

Date February 22, 2021

An Ordinance entitled, "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 134-6.5.2, 134-6.6.2 and 134-7.2.3 relating to expansion or extension of legal non-conforming residential uses within one-household and two-household residential structures by addition thereto, and the construction of detached private garages and outbuildings on lots containing such residential structures, to address the needs of existing residential uses in Des Moines including the health, safety, morals, and general welfare of the community, and the preservation and improvement of the peace, safety, health, welfare, comfort, and convenience of Des Moines residents.",

presented.

Moved by _____ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)

/s/ Glenna K. Frank
 Glenna K. Frank
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

CERTIFICATE

I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

_____ City Clerk

ORDINANCE NO. _____

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 134-6.5.2, 134-6.6.2 and 134-7.2.3 relating to expansion or extension of legal non-conforming residential uses within one-household and two-household residential structures by addition thereto, and the construction of detached private garages and outbuildings on lots containing such residential structures, to address the needs of existing residential uses in Des Moines including the health, safety, morals, and general welfare of the community, and the preservation and improvement of the peace, safety, health, welfare, comfort, and convenience of Des Moines residents.

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 134-6.5.2, 134-6.6.2 and 134-7.2.3, as follows:

Chapter 134 ZONING

Sec. 134-6.5.2 AUTHORIZED TYPE 1 ZONING EXCEPTIONS

Unless otherwise allowed by this ordinance, only the following may be approved as Type 1 zoning exceptions:

-
- 8. Exceptions to allow two to six signs on a temporary basis in all districts other than A, N, NX, and NM districts; **and**
- 9. Exceptions to allow a nonconforming residential use within an one-household or two-household residential structure to expand or extend and occupy land outside said structure by addition thereto, provided that the expansion or extension has an estimated cost for building permit purposes that does not exceed thirty percent (30%) of the assessed value of the existing residential structure at the time of permit request. For purposes of this Type 1 zoning exception, the valuation of expansions and extensions shall be measured cumulatively from the effective date of this chapter, using all building permits issued by the city’s permit and development center, county assessor’s records, insurance records if no assessor’s records are available, and other documentation determined necessary by the neighborhood services director, related solely to the principal structure being expanded or extended; and
- 109. Other exceptions expressly provided in this chapter.

Sec. 134-6.6.2 AUTHORIZED TYPE 2 ZONING EXCEPTIONS

Unless otherwise allowed by this ordinance, only the following may be approved as Type 2 zoning exceptions:

1. Exceptions to any numerical regulation established in this chapter, when the exception does not exceed 50% of the applicable numerical regulation, other than separation distance requirements, ~~and other than~~ use requirements set forth in section 134-3.8 of this chapter, and estimated cost percentages related to exceptions to allow nonconforming residential uses within an one-household or two-household residential structure to expand or extend and occupy land outside said structure by addition thereto.

8. Exceptions to allow a nonconforming residential use within an one-household or two-household residential structure to expand or extend and occupy land outside said structure by addition thereto, provided that the expansion or extension has an estimated cost for building permit purposes that is between thirty-one and fifty percent (31-50%) of the assessed value of the existing residential structure at the time of permit request. For purposes of this Type 2 zoning exception, the valuation of expansions and extensions shall be measured cumulatively from the effective date of this chapter, using all building permits issued by the city’s permit and development center, county assessor’s records, insurance records if no assessor’s records are available, and other documentation determined necessary by the neighborhood services director, related solely to the principal structure being expanded or extended.

98. Other exceptions expressly provided in this chapter.

Sec. 134-7.2.3 EXPANSION

A. Unless otherwise expressly stated, nonconforming uses may not be expanded or extended to occupy a greater area than was occupied at the time the use became nonconforming unless the expansion reduces or eliminates the nonconformity. A nonconforming use of a portion of a building may be expanded or extended into the remaining portions of the building if the ~~community development~~ neighborhood services director determines that the area of the building in which the expansion is proposed was manifestly arranged and designed for the use. No such use shall be extended to occupy any land outside any such structure unless otherwise provided in subsections 134-7.2.3.B and 134-7.2.3.C of this chapter.

B. A nonconforming residential use within an one-household or two-household residential structure may be expanded or extended to occupy land outside such structure by addition thereto pursuant to a Type 1 or Type 2 zoning exception in accordance with Sections 134-6.5 and 134-6.6, respectively, of this chapter.

C. An outbuilding or detached private garage, as described in Section 135-2.22.2.C of this code, may be constructed on a lot containing a nonconforming residential use within an one-household or two-household structure, if such accessory structure complies with all applicable sections of this code, including Section 134-3.9 of this chapter and Section 135-2.22.2.C of this code. Any such outbuilding or detached private garage shall be treated as if it were located on a lot zoned Neighborhood (N) or Neighborhood Mix (NX) for purposes of determining lot coverage limits pursuant to Section 135-2.22.2.C.4 of this code.

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

FORM APPROVED:

/s/ Glenna K. Frank

Glenna K. Frank
Assistant City Attorney