

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date	November 9, 2009
	Agenda Item No. 49 Roll Call No. <u>09-</u> Communication No. <u>09-776</u> Submitted by: Larry Hulse, Community Development Director	

AGENDA HEADING:

Public hearing regarding revisions to Section 134-278 and 134-1296 to address dwellings made non-conforming by annexation and the automatic imposition of the "A-1" Agricultural District regulations.

SYNOPSIS:

The text revisions to Section 134-278 and 134-1296 contained in Exhibit “A” to the Roll Call will allow any legal non-conforming single-family dwelling which lawfully existed when it was annexed into the city to be rebuilt within the original building footprint without an increase in gross floor area if it becomes more than 60% destroyed. The work must be commenced under authority of a building permit within 6-months of when the damage occurs and reconstruction would have to comply with the design guidelines for single-family dwellings.

FISCAL IMPACT: NONE

Amount: N/A

Funding Source: N/A

ADDITIONAL INFORMATION:

The existing provisions of Section 134-278 state that any property annexed into the City of Des Moines is automatically zoned “A-1” Agricultural District. There are numerous single-family residences on properties located within the boundaries of the City’s recent involuntary annexation that are now legal non-conforming uses within the “A-1” Zoning Districts by virtue of non-compliance with “A-1” District bulk regulations such as the minimum lot area requirement of 10 acres. A single family dwelling which is more than 60% destroyed can only be repaired or rebuilt if the new dwelling can satisfy all bulk regulations of the A-1 District. If all bulk regulations cannot be met, the Zoning Board of Adjustment must grant the necessary relief before the structure can be repaired or rebuilt or the property must be rezoned to a different zoning classification. The changes to Chapter 134-1296 will address annexed properties that were not a lot of record prior to 1965.

The proposed amendments are a response to citizen concerns as banking institutions have tightened their lending requirements in recent months. Before financing can be provided, banks need assurance that a legal non-conforming single-family dwelling can be repaired or rebuilt if 60% destroyed. Staff is concerned that the number of single-family dwellings on recently annexed properties could potentially require Board of Adjustment relief or rezoning. This would also place a burden on existing single-

family property owners. In addition, no conditional zoning could be applied if the City initiated an area-wide rezoning.

The revisions to Section 134-278 and 134-1296 will allow any legal non-conforming single-family dwelling which lawfully existed when it was annexed into the city to be rebuilt within the original building footprint without an increase in gross floor area if it becomes more than 60% destroyed. The work must be commenced under authority of a building permit within 6-months of when the damage occurs and reconstruction must comply with the following design guidelines:

- (1) The dwelling shall remain within the original building footprint without an increase in the gross floor area;
- (2) The dwelling shall have a minimum width facing the street of the smaller of 24 feet or the width of the dwelling prior to such destruction;
- (3) The dwelling shall have a minimum depth perpendicular to the street of the smaller of 20 feet or the depth of the dwelling prior to such destruction.
- (4) A minimum of 15 percent of the facade of the dwelling facing the street shall consist of windows, doors and other building openings;
- (5) The front door of the dwelling shall appear to face the street;
- (6) The main part of the dwelling shall have a minimum roof pitch of 3:12;
- (7) The dwelling shall have a roof overhang around the entire perimeter; and,
- (8) Any foundation skirting material shall have the appearance of masonry or poured concrete typical of site-built homes.

The design guidelines listed above are the same as the existing design guidelines that apply to any single-family residential dwelling constructed on a lot of record in the City of Des Moines on or after July 1, 1997.

PREVIOUS COUNCIL ACTION(S):

Date: October 26, 2009

Roll Call Numbers: 09-1918

Actions: Set date of public hearing on Zoning text amendments to Section 134-278 and 134-1296 to address dwellings made non-conforming by annexation and automatic imposition of "A-1" Agricultural District regulations, (11-9-09). Moved by Vlassis to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Date: October 15, 2009

Action: Plan and Zoning Commission voted 8-1 to recommend approval of the ordinance contained in the text attached hereto as Exhibit "A".

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Second and Third Considerations of the proposed ordinances unless waived by the City Council.

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the second floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to cityclerk@dmgov.org.