

ORDINANCE NO. 15,597

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 amending Sections 26-135, 26-138, 26-142, 26-153, 26-302, 26-329, 26-346, 26-347 and 26-349, repealing Section 26-312, and by adding and enacting new Section 26-308, relating to buildings and building regulations.

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 heretofore amended, is hereby amended by amending Sections 26-135, 26-138, 26-142, 26-153, 26-302, 26-329, 26-346, 26-347 and 26-349, repealing Section 26-312, and by adding and enacting new Section 26-308, relating to buildings and building regulations, as follows:

Sec. 26-135. Permits required.

No person shall perform any work for which a permit is required under this chapter without first securing a permit from the building official. A property owner who allows, or has knowledge of work being performed without a permit as required by this chapter shall be responsible for ensuring permits are obtained, inspected, and approved. A separate permit shall be obtained for each building, individual address and each trade discipline unless otherwise indicated.

Sec. 26-138. Permit fees.

- (a) There shall be paid to the community development department for the issuance of each permit, fees in the amounts set in the schedule of fees adopted by the city council by resolution. Permit fees shall include but not be limited to fees for plumbing permits, mechanical permits, electrical permits, building permits, certificates of occupancy, building plan reviews, engineering reviews, planning reviews, zoning reviews, demolition permits, energy reviews, handicap reviews, reinspections, signs and billboards, erosion control inspections, and fees for failure to obtain permits before starting work.
- (b) The determination of value or valuation under any of the provisions of the building codes shall be made by the building official. The valuation to be used in computing the permit and plan-check fees shall be the total value of all construction work for which the permit is issued, as well as all finish work, painting, roofing, electrical, plumbing, heating, air

conditioning, elevators, fire extinguishing systems and any other permanent work or permanent equipment.

- (c) If a permit is issued for a specific amount of work and, upon inspection, it is determined that more work was performed than was authorized by the permit, the permittee shall amend the permit or obtain another permit to include all additional work and shall pay any fees pursuant to paragraph (a) for the new or amended permit.
- (d) If an inspection is requested and performed and the building official determines that the work was not ready, the inspection fails two or more times, or the permit card was not available for sign-off, a re-inspection fee may be charged at the discretion of the building official in the amounts set in the schedule of fees adopted by the city council by resolution.
- (e) Inspections may be conducted outside of regular business hours for projects that pay an overtime inspection fee in the amount set in the schedule of fees adopted by the city council by resolution.
- (f) In addition to other fees required in this section, a fee shall be paid to the building official for the review of plans and inspection of construction for compliance with the energy code. The amount of such fee is set in the Schedule of Fees adopted by the city council by resolution.
- (g) In addition to other fees required in this section, a fee shall be paid to the building official for review of documents (plans, specifications and related documentation) for compliance with the accessibility provisions of Chapter 11 of the IBC for the City of Des Moines. The amount of such fee is set in the Schedule of Fees adopted by the city council by resolution.
- (h) *Plan-checking fees.* Plan-checking fees shall be as follows:
 - (1) When a plan is required to be submitted a plan-checking fee in the amount set in the Schedule of Fees adopted by the City Council by resolution shall be paid to the building official at the time of submitting plans and specifications for checking. Exception: The plan-check fee for buildings of one and two family dwelling occupancies and accessory structures for compliance with the International Residential Code may be waived by the building official when the plans do not involve unusual or complex engineering design features.
 - (2) Where plans are incomplete or changed so as to require additional plan checking, an additional plan-check fee shall be charged at the rate set in the Schedule of Fees adopted by the city council by resolution.
 - (3) Additional plan checking time may be dedicated to projects that pay an overtime plan checking fee in the amount set in the Schedule of Fees adopted by the City Council by resolution.
 - (4) Applications for which no permit is issued within 180 days following the date of application shall expire by limitation, and plans submitted for checking may thereafter be returned to the applicant or destroyed by the building official. The building official may extend the time for action by the applicant for a period not exceeding 180 days upon written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan-check fee.

- (i) No permit shall be issued to any person or firm that owes the city any outstanding fees or fines.

Sec. 26-142. Revocation, expiration and extension of permit.

- (a) Any permit required by this chapter may be revoked by the building official upon the violation of any section of this article. In addition to the revocation of a permit a person may be guilty of a misdemeanor punishable by fine or imprisonment as provided by section 1-15 of the city Code, or may be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of the city Code.
- (b) A willfully false statement in an application for a permit shall be sufficient cause for revocation.
- (c) Every permit, except a demolition permit, issued by the building official under the provision of the building codes shall expire under any one of the following conditions:
 - (1) Failure to begin work authorized within 180 days after issuance of the permit.
 - (2) Suspension or abandonment of work for 180 days after commencement of the work. Time of occurrence of suspension or abandonment of work shall be computed from the date of the most recent inspection since which no progress has been made.
 - (3) Failure to complete work on a structure designed for residential uses or a townhouse structure that is part of a townhouse development of eight (8) or fewer units within one year after issuance of a permit.
 - (4) Failure to complete work on a structure designed for commercial uses, industrial uses, or a townhouse structure that is part of a townhouse development of more than eight (8) units within two years after issuance of a permit. For permits with a valuation exceeding \$10,000,000.00 work shall be completed within three years after issuance of a permit.
- (d) The building official is authorized to grant one 180-day extension of time for permits set to expire in one year and up to three 180-day extensions of time for permits set to expire in more than one year.
- (e) Extensions in subsection (d) of this section may be further extended by action of the city council. An expired permit may not be reissued without a permit fee except by resolution of the city council.

Sec. 26-153. Covering or concealing work.

No work for which a permit is required shall be concealed in any manner from access or sight until the work has been inspected and approved by the building official. When a contractor or property owner is notified that work has been concealed without building official approval, the work shall be exposed and inspections scheduled within thirty (30) days after notification. If not so made, the building official may refuse to issue any other permits to the contractor or for the property until the work is inspected and approved by the building official.

Sec. 26-302. Building permit exemptions.

- (a) A building permit shall not be required for the following:
 - (1) One-story detached accessory buildings used as tool or storage sheds, playhouses, pet shelters, and similar uses constructed in accordance with the International Residential Code, provided the floor area does not exceed 120 square feet in area and complies with all applicable zoning requirements. Such building must be located at least two feet from any property line and three feet from any dwelling.
 - (2) Chain link or wire fences four feet or less in height and all other fences three feet or less in height.
 - (3) Movable cases, counters, and partitions not over five feet nine inches in height.
 - (4) Playground equipment.
 - (5) Retaining walls, which are not over four feet in height, measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding flammable liquids.
 - (6) Retaining walls which are part of a public improvement project regulated by the City Engineer.
 - (7) Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed two to one.
 - (8) Platforms, walks, and driveways not more than 30 inches above grade and not over any basement or story below.
 - (9) Painting, papering, and similar finish work.
 - (10) Temporary motion picture, television and theater stage sets and scenery.
 - (11) Window awnings supported by an exterior wall of one and two family dwellings and accessory structures to one and two family dwellings when projecting not more than 54 inches.
 - (12) Minor maintenance and repair work that is deemed by the building official not to affect structural strength, safety, fire resistance, or sanitation, provided that no such work shall be performed in a manner contrary to any provisions of the building code or any other laws.
- (b) Unless otherwise exempted, separate plumbing, electrical and mechanical permits will be required when appropriate for the exempted items in subsection (a) of this section.
- (c) Exemption from the permit requirements of this section shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of the building code or any other laws or ordinances of this jurisdiction.

Sec. 26-308. – Adjustment of lot lines for building and fire code purposes.

- (a) *Combination of adjoining lots.* Adjoining lots, regardless of whether they are under common ownership or control, may be treated as a single consolidated lot for the limited purposes of this chapter and Chapter 46 when a declaration of covenants in a form approved by the City legal department and signed by all owners of the included lots is recorded that binds each of the included lots to the following covenants:
 - (1) All existing and future buildings and structures located upon the included lots and any future alterations and additions thereto shall be considered part of a single

consolidated lot under common ownership for purposes of applying this chapter and Chapter 46. Any construction, alteration, addition or demolition of a building on the included lots shall conform with the provisions of this chapter and Chapter 46 that are applicable to the included lots and each portion thereof, as a building located on a single consolidated lot under common ownership. No new building shall be constructed or placed on the included lots and no existing building on the included lots shall be demolished, altered or expanded in a manner which would cause another existing building on the included lots to come into violation of this chapter or Chapter 46 when applied to all buildings on the included lots that are considered as a single consolidated lot under common ownership. Each owner of any portion of the included lots shall maintain its portion of the included lots in good repair and in conformance with the applicable requirements of this chapter and Chapter 46.

- (2) If any building on the included lots is affected by casualty loss, demolition, deterioration, neglect or any other event that causes the building official to determine that some portion or portions of the buildings then existing upon the included lots are unsafe to occupy, the building official, in the proper performance of the building official's duties may issue such orders as are reasonable and necessary in accordance with the provisions of this chapter, Chapter 46 and applicable law, treating all buildings on the included lots as located on a single consolidated lot under common ownership.
 - (3) All provisions of the declaration of covenants shall run with the land and shall be binding upon the owners, and the owners' successors and assigns, for the benefit of the City, the owners, and the owners' successors and assigns. Each owner of any portion of the included lots shall be given the benefit of the obligations under the declaration of covenants imposed upon the owners of all other portions of the included lots, and may enforce such obligations by an action for specific performance and/or damages.
 - (4) The declaration of covenants shall not be amended or terminated without the written approval of all owners of the included lots, and the prior written consent of the building official. The building official is authorized to consent to any such amendment or termination only if appropriate measures have been taken to the reasonable satisfaction of the building official to remedy any violations of this chapter and Chapter 46 that would otherwise exist upon such amendment or termination.
- (b) *Use of artificial lot lines.* The shared lot line between adjoining lots, regardless of whether the lots are under common ownership or control, may be relocated within the area of the combined lots, for the limited purposes of this chapter and Chapter 46 when an easement or declaration of covenants in a form approved by the City legal department and signed by all owners of the lots burdened by the artificial lot line is recorded that binds the owners of each of the burdened lots to the following covenants:
- (1) For the purposes of these covenants, the following terms shall be defined as follows:

- a. A "burdened lot" is any lot which contains an artificial lot line which is established across the interior of the lot for the benefit of the owners of an adjoining lot.
 - b. A "benefitted lot" is any lot which is given the benefit of the use of an artificial lot line located on an adjoining burdened lot.
 - c. "Artificial lot line" is a line, the location of which is clearly identified, which is located within the boundary of a burdened lot for the benefit of an adjoining benefitted lot, and shall serve as the shared lot line between the burdened and benefitted lots for purposes of applying this chapter and Chapter 46 to both lots. The location of a proposed artificial lot line must not create a violation of this chapter or Chapter 46, if treated as the shared lot line between the burdened and benefitted lots.
- (2) All owners of each burdened lot agree that for the limited purpose of applying this chapter and Chapter 46: i) the artificial lot line shall serve as the shared lot line between the burdened lot and the benefitted lot; ii) any construction, alteration, addition or demolition of a building on the burdened lot shall conform with the provisions of this chapter and Chapter 46 when using the artificial line as the shared lot line with the benefitted lot; and, any construction, alteration, addition or demolition of a building on the benefitted lot shall have the benefit of using the artificial lot line as the shared lot line with the burdened lot.
 - (3) All provisions of the easement or declaration of covenants shall run with the land and shall be binding upon the owners of the burdened lot, and such owners' successors and assigns, for the benefit of the City, the owners of the benefitted lot, and such owners' successors and assigns. Each owner of any portion of the benefitted lot shall be given the benefit of the obligations under the easement or declaration of covenants imposed upon the owners of the burdened lot, and may enforce such obligations by an action for specific performance.
 - (4) The easement or declaration of covenants shall not be amended or terminated without the written approval of all owners of the benefitted lot, and the prior written consent of the building official. The building official is authorized to consent to any such amendment or termination only if appropriate measures have been taken to the reasonable satisfaction of the building official to remedy any violations of this chapter and Chapter 46 that would otherwise exist upon such amendment or termination.

Sec. 26-312. Repealed by Ord. No. 15,597.

Sec. 26-329. Ground Snow Load.

Delete subsection 1608.2 and insert in lieu thereof the following new section:

1608.2 Ground Snow Load. The ground snow load to be used in determining the design snow load for roofs is hereby established at 30 pounds per square foot. Subsequent

increases or decreases shall be allowed as otherwise provided in the building code or ASCE 7-10.

Sec. 26-346. Adoption of Swimming pool code.

The provisions of the International Swimming Pool and Spa Code, 2015 edition, published by the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001 are hereby adopted by reference and subject to the additions, deletions, and modifications hereinafter regulating the design, construction, alteration, movement, renovation, replacement, repair and maintenance of swimming pools, spas, hot tubs, aquatic facilities and related equipment in the City of Des Moines.

Note: The Iowa Department of Public Health regulates swimming pools, spas, wading pools, water slides, wave pools, spray pads, and bathhouses connected to swimming pools owned or operated by local or state government, or commercial interests or private entities including, but not limited to, public or private school corporations, hotels, motels, camps, apartments, condominiums, health clubs, and country clubs. Please see <https://idph.iowa.gov/swimmingpoolsandspas> for further details.

Sec. 26-347. Deletions.

The following are deleted from the swimming pool code and are of no force or effect in this article:

- (1) Delete section 105.
- (2) Delete section 106.
- (3) Delete section 107.
- (4) Delete section 108.
- (5) Delete the last sentence in section 301.1.
- (6) Delete sections 302 through 304, 305.5, and 306 through 323.
- (7) Delete Chapter 4.
- (8) Delete Chapter 5.
- (9) Delete Chapter 6.
- (10) Delete Chapter 7.
- (11) Delete Chapter 8.
- (12) Delete Chapter 9.
- (13) Delete Chapter 10.

Sec. 26-349. Definitions.

Insert a new definition in Chapter 2, “Swimming pool” is defined as any structure intended for swimming or recreational bathing capable of containing water more than 24 inches deep. This includes in-ground, above-ground, and on-ground swimming pools, hot tubs, and spas.

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

FORM APPROVED:

Jessica D. Spoden, Assistant City Attorney

T. M. Franklin Cownie, Mayor

Attest:

I, Diane Rauh, 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. 17- 1276), passed by the City Council of said City at a meeting held July 24, 2017 signed by the Mayor on July 24, 2017 and published and provided by law in the Business Record on August 11, 2017. Authorized by Publication Order No. 10074.

Diane Rauh, City Clerk