

Date April 22, 2013

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, is hereby amended by amending Sections 134-3 and 134-842, relating to the regulation of lawn mower and small engine repair shops",

which was considered and voted upon for the first time under Roll Call No. 13- 0492 of March 25, 2013, and considered and voted upon for the second time under Roll Call No. 13- 0576 of April 8, 2013, again presented.

Moved by _____ that this ordinance do now pass.

ORDINANCE NO. _____


COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
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

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: April 8, 2013
	Agenda Item No. 36 Roll Call No. [13-0576] Communication No. 13-184 Submitted by: Phillip Delafield, Community Development Director

AGENDA HEADING:

Amendment to Chapter 134 defining “small engine repair.”

SYNOPSIS:

Definitions contained in Chapter 134 do not contain a specific detail of what was considered small engine repair. On January 28, 2012, the City Council referred a request to the Plan and Zoning Commission to consider a text amendment to define “small engine repair” for enforcement purposes.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

The City Council requested the Plan and Zoning Commission define “small engine repair” for the purposes of enforcement of land use. The Plan and Zoning Commission approved a definition of “small engine repair,” and the Council considered the matter on March 25, 2013.

Council requested the amendment include an allowance for repairs on professional small engines. The concern being that professional tree contactors and lawn maintenance companies require the services and the definition could be seen as excluding them from seeking the service of the business. The word “home” being struck from the definition will eliminate any confusion for business owners and staff in enforcement of the ordinance.

The second concern involved the prohibition of running up and testing the small engines outside. Staff contacted several businesses currently doing small engine repair. They report that the engines are tested inside the building with the appropriate exhaust systems. Staff reports no complaints in at least the past five years with businesses violating the provision of the ordinance that prohibits outside run-up or testing of engines.

The prohibition is to mitigate the impact any noise of the business to surrounding residential neighborhoods. Staff reports the current ordinance requirements are providing appropriate levels of protection and allowing outside run-up and testing is not necessary to the successful operation of a business doing such repairs.

PREVIOUS COUNCIL ACTION(S):

Date: March 25, 2013

Roll Call Number: 13-0492

Action: First consideration of ordinance amendment, include professional tools and to allow run-up of engines outdoors, Moved by Moore, Motion carried 7-0.

BOARD/COMMISSION ACTION(S):

Board: Plan and Zoning Commission

Date: March 8, 2013

Resolution Number: 10-13-5.01

Action: Recommend approval to amendment to Chapter 134 regarding the addition of a definition for small engine repair. Motion passed 14-0.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Approve the ordinance amendment while striking the limitation on repairs only to those of home owners.

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 first 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.



13-0576

Roll Call Number

13-0492

Agenda Item Number

42A

36

Date March 25, 2013

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, is hereby amended by amending Sections 134-3 and 134-842, relating to the regulation of lawn mower and small engine repair shops",

presented.

Moved by Moore that this ordinance be considered and given first vote for passage; as amended:

- (1) Amend Section 134-3 to include "professional" tools
(2) Amend Section 134-842(2)vv to allow for run-up of engines outdoors.

FORM APPROVED:

(First of three required readings)

[Signature of Michael F. Kelley]

Michael F. Kelley
Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GRIESS, HENSLEY, MAHAFFEY, MEYER, MOORE, and TOTAL (7).

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.

T. M. Franklin Council Mayor

[Signature of Diane Rauh]

City Clerk

March 8, 2013

33 Agenda Item

Roll Call #

13-0491

13-0576

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held March 7, 2013 the following action was taken regarding a City Council Initiated request to amend the Zoning Ordinance Text in Chapter 134 with regard to the addition of a definition for small engine repair use.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 14-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Tim Fitzgerald	X			
Dann Flaherty	X			
John "Jack" Hilmes	X			
Ted Irvine	X			
Greg Jones	X			
William Page	X			
Christine Pardee	X			
Mike Simonson				X
CJ Stephens	X			
Vicki Stogdill	X			
Greg Wattier	X			

APPROVAL of the amendment to Chapter 134 with regard to the addition of a definition for small engine repair use. (10-2013-5.01)

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the proposed text amendment.

STAFF REPORT

Pursuant to Roll Call 13-0136 which was approved on January 28, 2013, the City Council referred a request to the Plan and Zoning Commission to consider a zoning text amendment regarding the definition of "small engine repair".



CITY PLAN AND ZONING COMMISSION
ARMORY BUILDING
602 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309 -1881
(515) 283-4182

ALL-AMERICA CITY
1949, 1976, 1981
2003

On February 13, 2013 the Regulation and Ordinance (R&O) subcommittee of the Plan and Zoning Commission recommended that the following definition be prepared for public hearing by Plan and Zoning Commission: 33

Small engine means a motor used to power home tools and equipment including generators, lawnmowers and other outdoor power tools producing an average output that ranges around 25 horsepower, which is usually powered by gasoline and that varies in size, shape and compression process depending on its configuration.

The proposed definition would be added to Section 134-3 of the City Code. In addition, the list of permitted uses for the C-1, Neighborhood Retail Commercial District (Section 134-842) would be amended to specifically reference small engine repair shops.

II. ADDITIONAL APPLICABLE INFORMATION

Staff contacted DMACC for input regarding the proposed definition of a small engine. DMACC representatives indicated they do not have a "small engine" certification program and did not offer any changes to the proposed definition.

SUMMARY OF DISCUSSION

There was no discussion

CHAIRPERSON OPENED THE PUBLIC HEARING

There was no one to speak in favor or in opposition of the applicant's request.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Will Page moved staff recommendation to approve the amendment to Chapter 134 with regard to the addition of a definition for small engine repair use.

Motion passed 14-0.

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw

cc: File

~~13-0876~~ ~~13-0191~~

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Section 134-3. Definitions

Small engine means a motor used to power home tools and equipment including generators, lawnmowers and other outdoor power tools producing an average output that ranges around 25 horsepower, which is usually powered by gasoline and that varies in size, shape and compression process depending on its configuration.

Sec. 134-842. Principal permitted uses.

Only the following uses of structures or land shall be permitted in the C-1 neighborhood retail commercial district.

- vv. Lawn mower and small engine repair shops, provided that any runup or testing of engines shall take place within the shop building.

130576 ✓
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AMENDED

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, is hereby amended by amending Sections 134-3 and 134-842, relating to the regulation of lawn mower and small engine repair shops.

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 to add a definition for "small engine", and by amending paragraph (vv) of subsection (2) of Section 134-842, relating to the regulation of lawn mower and small engine repair shops, as follows:

Sec. 134-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Small engine means a motor used to power tools, professional tools, and equipment including generators, lawnmowers and other outdoor power tools producing an average output that ranges around 25 horsepower, which is usually powered by gasoline and that varies in size, shape and compression process depending on its configuration.

Sec. 134-842. Principal permitted uses.

Only the following uses of structures or land shall be permitted in the C-1 neighborhood retail commercial district.


- (1) Any use permitted in and as limited in the C-0 and R-4 districts.
- (2) Retail business or service establishments such as the following:

vv. Lawn mower and small engine repair shops, provided that any runup or testing of engines shall take place within the shop building.

~~13-0571~~ 30
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Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:



Michael F. Kelley
Assistant City Attorney