

★ Roll Call Number

Agenda Item Number

49A

Date November 9, 2009

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 repealing Section 134-278 and subsection (b) of Section 134-1296 thereof, and enacting a new Section 134-278 and subsection (b) of Section 134-1296 regarding the repair and replacement of non-conforming single-family dwellings in the "A-1" Agricultural District and on lots platted or of record as of July 16, 1965",

presented.

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

FORM APPROVED:

(First of three required readings)

Roger K. Brown

Roger K. Brown

Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

CERTIFICATE

I, DIANE RAUH, 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 repealing Section 134-278 and subsection (b) of Section 134-1296 thereof, and enacting a new Section 134-278 and subsection (b) of Section 134-1296 regarding the repair and replacement of non-conforming single-family dwellings in the "A-1" Agricultural District and on lots platted or of record as of July 16, 1965.

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, by Ordinance No. 14,450 passed May 23, 2005, by Ordinance No. 14,773 passed June 9, 2008, and by Ordinance No. 14,874 passed July 27, 2009, be and is hereby amended by repealing Section 134-278 and subsection (b) of Section 134-1296 thereof, and enacting a new Section 134-278 and subsection (b) of Section 134-1296 regarding the repair and replacement of non-conforming single-family dwellings in the "A-1" Agricultural District and on lots platted or of record as of July 16, 1965, as follows:

Sec. 134-278. Future annexation of territory.

- A. All territory which may be annexed to the city shall be considered as lying in the A-1 agricultural district until such classification shall have been changed by amendment in accordance with this chapter. The necessary procedures for amending the A-1 agricultural zoning district classification may be commenced prior to annexation and shall be completed within a reasonable period of time after annexation.
- B. Any legal non-conforming single family dwelling which lawfully existed when it was annexed into the city, can be used, maintained and reconstructed, provided however that if the dwelling is destroyed by any means to an extent of 60 percent or more of its replacement cost at the time of destruction, it shall not be reconstructed unless such reconstruction is commenced within six months of the destruction of the original dwelling and diligently pursued to completion, and the dwelling as reconstructed complies with the following design standards:
 - (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 dwelling shall have a door facing the street that appears to be a primary entrance;
- (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.

Sec. 134-1296. Permitted.

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- (b) *Use of existing lots of record.* In any district where dwellings are permitted, a single-family detached dwelling may be located on any lot platted or of record as of July 16, 1965, regardless of its area or width; provided, however, that the following shall apply:
 - (1) The front yard setback requirements for the district in which such lot is located shall apply, except where such lot is a corner lot, in which case the front yard setback requirement shall apply only to the shorter street side of the lot.
 - (2) The sum of the side yard widths of any such lot shall not be less than 30 percent of the width of the lot, but in no case less than ten percent of the width of the lot for any one side yard. Additionally, where such lot is a corner lot, the width of the side yard on the longer street side of the corner lot shall not be less than (i) 50 percent of the front yard required on the lot to the rear if there is reverse frontage, or (ii) the side yard setback for the district in which the corner lot is located if there is no reverse frontage.
 - (3) The depth of the rear yard of any such lot shall not be less than 20 percent of the depth of the lot, but in no case less than ten feet.
 - (4) If the application of any of the requirements of subsections (b)(1), (2) and (3) of this section to a particular lot would impose a greater setback than required under the regulations of the district in which the lot is located, the lesser setback requirements of the district regulations shall control.
 - (5) Notwithstanding the setback requirements set forth above, ~~the minimum single family dwelling design requirements set forth in section 134-342(1)(a) and (b), and the restrictions on nonconforming lots and structures set forth in section 134-1352,~~ a legal non-conforming single-family dwelling on such a lot within the R1 one-family residential districts, the R-2 one- and two-family residential districts and the R-3 and R-4 multiple-family residential districts can be repaired or replaced

provided the dwelling remains within the original building footprint without an increase in the gross floor area, and further provided the construction of such replacement is commenced within six months of the destruction of the original dwelling and diligently pursued to completion. used, maintained and reconstructed, provided however that if the dwelling is destroyed by any means to an extent of 60 percent or more of its replacement cost at the time of destruction, it shall not be reconstructed unless such reconstruction is commenced within six months of the destruction of the original dwelling and diligently pursued to completion, and the dwelling as reconstructed complies with the following design standards in lieu of the minimum single-family dwelling design requirements set forth in section 134-342(1)(a) and (b), and the restrictions on nonconforming lots and structures set forth in section 134-1352:

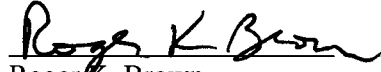
- (a) The dwelling shall remain within the original building footprint without an increase in the gross floor area;
- (b) The dwelling shall have a minimum width facing the street of the smaller of 24 feet or the width of the dwelling prior to such destruction;
- (c) The dwelling shall have a minimum depth perpendicular to the street of the smaller of 20 feet or the depth of the dwelling prior to such destruction.
- (d) A minimum of 15 percent of the facade of the dwelling facing the street shall consist of windows, doors and other building openings;
- (e) The dwelling shall have a door facing the street that appears to be a primary entrance;
- (f) The main part of the dwelling shall have a minimum roof pitch of 3:12.
- (g) The dwelling shall have a roof overhang around the entire perimeter; and,
- (h) Any foundation skirting material shall have the appearance of masonry or poured concrete typical of site-built homes.

If two or more such lots with continuous frontage are combined under single ownership, such combined lots shall be treated as a single lot for purposes of applying the requirements of subsections (b)(1), (2), (3) and (4) of this section. Where a portion of any such lot platted or of record as of July 16, 1965 is conveyed to a governmental body for public right-of-way purposes, the regulations of this subsection shall continue to apply to the remainder of such lot.

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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

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