

ORDINANCE NO. 14,450

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 repealing all of Sections 134-1087, 134-1088, 134-1089 and 134-1090, the first unnumbered paragraph in Section 134-1093, the first unnumbered paragraph in Section 134-1095, all of Sections 134-1121, 134-1122, 134-1123 and 134-1124, the first unnumbered paragraph in Section 134-1127, subsection (3) of Section 134-1157, and subsection (i) of Section 134-1296, thereof; and enacting new Sections 134-1087, 134-1088, 134-1089 and 134-1090, a new first unnumbered paragraph in Section 134-1093, a new first unnumbered paragraph in Section 134-1095, new Sections 134-1121, 134-1122, 134-1123 and 134-1124, a new first unnumbered paragraph in Section 134-1127, a new subsection (3) of Section 134-1157, and a new subsection (i) of Section 134-1296, amending the zoning regulations applicable in the "M-1" Light Industrial District and the "M-2" Heavy Industrial District, and amending the zoning regulations regarding the maintenance and allowed height of fences.

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 amended by Ordinance No. 14,154 passed October 21, 2002, be and is hereby amended by repealing all of Sections 134-1087, 134-1088, 134-1089 and 134-1090, the first unnumbered paragraph in Section 134-1093, the first unnumbered paragraph in Section 134-1095, all of Sections 134-1121, 134-1122, 134-1123 and 134-1124, the first unnumbered paragraph in Section 134-1127, subsection (3) of Section 134-1157, and subsection (i) of Section 134-1296, thereof; and enacting new Sections 134-1087, 134-1088, 134-1089 and 134-1090, a new first unnumbered paragraph in Section 134-1093, a new first unnumbered paragraph in Section 134-1095, new Sections 134-1121, 134-1122, 134-1123 and 134-1124, a new first unnumbered paragraph in Section 134-1127, a new subsection (3) of Section 134-1157, and a new subsection (i) of Section 134-1296, amending the zoning regulations applicable in the "M-1" Light Industrial District and the "M-2" Heavy Industrial District, and amending the zoning regulations regarding the maintenance and allowed height of fences, as follows:

DIVISION 24. M-1 LIGHT INDUSTRIAL

Sec. 134-1087. Principal permitted uses.

Only the following uses of structures or land shall be permitted in the M-1 light industrial district:

- (1) Any use permitted in and as limited in the M-3 district.
- (2) Any use permitted in and as limited in the C-3A and C-3 districts, except no new residential uses shall be permitted, unless accessory to a permitted

- principal use.
- (3) Any use such as assembly, manufacturing, machine shops, welding or other metal working shops, laboratories, warehousing or similar use, which occurs entirely within a completely enclosed building, subject to the following limitations:
- (a) No part of the use is a residential use.
 - (b) Any use permitted in the C-3A district must conform to the limitations applicable to such use in the C-3A district.
 - (c) No odors, gases, noise, vibration, pollution of air, water or soil, or lighting is emitted onto any adjoining property so as to create a nuisance.
 - (d) The owner or occupant has provided the community development department with a written statement upon a form acceptable to the community development director which describes the use to occur upon the property and the nature of any odors, gases, noise, vibration, and other environmental impacts that may be generated by such use, and which certifies that the use upon the property will be operated in a manner that does not permit any odors, gases, noise, vibration, pollution of air, water or soil, or lighting to be emitted onto any adjoining property so as to create a nuisance.
 - (e) The use shall be operated in strict conformance with the statement provided pursuant to paragraph (d), above.
- (4) Contractor's equipment storage yard or plant; truck terminal or storage yard; rental of equipment commonly used by contractors; and storage yards for vehicles of a delivery or hauling service, subject to the following requirements:
- (a) All areas used for outside storage shall be designed to allow no part of any stored material, vehicles or equipment to encroach into the required setbacks, and shall be maintained with both a dustless surface and a drainage system approved by the city engineer;
 - (b) All areas used for outside parking of vehicles shall be set back 10 feet and screened by a 6 foot high solid opaque fence from any adjoining R district or portion of a PUD district designated for residential use; shall be set back 5 feet from any adjoining streets and alleys; and, shall be maintained with both a dustless surface and a drainage system approved by the city engineer, unless a higher standard is imposed by the site plan regulations in Chapter 82.
 - (c) All driveways, parking lots and areas used for temporary storage of vehicles shall be surfaced with an asphaltic or Portland cement binder pavement or such other surfaces as shall be approved by the city engineer so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area. (d) No outside storage of inoperable or unsafe vehicles in quantities constituting a junk yard as defined by section 134-3.
- (5) Circus, carnival or similar transient enterprise, provided such structures or buildings shall be at least 200 feet from any R district or portion of a PUD

- district designated for residential use.
- (6) Coalyard, cokeyard or woodyard.
 - (7) Concrete mixing, concrete products manufacture.
 - (8) Flammable liquids, underground storage only, not to exceed 25,000 gallons, if located not less than 200 feet from any R district or portion of a PUD district designated for residential use.
 - (9) Livery stable or riding academy.
 - (10) Sawmill, planing mill, including manufacture of wood products not involving chemical treatment.
 - (11) Off-premises advertising signs.
 - (12) Communication towers and antennas subject to section 134-1095 of this division.

Sec. 134-1088. Permitted accessory uses.

The permitted accessory uses in the M-1 light industrial district shall be living quarters for a watchman or caretaker, or sleeping quarters for employees temporarily located at the site for not more than three nights, provided such living quarters are accessory to the permitted principal use.

Sec. 134-1089. Performance standards.

- A. In the M-1 light industrial district, no use shall be permitted to be established or maintained which, because of its nature or manner of operation, is or may become hazardous, noxious, or offensive owing to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibrations, refuse matter or water-carried waste.
- B. All development within the M-1 light industrial district is also subject to the adopted landscape standards under the site plan regulations in chapter 82.

NOTE: Any development within 200 feet of certain designated streets as identified in the landscape standards may be required by the site plan regulations to comply with landscape standards applicable to development within the C-2 general retail and highway oriented commercial district.

Sec. 134-1090. Bulk regulations.

In the M-1 light industrial district, the following minimum or maximum requirements, as indicated, shall be observed, subject to the modifications contained in section 134-1296:

- (1) Front yard: 25 feet, minimum.
- (2) Side yards: none required except when adjoining any R or C-0 district, portion of a PUD district designated for residential use, or street right-of-way line, in which case 25 feet, minimum.
- (3) Rear yard: none required, except when adjoining any R or C-0 district, or portion of a PUD district designated for residential use, in which case 25 feet, minimum.

- (4) Maximum height: 75 feet.
- (5) Maximum number of stories: five.

Sec. 134-1093. R district protection.

Except where a higher standard is required by the site plan regulations in chapter 82, whenever any permitted use in the M-1 light industrial district abuts an R district, in addition to the required 25-foot side or rear yard setback, there shall be maintained between such use and the adjoining R district an opaque screen, at least six feet in height, which shall be installed and shall be maintained along all R district boundaries. The screen shall be in line with the front of any adjoining residential structure in any adjoining R district or the front of the proposed commercial structure, whichever is the lesser front yard setback. An opaque screen three feet in height shall be installed and maintained along each street and alley where the premises is across from any R district. Where there is a difference in elevation on opposite sides of the screen, the height shall be measured from the highest elevation. An opaque screen shall consist of one or any combination of the following:

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Sec. 134-1095. Communication towers and antennas.

Communication towers and antenna, except for those accessory to a permitted use which comply with the bulk regulations, shall comply with the following in any industrial district:

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Sec. 134-1121. Statement of intent.

The M-2 heavy industrial district is intended and designed to provide areas of the city for activities and uses of heavy industrial character. Since this is the least restrictive of any district, almost any use is permissible, with those uses not permitted in the M-1 light industrial district being subject to approval by the board of adjustment in accordance with appropriate safeguards. In addition, no residential uses are permitted.

Sec. 134-1122. Principal permitted uses.

In the M-2 heavy industrial district, the use of structures and land shall be subject to the following regulations:

- (1) No occupancy permit shall be issued for any use in conflict with any city ordinance or state law regulating nuisances.
- (2) No occupancy permit shall be issued for any dwelling, school, hospital, clinic, or other institution for human care, except where incidental to a permitted principal use or as permitted by section 134-1088.
- (3) Any use permitted in and as limited in the M-1 light industrial district is permitted in the M-2 district.
- (4) Land application of petroleum contaminated soil is permitted in the M-2 district subject to compliance with the Iowa Administrative Code. *See IAC*

§567-120.7.

- (5) Any other use not permitted in the M-1 light industrial district, or which does not comply with the limitations on such use applicable in the M-1 district, is permitted in the M-2 heavy industrial district only upon approval by the board of adjustment after public hearing. In its determination upon the particular uses at the location requested, the board of adjustment shall consider all of the following:
- a. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing or working in adjoining or surrounding property;
 - b. Such use shall not impair an adequate supply of light and air to surrounding property;
 - c. Such use shall not unduly increase congestion in the streets, or public danger of fire and safety;
 - d. Such use shall not diminish or impair established property values in adjoining or surrounding property; and
 - e. Such use shall be in accord with the intent, purpose and spirit of this chapter and the comprehensive plan.
 - f. All driveways, parking lots and areas used for temporary storage of vehicles shall be surfaced with an asphaltic or Portland cement binder pavement or such other surfaces as shall be approved by the city engineer so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area.
 - g. All areas outside a completely enclosed building used for the storage of inoperable or unsafe vehicles, junk or salvage materials shall be enclosed on all sides by a solid opaque fence and gates at least eight feet in height and of uniform design and color, and should be effectively screened from public view. If such area abuts an area upon the adjoining property which is also used for the storage of inoperable or unsafe vehicles, junk or salvage materials, no fence or setback is required along the common property line while such adjoining use continues. All fences shall be maintained in good repair.
 - h. Junk and salvage materials shall not be stacked higher than the perimeter fence within 75 feet of the fence and shall not be stacked higher than 25 feet.
 - i. The dismantling or repair of vehicles shall occur only upon a impermeable surface with adequate provision for the collection and disposal of fluids and wastes.
 - j. Any junk or salvage yard shall provide a paved area for the receipt and temporary storage of material which is screened from the adjoining public right-of-way.
 - k. The best practical control technology shall be employed to minimize any obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance generated by the proposed use, and the best practical means known shall be employed for the disposal of refuse matter.

Sec. 134-1123. Performance standards.

In the M-2 heavy industrial district, the following conditions are required:

- (1) The best practical means known for the disposal of refuse matter or water-carried waste and the abatement of obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance shall be employed.
- (2) All development within the M-2 heavy industrial district is also subject to the adopted landscape standards under the site plan regulations in chapter 82.

NOTE: Any development within 200 feet of certain designated streets as identified in the landscape standards may be required by the site plan regulations to comply with landscape standards applicable to development within the C-2 general retail and highway oriented commercial district.

Sec. 134-1124. Bulk regulations.

In the M-2 heavy industrial district, the following minimum requirements shall be observed subject to the modifications contained in section 134-1296:

- (1) Front yard: 25 feet.
- (2) Side yards: none required, except when adjoining any R or C-0 district, or portion of a PUD district designated for residential use, in which case 25 feet.
- (3) Rear yard: none required, except when adjoining any R or C-0 district, or portion of a PUD district designated for residential use, in which case 25 feet.

Sec. 134-1127. R district protection.

Except where a higher standard is required by the site plan regulations in chapter 82, whenever any permitted use in the M-2 heavy industrial district abuts an R district, in addition to the required 25-foot side or rear yard setback, there shall be maintained between such use and the adjoining R district an opaque screen, at least six feet in height, which shall be installed and shall be maintained along all R district boundaries. The screen shall be in line with the front of any adjoining residential structure in any adjoining R district or the front of the proposed commercial structure, whichever is the lesser front yard setback. An opaque screen three feet in height shall be installed and maintained along each street and alley where the premises is across from any R district. Where there is a difference in elevation on opposite sides of the screen, the height shall be measured from the highest elevation. An opaque screen shall consist of one or any combination of the following:

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Sec. 134-1157. Principal permitted uses.

Only the uses of structures or land listed in this section shall be permitted in the

M-3 limited industrial district; provided, however, that all manufacturing, assembling, compounding, processing, packaging or other comparable treatment, including storage of any and all materials and equipment, shall take place within completely enclosed buildings, except for parked motor vehicles and off-street parking and loading as required by article V of this chapter. In addition, all open areas not used for off-street parking or loading shall be planted with grass, properly maintained, and kept free from refuse and debris. The following uses of structures or land shall be permitted:

- ...
- (3) Automobile rental offices and storage (see site plan regulations for vehicle display lots).
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Sec. 134-1296. Permitted.

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 (i) *Height restrictions for walls and fences.*

- (1) In any R residential, C commercial, or M industrial district, the following shall apply:
- a. Every fence erected within ten feet of a property line shall be done in the following manner: Posts, supporting rails and other such supporting elements when located to one side of the screening materials shall be on and shall face the property on which the fence is located.
 - b. Any fence or wall shall conform to the vision clearance requirements of section 114-14 of this Code.
 - c. No person shall place, construct or maintain or cause to be placed, constructed or maintained any electric fence, except that an electric fence which is energized by a device which bears a certificate that identifies the device is Underwriter Laboratories approved as meeting the standard for safety for electric fence controllers and is used in accordance with the manufacturer's suggested installation instructions may be used to confine agricultural animals lawfully kept in compliance with the requirements of chapter 18 of this code.
 - d. No fence shall be erected until a permit for such action has been obtained from the building official except chainlink and wire fences four feet or less in height and all other fences three feet or less in height.
 - e. The requirements in this subsection shall not apply to fences and walls upon airport, park, or school premises.
 - f. No fence shall be constructed, used or maintained with barbed wire or similar type fence material except within the M industrial district or for the confinement of agricultural animals lawfully kept in conformance with section 18-4.
 - g. All fences shall be maintained in good repair.
- (2) In any C commercial or M industrial districts, the following shall apply:
- a. No fence or wall in any required yard may exceed ten feet in height, and no fence or wall in a required front yard may exceed three feet in height unless

constructed of materials which provide openings of not less than 75 percent or more in area of the vertical surface of the fence or wall to permit transmission of light, air and vision through the vertical surface at a right angle. Fences or walls in any required yard adjoining a residential district shall conform to the requirements applicable to residential districts. The allowed height of any fence in an M industrial district may be increased by 1 foot for each two feet that the fence is set back from the adjoining property line, provided such fence does not exceed fifteen feet in height, is constructed of flat or raised seam metal panels, treated wood or other durable materials approved by the community development director, and is maintained in good condition with a uniform earth-tone color.

- b. No person shall place, construct or maintain, or cause to be placed, constructed or maintained any wire or chainlink type fence with the cut or selvage end of the fencing material exposed at the top, when such exposed top is less than six feet above ground level.

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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

T.M. Franklin Cownie, Mayor

Attest:

I, Jody Witmer, Chief Deputy 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. 05-1313), passed by the City Council of said City at a meeting held May 23, 2005 signed by the Mayor on May 23, 2005 and was published as provided by law in the Business Record on June 13, 2005 Authorized by Publication Order No.4808.

Jody Witmer, Chief Deputy City Clerk

