

ORDINANCE NO. 13,759

AN ORDINANCE to amend the Municipal Code of Des Moines, 1991, adopted by Ordinance No. 11,651, passed April 15, 1991, as heretofore amended, by repealing Section 2-205.54 thereof, and enacting a new Section 2-205.54, and by adding and enacting a new Section 2A-27.02 to authorize the Planning Director to administratively grant certain minor exceptions to the district regulations and to establish a fee for the same.

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

Section 1. That the Municipal Code of Des Moines, 1991, adopted by Ordinance No. 11,651, passed April 15, 1991, as restated by the Ninth Supplement thereto adopted June 16, 1997, by Resolution and Roll Call No. 97-2094, and further amended by Ordinance No. 11,777 passed February 3, 1992, be and is hereby amended by repealing Section 2-205.54 thereof, and enacting a new Section 2-205.54, and by adding and enacting a new Section 2A-27.02 to authorize the Planning Director to administratively grant certain minor exceptions to the district regulations and to establish a fee for the same, as follows:

2A-27.02. ADMINISTRATIVE EXCEPTIONS TO DISTRICT REGULATIONS.

(a) Provided no protest is timely filed as allowed by this section, the Planning Director may grant an administrative exception to any front, rear or sideyard setback, lot area, coverage, length, lot width, building height, or projection limitation or to the minimum required number of off street parking or loading spaces, provided:

(1) The Planning Director determines the exception satisfies the requirements for the approval of an exception by the Board of Adjustment pursuant to section 2A-29(D) (1).

(2) The exception satisfies one or more of the following limitations:

i) The exception does not exceed 15% of the particular limitation in question.

ii) The exception is for one of two or more required off-street parking spaces.

iii) The exception is for no more than one and one-half feet of a setback requirement.

iv) The exception is from a setback requirement and allows an addition to an existing legal nonconforming

structure to extend no closer to the property line than an adjoining portion of the existing structure.

(b) Prior to granting any administrative exception pursuant to this section, the Planning Director shall cause notice of the exception, of the Director=s intent to grant the exception if no protest is timely filed, and the manner in which protests may be filed, to be mailed to the owners of all property adjoining the subject property at their address of record as shown by the records of the Polk County Assessor.

(c) The administrative exception shall not be granted until ten (10) business days after the date the notice of intent to grant the waiver has been mailed to the owners of the adjoining property. The administrative waiver shall be denied if prior to its issuance any written protest resisting the granting of the administrative waiver is filed with the community development department by any owner of adjoining property. However, the administrative exception may be immediately granted if an owner of each adjoining property has filed a consent to the exception with the community development department and no written protest has been received. The consent to the exception shall be in writing upon a form provided by the community development department.

(d)The denial of an administrative exception shall not prevent the applicant from seeking approval of the exception from the Board of Adjustment pursuant to section 2A-29(D) (1) .

(e) Prior to mailing the notice of intent to grant the administrative exception, the applicant shall deposit with the community development department the fee determined by section 2-205.54 and the estimated notification costs for the exception as determined by the community development department.

2-205.54. FEES - BOARD OF ADJUSTMENT.

The required fee for an application for a variance, exception, special permit and conditional use pursuant to chapter 2A - Zoning shall be according to the following schedule:

Exceptions pursuant to Sec. 2A-29(D) (1); and

Administrative Exceptions pursuant to Sec. 2A-27.02-----\$100.00

All other appeals, variances, exceptions and conditional uses requiring a determination bythe Board of Adjustment-----
---\$200.00

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

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Attest:

I, Donna 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. 99-3239), passed by the City Council of said City at a meeting held October 18, 1999, signed by the Mayor on October 18, 1999, and published as provided by law in the Business Record on November 1, 1999. Authorized by Publication Order No. 6311.

Donna Boetel-Baker, CMC/AAE, City Clerk