

Date February 10, 2020

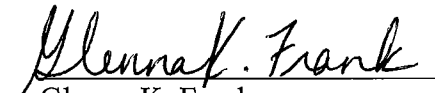
An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Sections 134-7.1.4 and 134-7.2.5, and Table 134-3.1-2, relating to repairs and maintenance and damage or destruction of nonconforming one-household and two-household uses, and to separation requirements for bar uses, to promote the health, safety, morals, and general welfare of the community and to preserve historically significant areas of the City of Des Moines, as well as to protect and preserve the rights, privileges, and property of the City of Des Moines and of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents",

presented.

Moved by \_\_\_\_\_ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)

  
Glenna K. Frank  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

**CERTIFICATE**

I, P. Kay Cmelik, 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.

MOTION CARRIED APPROVED

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
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 amending Sections 134-7.1.4 and 134-7.2.5, and Table 134-3.1-2, relating to repairs and maintenance and damage or destruction of nonconforming one-household and two-household uses, and to separation requirements for bar uses, to promote the health, safety, morals, and general welfare of the community and to preserve historically significant areas of the City of Des Moines, as well as to protect and preserve the rights, privileges, and property of the City of Des Moines and of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents.

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 Sections 134-7.1.4, 134-7.2.5, and Table 134-3.1-2 as follows:

**Chapter 134 ZONING**

**Sec. 134-7.1.4 REPAIRS AND MAINTENANCE**

- A. Repairs and normal maintenance necessary to keep a nonconformity in sound condition are permitted unless the work increases the extent of the nonconformity or is otherwise expressly prohibited by this zoning ordinance.
- B. If a nonconforming structure or a structure occupied by a nonconforming use becomes unsafe or dangerous, or when a structure is found unfit for human occupancy or otherwise deemed to be a public nuisance, it may not thereafter be used, restored, or repaired, or rebuilt except in conformity with the provisions of the district in which it is located.
- C. Nothing in this ~~article~~ section is intended to prevent nonconformities from being structurally strengthened or restored to a safe condition in accordance with an order from a duly authorized public official, or to prevent re-establishment of a nonconforming household use in a structure which has been repaired or constructed so as to not be unsafe, dangerous, or found unfit for human occupation, and which does not constitute a public nuisance, when allowed by section 134-7.2.5 of this article.

**Sec. 134-7.2.5 DAMAGE OR DESTRUCTION**

- A. If a structure containing a nonconforming one-household or two-household use, which household use was a conforming use pursuant to the city of Des Moines' zoning ordinance and zoning map in effect on December 14, 2019, is damaged

or destroyed to any extent and by any means, including damage or destruction by repair, alteration, replacement or upgrade, exclusive of the foundation, the nonconforming one-household or two-household use may be re-established to the extent that such use existed before the damage, provided that a building permit application to allow the re-establishment is filed with the community development department within six months of the damage or date of inspection finding a public nuisance.

- B. If a structure containing a nonconforming use, other than a nonconforming one-household or two-household use which was a conforming use pursuant to the city of Des Moines' zoning ordinance and zoning map in effect on December 14, 2019, is damaged or destroyed to the extent of 50% or more of its replacement cost at time of damage or destruction, by any means, including damage or destruction by repair, alteration, replacement or upgrade, exclusive of the foundation, the nonconforming use may not be re-established. If the structure is damaged or destroyed to the extent of less than 50% of its replacement cost at the time of damage or destruction by any means, including damage or destruction by repair, alteration, replacement or upgrade, exclusive of the foundation, the nonconforming use may be re-established to the extent ~~it~~that such use existed before the damage, provided that a building permit application to allow the re-establishment is filed with the community development department within six months of the damage.
- C. This subsection does not apply to properties designated a historic district or landmark under chapter 58 of this code or under the National Register of Historic Places.

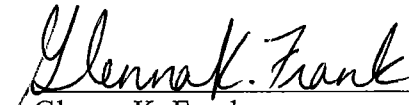
**Table 134-3.1-2**

Revising Table as shown on attachment hereto, and by this reference made a part hereof, to:

- (i) Add "150" for 150 feet separation requirement from church, school, public park, or licensed child care facility as defined by Iowa Code Chapter 237A for "Bar" row in both "DX1, DX2, MX1, MX2, DXR" columns.

Section 2. This ordinance shall be in full force and effect upon and from its passage and publication as provided by law.

FORM APPROVED:

  
Glenna K. Frank  
Assistant City Attorney

# 134-3. USES

## Principal Uses

**TABLE 134-3.1-2. ALCOHOLIC LIQUOR, WINE OR BEER SALES**

USE	Alcoholic Liquor Sales			Wine or Beer Sales		
	Districts					
	DX1, DX2, MX1, MX2, DXR	MX3, CX, P1, P2	RX1, RX2, NX2a	DX1, DX2, MX1, MX2, DXR	MX3, CX, P1, P2	RX1, RX2, NX2a
<b>Retail Sales</b>						
Limited	Not allowed	○ 40%/500 1,320		○ 40%/150	○ 40%/150	
General	40%/75	40%/75		40%/75	40%/75	
Large	40%/75	40%/75		40%/75	40%/75	
Fuel Station		○ 40%/500 1,320	Not allowed	40%/150	40%/150	Not allowed
Liquor Store	Not allowed	○ 500/ 1,320		Not allowed	○ 150	
Tobacco Store		○ 25%/500 1,320		○ 25%/150	○ 25%/150	
Restaurant	50%/75	50%/75	○ 50%/75	50%/75	50%/75	○ 50%/75
Bar	○ 150	○ 150		○ 150	○ 150	
Other Uses with Sales for On-Premise Consumption	○	○ 40%/150	Not allowed	○	○ 40%/150	Not allowed

**Table Notes**

○ = Uses identified with a ○ symbol are allowed only if reviewed and approved in accordance with the conditional use procedures of 134-6.4 of this chapter.

40% = no more than 40% of the gross receipts from sales from the premises may be derived from the sale of alcoholic liquor, wine, beer or tobacco products.

50% = at least 50% of the gross receipts must be derived from the sale of prepared food and food-related services. The sale of an alcoholic beverage is not the sale of prepared food and food-related services.

25% = no more than 25% of the gross receipts from sales from the premises may be derived from the sale of alcoholic liquor, wine or beer.

75 = the licensed premises occupied by such use must be separated by at least 75 feet from the property line of the lot where any church, school, public park or licensed child care facility as defined by Iowa Code Chapter 237A, are located. However, this condition is not applicable in the DX1, DX2, and DXR districts.

150 = the licensed premises occupied by such use must be separated by at least 150 feet from the property line of the lot where any church, school, public park or licensed child care facility as defined by Iowa Code Chapter 237A, are located. However, this condition is not applicable in the DX1, DX2, and DXR districts.

500 = the licensed premises occupied by such use must be separated by at least 500 feet from the property line of the lot where any church, school, public park or licensed child care facility as defined by Iowa Code Chapter 237A, are located. However, this condition is not applicable in the DX1, DX2, and DXR districts.

1,320 = the licensed premises occupied by such use must be separated by at least 1,320 feet from the property line of the lot where any other controlled use engaged in the sale of alcoholic liquor is located. In the DX1, DX2, and DXR districts, this condition is only applicable to liquor stores.