001, be and is hereby amended by repealing the first unnumbered paragraph of subsection (4) of Section 134-64, and by enacting a new first unnumbered paragraph of subsection (4) of Section 134-64, and by adding and enacting a new Article III, Division 30,

Section 134-1245 to the Zoning Ordinance establishing Capitol Dominance Overlay Districts, as follows:

Division 30. CDO CAPITOL DOMINANCE OVERLAY DISTRICTS

134-1245. CDO CAPITOL DOMINANCE OVERLAY DISTRICTS.

A. Purpose. The Iowa State Capitol is a source of pride and inspiration to the citizens of the state. The dramatic appearance and recognition of the Capitol results in substantial part from the inspiring manner in which it physically dominates the Capitol environs and the eastside downtown commercial district. The Capitol serves as a focal point for inspiring vistas from prominent public viewing points throughout the City of Des Moines and the surrounding area. The panoramic view outward from the Capitol across the City and state is symbolic of the statewide importance of the Capitol and of the state offices therein.

The Iowa legislature has recognized the statewide importance of preserving and protecting the dominance of the Capitol and the view of the Capitol from prominent public viewing areas by its enactment of legislation specifically delegating to the City of Des Moines authority to protect such dominance and view by regulating and restricting the height and size of buildings and other structures within the City. The protection of the dominant height of the Capitol and the view of the Capitol from prominent public viewing areas is not only a concern for the citizens of the City of Des Moines, but for all citizens of the state, for the Capitol is a financial, cultural, and aesthetic investment and resource of the entire citizenry.

For the foregoing reasons, the City Council of the City of Des Moines declares its

intent to preserve and protect the dominant height of the Iowa State Capitol in relation to surrounding structures, the view of the Capitol from prominent public viewing areas, and the view outward across the City and state from the Capitol. In addition to the regulations otherwise imposed by the zoning ordinance, construction of new structures and the expansion and remodeling of existing structures within the CDO capitol dominance overlay districts shall be subject to the height limitations imposed by this section.

B. Capitol Dominance Protection. Within the boundaries of each of the CDO capitol dominance overlay districts established by this section, no structure shall be constructed or enlarged to a height in excess of the maximum elevation established for such District. Chimneys, cooling towers, elevator bulkheads, antennas, and necessary mechanical appurtenances extending above the roof of a building may exceed the maximum elevation established for such district by not more than fifteen (15) feet provided they are set back at least fifteen (15) feet from all faces of the building adjacent to a street.

C. CDO Capitol Dominance Overlay Districts.

The following CDO capitol dominance overlay districts are hereby established.

1. Capitol dominance overlay district "A". Any structure in capitol dominance overlay district "A" shall have a maximum building height of 75 feet.

2. Capitol
dominance
overlay
district "B".
Any structure
in capitol
dominance
overlay
district "B"
shall have a
maximum
building
height of 55
feet, provided
however, that
if the portion
of the
structure over
55 feet in
height is
devoted
entirely to a
residential
use, the
maximum
building
height shall
be 75 feet.

Sec. 134-64. Powers and duties.

The board of adjustment shall have the power
and duty to:

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(4) Permit the
exceptions in this
subsection to the
district regulations set
forth in this chapter,
provided all exceptions
shall by their design,
construction and
operation adequately
safeguard the health,
safety and welfare of

the occupants of adjoining and surrounding property; shall not impair an adequate supply of light and air to adjacent property; shall not unduly increase congestion in the public streets; shall not increase public danger of fire and safety; and shall not diminish or impair established property values in surrounding areas.

However, nothing in this subsection shall be interpreted as authorizing the board to grant an exception to any separation requirement, or to grant an exception to permit a structure more than 75 feet in height in any CDO capitol dominance overlay district, such power being expressly denied the board. Any exception to a separation requirement granted for a structure for which a building permit has not been issued shall be null and void. In granting any exception, the board may prescribe appropriate conditions and safeguards in conformity with this chapter. The board of adjustment may permit:

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Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Roger K. Brown, Assistant City Attorney

Preston A. Daniels, Mayor

Attest:

I, Donna V. Boetel-Baker, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 02-1421), passed by the City Council of said City at a meeting held June 3, 2002 signed by the Mayor on June 3, 2002 and published as provided by law in the Business Record on June 17, 2002 Authorized by Publication Order No. 3282.

Donna V. Boetel-Baker, City Clerk