



Date April 4, 2022

RESOLUTION SCHEDULING HEARING ON PROPOSED AMENDMENT TO ZONING ORDINANCE, DES MOINES MUNICIPAL CODE SECTION 134-3.9.2, RELATING TO ACCESSORY HOUSING UNITS (AHUs) AND PERMITTED ZONING DISTRICTS AND REGULATIONS

WHEREAS, on April 25, 2016, by Roll Call No. 16-0717, the City Council adopted the PlanDSM: Creating Our Tomorrow Plan as the comprehensive plan for the City of Des Moines; and

WHEREAS, on October 16, 2019, by Roll Call No. 19-1683, the City Council approved Ordinance No. 15,816 adopting the Zoning Ordinance, which repealed and replaced previous Chapter 134 of the Des Moines Municipal Code and Article 5 of which repealed and replaced the City's Wireless Telecommunications Facility Policy adopted on April 8, 2019 by Roll Call No. 19-0580, and certain ordinances amending the City's Zoning Ordinance have been approved by City Council thereafter; and

WHEREAS, the Neighborhood Services Department and Development Services Department and staff have prepared a further amendment to Section 134-3.9.2 of the Zoning Ordinance, which amendment identifies and expands permitted zoning districts that allow Accessory Household Units (AHUs) by right and conditionally; and

WHEREAS, on March 17, 2022, the City Plan and Zoning Commission voted 10-0 to find the proposed amendment in conformance with PlanDSM: Creating Our Tomorrow comprehensive plan and to **APPROVE** the proposed amendment to Section 134-3.9.2 of the Zoning Ordinance; and

WHEREAS, the proposed amendment to the Zoning Ordinance is on file and available to the public for viewing in the office of the City Clerk.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. The attached communication from the Plan and Zoning Commission is hereby received and filed.
2. The City Council shall consider the proposed amendment to Section 134-3.9.2 of the Zoning Ordinance at a public hearing to be held at 5:00 p.m. on April 18, 2022, in the Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, at which time the City Council will hear both those who oppose and those who favor the proposed amendment.
3. The City Clerk is hereby authorized and directed to publish notice of said hearing in the form hereto attached, in accordance with §362.3 of the Iowa Code.

24

Date April 4, 2022

MOVED by _____ to adopt.

SECONDED by _____.

FORM APPROVED:

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

(ZONG2022-000018)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
SHEUMAKER				
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

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 Section 134-3.9.2 and Table 135-2.22.1, relating to Accessory Household Units (AHUs) and permitted zoning districts and 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 Section 134-3.9.2 and Table 135-2.22.1, relating to Accessory Household Units (AHUs) and permitted zoning districts and regulations, as follows:

134.3.9 Accessory Uses

....

3.9.2 ACCESSORY HOUSEHOLD UNITS (AHU)

A. Where Allowed.

- 1. Accessory household units (AHUs) that comply with this section 134-3.9.2, and with all other applicable sections of this code, are permitted in the following zoning districts:
 - a. as of right in A, DXR, RX1 and RX2 districts;
 - b. as of right in N and NX districts that allow two, three or four household units on a single lot;
 - c. as of right in N and NX districts, regardless of number of household units on the lot, if the lot is within 0.25 miles of a bus transit route established and used by a public regional transit agency and in accordance with section 134-3.9.2.D.3 of this chapter; and
 - d. in N districts that allow one household unit on a single lot subject to conditional use approval by the board of adjustment pursuant to section 134-6.4 of this chapter.
- 2. On all lots where AHUs are permitted, ~~a~~An owner of the property shall reside in one of the household units on the property.

B. Number Allowed.

- ~~1. No more than one AHU is permitted on a single lot.~~
- ~~2. The total number of principal and accessory households on the subject lot may not exceed the permitted number of households allowed on the lot by the applicable zoning district.~~

C. Location. AHUs may be located internally within the principal dwelling unit or in a detached accessory outbuilding pursuant to section 135-2.22 of this code.

D. Other Regulations

- 1. Only one entrance to a house containing an accessory household unit (AHU) may be located on a facade that faces a street.
- 2. The floor area of an AHU may not exceed 50% of the floor area within the principal household unit.
- 3. Lots within N and NX districts upon which AHUs are permitted by right pursuant to section 134-3.9.2.A.1.c are further subject to the following:

- a. For purposes of measuring compliance with the distance requirement between a lot and a bus transit route, measurements must be taken on a direct line following the shortest distance from the property line of the lot containing the AHU to the nearest bus transit route(s).
- b. The Neighborhood Services Director shall review and determine compliance with the distance requirement between a lot and a bus transit route prior to issuance of building permit(s) for, and construction of, an AHU.
- c. An AHU that meets the distance requirement between a lot and a bus transit route at the time of issuance of the building permit(s), and thereafter fails to meet said requirement due to a change in the applicable bus transit route, shall constitute a non-conforming accessory use.

....

135-2.22 Accessory Structures

....

Table 135-2.22-1. ACCESSORY STRUCTURE TABLE

Revising Table as shown on attachment hereto, and by this reference made a part hereof, to:

- (i) Delete “~~(2-4)~~*=permitted with development standards where district includes “-2” or “-4” extension” from the Table Key.
- (ii) Revise “Accessory Buildings” section, “Accessory Household Unit” row, as follows:
 - a. delete “ - ” and replace with “●* ” in the “A”, “DXR”, “RX1” and “RX2” columns; and
 - b. delete “~~(2-4)~~*” and replace with “●*” in the “N1, N2, N3, N4” and “N5” columns.

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

REGISTER ORDER NO. _____ ROLL CALL LEGAL BULLETIN BOARD FOLLOW UP

NOTICE OF HEARING ON AMENDMENT TO ZONING ORDINANCE

NOTICE IS HEREBY GIVEN that on April 18, 2022, at 5:00 p.m. in the Council Chambers, at City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa Des Moines, Iowa, a public hearing will be held by the City Council of the City of Des Moines, Iowa, concerning adoption of amendment to Section 134-3.9.2 of the Zoning Ordinance, Chapter 134, of the Des Moines Municipal Code. Said proposed amendment is intended to identify and expand permitted zoning districts that allow Accessory Household Units (AHUs) by right and conditionally. Said proposed amendment is on file and available for public inspection in the office of the City Clerk, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.

At said hearing, opportunity to be heard will be given to proponents and opponents of the proposed amendment to said Zoning Ordinance. Any person or organization desiring to submit written material regarding this matter may direct such written material to the Office of the City Clerk, City Hall, 400 Robert D. Ray, Des Moines, Iowa 50309, or by e-mailing cityclerk@dmgov.org prior to 4:00 p.m. on April 18, 2022.

CITY OF DES MOINES, IOWA

By: T.M. Franklin Cownie, Mayor

ATTEST: P. Kay Cmelik, City Clerk

Published in the Des Moines Register on _____.



Date April 14, 2022
 Agenda Item 24
 Roll Call # _____

March 29, 2022

Communication from the City Plan and Zoning Commission advising that at their March 17, 2022 meeting, the following action was taken regarding a consideration of proposed City initiated Zoning Text Amendments relating to Accessory Housing Units:

- A) Determination as to whether the proposed amendments to Des Moines Municipal Code Section 134-3.9.2 and Table 135-2.22-1 relating to Accessory Housing Units, are in conformance with PlanDSM: Creating Our Tomorrow comprehensive plan.
- B) Approving amendment to Des Moines Municipal Code Section 134-3.9.2, relating to Accessory Housing Units (AHUs) and their permitted zoning districts and regulations.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 10-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dan Drendel	X			
Leah Rudolphi	X			
Dory Briles				X
Abby Chungath				X
Kayla Berkson	X			
Chris Draper	X			
Jann Freed	X			
Todd Garner				X
Johnny Alcivar	X			
Lisa Howard				X
Carolyn Jenison	X			
William Page	X			
Andrew Lorentzen				X
Emily Webb	X			

APPROVAL of A) Approval of the determination that the proposed amendments to Des Moines Municipal Code Section 134-3.9.2 and Table 135-2.22-1 relating to Accessory Housing Units, are in conformance with PlanDSM: Creating Our Tomorrow comprehensive plan.

- B) Approval of the proposed amendment to Des Moines Municipal Code Section 134-3.9.2, relating to Accessory Housing Units (AHUs) and their permitted zoning districts and regulations. (ZONG-2022-000018)

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the proposed amendments to Des Moines Municipal Code Section 134-3.9.2 and Table 135-2.22-1 relating to Accessory Housing Units and their permitted districts and regulations.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

The proposed amendments would revise sections of the Municipal Code that relate to AHUs (Accessory Housing Units) requirements. The AHU amendments to the Municipal Code are intended to expand the districts in which accessory housing units are allowed by-right and as a conditional use. The proposed amendments are contained in a summary document provided with this staff report.

AHUs are currently allowed in N and NX zoning districts that allow 2, 3, or 4 units on a single lot. The proposed amendment would allow AHUs by-right in A, DXR, RX1, and RX2 districts. Additionally, it would be allowed through a conditional use approval in all N districts. The process of seeking a conditional use is shorter than a rezoning. The proposed amendment would also allow AHUs by-right in N and NX districts, regardless of the number of households in the lot, if it is within quarter (0.25) mile of a transit route.

Currently, there are limited examples of AHUs in Des Moines, however, there is interest from community stakeholders in allowing expansion in the allowance of AHUs. The proposed amendment would allow for expanded AHUs by-right in certain districts and will also allow a more efficient development review process. Staff believes that the proposed amendments comply with the goals of the PlanDSM: Creating Our Tomorrow comprehensive plan. See section II of this report for additional information on PlanDSM.

A copy of the proposed text changes is included in the Commission's packet. The following are summaries of the changes to each section of the code.

Section 134-3.9.2 Accessory Housing Units (AHU):

- A – Where Allowed: Existing code allows AHUs by-right in N & NX zoning districts that allow 2, 3 or 4 household units on a single lot. Proposed amendment adds AHUs “as of right in A, DXR, RX1 and RX2 districts, as of right in N and NX districts, regardless of number of household units on the lot, if the lot is within 0.25 miles of a bus transit route, in N districts that allow one household unit on a single lot subject to conditional use approval”.
- B – Number Allowed: Update allows “no more than one AHU is permitted on a single lot”.
- D – Other Regulations: The amendment includes additional regulations with respect to “Lots within N and NX districts upon which AHUs are permitted by

right pursuant to section 134-3.9.2.A.1.c” which are within 0.25 miles of a bus transit route.

Table 135-2.22-1 Accessory Structure Table:

- The row relating to Accessory Housing Unit in Table 135-2.22-1 is proposed to be revised including the expanded districts where AHUs will be allowed by-right and by conditional use approval.

II. PLANDSM: CREATING OUR TOMORROW COMPREHENSIVE PLAN

PlanDSM: Creating Our Tomorrow is the City’s Comprehensive Plan. The proposed amendments to Chapter 134 (Planning and Design Ordinance) are consistent with the following goals and policies of PlanDSM:

Land Use Goal 1

Develop new land development regulations consistent with this Comprehensive Plan, include development standards, provide for a mixture of land uses, mandate protection of natural resources, and promote flexible approaches to implementing the Plan.

LU1: Develop a new Zoning Ordinance and other land development regulations consistent with the goals and policies of PlanDSM.

LU2: Develop regulations sensitive to adjoining development and potential development to promote unique land use objectives including neighborhood centers and transit-oriented development (TOD).

LU6: The City of Des Moines will strive to reduce greenhouse gas emissions by encouraging energy efficient buildings, reducing vehicle miles traveled, increasing landscape plantings, and utilizing green infrastructure.

Land Use Goal 2

Direct new growth and redevelopment to areas with existing infrastructure and nodes and corridors based on proximity to transit, shopping, services, and public amenities.

LU8: Encourage continued redevelopment and enhancement of regional nodes emphasizing a mix of uses, ease of access by transit, enhanced walkability, and high density residential.

LU15: Prioritize development and redevelopment in areas with existing infrastructure and properties included in adopted Urban Renewal Plans.

Land Use Goal 4

Continue to embrace the distinct character of Des Moines’ neighborhoods while allowing for new development and redevelopment.

LU23: Create opportunities for a mixture of land uses within neighborhoods including mixed use centers, diverse housing products, recreational opportunities, public spaces, and schools.

Transportation Goal 4

Make transit a more attractive option for all City residents.

T18: Increase neighborhood connectivity to transit corridors and bus stops.

T22: Encourage higher densities and mixed-use transit oriented development (TOD) to locate on transit corridors.

Housing Goal 1

Provide a diversity of housing options to accommodate residents of all ages, income levels, household sizes, and cultural backgrounds.

H1: Ensure an adequate supply of housing through a mix of new development, infill development, and redevelopment of existing properties.

H2: Ensure an adequate supply of housing through a mix of new development, infill development, and redevelopment of existing properties.

H4: Promote accessible, affordable, and age friendly housing alternatives in all neighborhoods to accommodate persons with disabilities and allow seniors to age in place, in proximity to known services, and with easily accessible quality open space.

H5: Address availability and affordability of housing options for all families.

Housing Goal 2

Preserve, maintain, and improve the existing inventory of single-family and multi-family housing.

H15: Evaluate existing occupancy standards, zoning codes, and design standards to remove barriers that impact access, development, and maintenance of safe and affordable housing for all residents.

Housing Goal 3

Promote sustainable housing development that utilizes existing resources and supports compact, walkable, and bikeable neighborhoods.

H17: Encourage the use of existing public infrastructure by focusing housing development on infill, vacant, and under-developed land.

H20: Prioritize housing development at an increased density in locations that are close to public transit, shopping, public amenities, schools, and open spaces.

Housing Goal 4

Support development of and access to quality housing affordable to all income level households.

H21: Ensure availability of rental and owner occupied housing that meets the needs of households with all income levels in the city.

H22: Distribute affordable housing broadly throughout the City to avoid concentrations in neighborhoods or one sector of the City.

Community Character and Neighborhood Goal 1

Embrace the distinct character offered in each of Des Moines' neighborhoods.

CCN2: Ensure a diverse mix of housing types, styles, scales, density, and affordability that complement existing neighborhood character.

CCN5: Ensure infill development is sensitive to the existing character of the neighborhood.

Community Character and Neighborhood Goal 5

Expand opportunities for healthy and active living for all residents.

CCN29: Design and construct infrastructure and the built environment that enables a healthier community that walks, bikes, and is physically active.

SUMMARY OF DISCUSSION

Jason Van Essen presented staff report and recommendation.

Chris Draper asked if an accessory house that's less than 50% of the floor area would be allowed by right in most neighborhoods.

Jason Van Essen stated if you're within a quarter mile of a transit route, it would be allowed by right. If your property is zoned for a duplex or four-plex, it would also be allowed by right. Beyond that, conditional use approval from the Zoning Board of adjustment would be necessary.

Chris Draper asked what percentage of the city is within a quarter mile of a public transit stop.

Jason Van Essen noted that the quarter mile standard is based on the route and not actual bus stops. Staff hasn't done a calculation to find the percentage of the city that is within a quarter mile of a transit route. During the council workshop, the question was raised about allowing this by right along transit routes since those are areas where we are encouraging density.

Chris Draper asked if I have a single-family home and want to have an accessory unit, it isn't allowed by right unless I'm within a quarter mile of a bus line.

Jason Van Essen stated correct. If you have single-family zoning outside a quarter mile of a transit route, you'd have to get conditional use approval from the Zoning Board of Adjustment.

Chris Draper asked if only 1 AHU is allowed per single lot.

Jason Van Essen stated yes, you're only allowed to have 1 AHU on a lot.

Chris Draper asked what's scenario is being addressed in the staff report when it references, 2 doors.

Jason Van Essen stated AHU's can be a part of the primary structure, like a basement or attic apartment. The entrance needs to be obscured so it still looks like a one-household home rather than a duplex.

Johnny Alcivar asked if the principal use table will be updated.

Jason Van Essen stated accessory units are not part of the table as they are not a principal use. You would go into the accessory use part of the zoning ordinance to see where these units are allowed.

CHAIRPERSON OPENED THE PUBLIC HEARING

No one was present or requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING

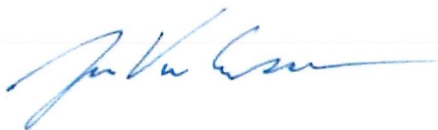
COMMISSION ACTION:

Jann Freed made a motion for:

- A) Approval of the determination that the proposed amendments to Des Moines Municipal Code Section 134-3.9.2 and Table 135-2.22-1 relating to Accessory Housing Units, are in conformance with PlanDSM: Creating Our Tomorrow comprehensive plan.
- B) Approval of the proposed amendment to Des Moines Municipal Code Section 134-3.9.2, relating to Accessory Housing Units (AHUs) and their permitted zoning districts and regulations.

Motion passed: 10-0

Respectfully submitted,



Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh

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134.3.9 Accessory Uses

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3.9.2 ACCESSORY HOUSEHOLD UNITS (AHU)

A. Where Allowed.

1. Accessory household units (AHUs) that comply with this section 134-3.9.2, and with all other applicable sections of this code, are permitted in the following zoning districts:
 - a. as of right in A, DXR, RX1 and RX2 districts;
 - b. as of right in N and NX districts that allow two, three or four household units on a single lot;
 - c. as of right in N and NX districts, regardless of number of household units on the lot, if the lot is within 0.25 miles of a bus transit route established and used by a public regional transit agency and in accordance with section 134-3.9.2.D.3 of this chapter; and
 - d. in N districts that allow one household unit on a single lot subject to conditional use approval by the board of adjustment pursuant to section 134-6.4 of this chapter.
2. On all lots where AHUs are permitted, ~~a~~An owner of the property shall reside in one of the household units on the property.

B. Number Allowed.

- ~~1.—No more than one AHU is permitted on a single lot.~~
- ~~2.—The total number of principal and accessory households on the subject lot may not exceed the permitted number of households allowed on the lot by the applicable zoning district.~~

C. Location. AHUs may be located internally within the principal dwelling unit or in a detached accessory outbuilding pursuant to section 135-2.22 of this code.

D. Other Regulations

1. Only one entrance to a house containing an accessory household unit (AHU) may be located on a facade that faces a street.
2. The floor area of an AHU may not exceed 50% of the floor area within the principal household unit.
3. Lots within N and NX districts upon which AHUs are permitted by right pursuant to section 134-3.9.2.A.1.c are further subject to the following:

- a. For purposes of measuring compliance with the distance requirement between a lot and a bus transit route, measurements must be taken on a direct line following the shortest distance from the property line of the lot containing the AHU to the nearest bus transit route(s).
- b. The Neighborhood Services Director shall review and determine compliance with the distance requirement between a lot and a bus transit route prior to issuance of building permit(s) for, and construction of, an AHU.
- c. An AHU that meets the distance requirement between a lot and a bus transit route at the time of issuance of the building permit(s), and thereafter fails to meet said requirement due to a change in the applicable bus transit route, shall constitute a non-conforming accessory use.

....

135-2.22 Accessory Structures

....

Table 135-2.22-1. ACCESSORY STRUCTURE TABLE

Revising Table as shown on attachment hereto, and by this reference made a part hereof, to:

- (i) Revise “Accessory Buildings” section, “Accessory Household Unit” row, as follows:
 - a. delete “ - ” and replace with “●* ” in the “A”, “DXR”, “RX1” and “RX2” columns; and
 - b. delete “(2-4)*” and replace with “●*” in the “N1, N2, N3, N4” and “N5” columns.

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