



Date September 29, 2025

**RESOLUTION SCHEDULING HEARING ON PROPOSED AMENDMENT TO
ZONING ORDINANCE**

WHEREAS, on April 25, 2016, by Roll Call No. 16-0717, the City Council adopted the PlanDSM: Creating Our Tomorrow Plan as the comprehensive plan for the City of Des Moines; and

WHEREAS, on October 16, 2019, by Roll Call No. 19-1683, the City Council approved Ordinance No. 15,816 adopting the Zoning Ordinance, which repealed and replaced previous Chapter 134 of the Des Moines Municipal Code and Article 5 of which repealed and replaced the City's Wireless Telecommunications Facility Policy adopted on April 8, 2019 by Roll Call No. 19-0580, and certain ordinances amending the City's Zoning Ordinance have been approved by City Council thereafter; and

WHEREAS, the Neighborhood Services Department and the Development Services Department and staff have prepared further amendment to Section 134-3.9.2 of the Zoning Ordinance, which such amendment is intended to clarify and align accessory dwelling units with recent state code changes; and

WHEREAS, the Neighborhood Services Department and the Development Services Department and staff have prepared further amendments to Sections 134-3.5.16, 134-3.9.9, 134-9.15, 134-9.19, 134-9.23, Table 134-3.1-1 and Table 134-3.9-1 of the Zoning Ordinance, which such amendments are intended to clarify the liquor store and tobacco store language; to clarify tobacco product to align with state code; and clarify tobacco store requirements; and

WHEREAS, the Neighborhood Services Department and the Development Services Department and staff have prepared further amendments to Sections 134-6.7.6 and 134-6.7.7 of the Zoning Ordinance, which such amendments are intended to clarify and align variance test for numerical standards with recent state code changes; and

WHEREAS, the Neighborhood Services Department and the Development Services Department and staff have prepared further amendments to Sections 134-7.3.3 and 134-7.3.6 of the Zoning Ordinance, which such amendments are intended to define legal non-conforming pole sign components that are allowed to be replaced or rehabilitated; and

WHEREAS, on September 4, 2025, the City Plan and Zoning Commission voted 10-0 to **APPROVE** the proposed amendment to the Zoning Ordinance; and

WHEREAS, the proposed amendment to the Zoning Ordinance is on file and available to the public for viewing in the office of the City Clerk.



Roll Call Number

Agenda Item Number

28

Date September 29, 2025

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. The attached communication from the Plan and Zoning Commission is hereby received and filed.
2. The City Council shall consider the proposed amendment to the Zoning Ordinance at a public hearing to be held at 5:00 p.m. on October 20, 2025, in the Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, at which time the City Council will hear both those who oppose and those who favor the proposed amendment.
3. The City Clerk is hereby authorized and directed to publish notice of said hearing in the form hereto attached, in accordance with §362.3 of the Iowa Code.

Moved by _____ to adopt. Second by _____

APPROVED AS TO FORM:

/s/ Chas M. Cahill

Chas M. Cahill

Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN				
COLEMAN				
GATTO				
MANDELBAUM				
SIMONSON				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED		APPROVED		

CERTIFICATE

I, Laura Baumgartner, 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.

Mayor

City Clerk

Date September 29, 2025

Agenda Item 28

Roll Call # _____

September 9, 2025

Communication from the City Plan and Zoning Commission advising that at their September 4, 2025 meeting, the following action was taken for consideration of the following amendments to Chapter 134 and Chapter 135 of the Des Moines Municipal Code:

- A) Amendments to Chapter 134 modifying Accessory Household Unit regulations, Liquor and Tobacco Sales regulations, Variance test language, and nonconforming provisions for Pole Signs.
- B) Amendments to Chapter 135 modifying Accessory Household Unit Building regulations and the definition of a Single Housekeeping Unit.

COMMISSION RECOMMENDATION: 10-0

After public hearing, the members voted as follows:

Commission Action:	Yes	Nays	Pass	Abstain	Absent
Francis Boggus	X				
Leah Rudolphi					X
Chris Draper	X				
Laura Kessel	X				
Todd Garner	X				
Johnny Alcivar					X
Carolyn Jenison	X				
William Page	X				
Andrew Lorentzen	X				
Emily Webb	X				
Katie Gillette	X				
Rick Trower					X
Jane Rongerude					X
John Erpelding	X				

Approval of the proposed amendments to the Zoning Ordinance (City Code Chapter 134) and the Planning and Design Ordinance (City Code Chapter 135).

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the proposed amendments to the Zoning Ordinance (City Code Chapter 134) and the Planning and Design Ordinance (City Code Chapter 135).

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

The following tables summarize the proposed amendments. A redline version of the relevant code sections and tables are included in the Commission's packet, except for the pole sign language, which is being finalized and will be provided prior to the meeting.

Chapter 134 Amendments:

SUBJECT	CODE SECTION	ACTION/PURPOSE
Accessory Household Unit regulations	Article 3 Table of Contents 134-3.9.2	Align city code with recent state code changes that limit local regulation of accessory dwelling units.
Liquor & Tobacco Sales regulations	Table 134-3.1-1 Table 134-3.9-1 134-3.5.16.D 134-3.5.16.E 134-3.9.9.B 134-3.9.9.C 134-3.9.9.D 134-9.15 134-9.19 134-9.23	The proposed amendments do the following: (1) eliminate overlap in the definitions of liquor stores and tobacco stores, (2) match the tobacco sales definition to the state code which includes vapor products, (3) requires more than one employee at all businesses selling liquor, (4) clarifies regulations associated with "Other Uses" selling alcohol, and (5) adds a 500-foot separation requirement for tobacco stores that is required regardless of whether they sell alcohol. These changes are based on discussions from the July 14, 2025, City Council workshop.
Variance test language	134-6.7.6 134-6.7.7	Align city code with recent state code changes that are aimed at making it easier to grant any variance for numerical standards.
Pole Sign, non-conforming provisions	134-7.3	Allow legal non-conforming pole sign components to be replaced regardless of the value of the work.

Chapter 135 Amendments:

SUBJECT	CODE SECTION	ACTION/PURPOSE
Accessory Household Unit Building regulations	135-2.22.2.F Table 135-2.22-1	Align city code with recent state code changes that limit local regulation of accessory dwelling units.
Single House Keeping Unit definition	135-12.21	Amend definition in Chapter 135 to match the definition in Chapter 134, which was amended in May of this year.

ANALYSIS

- 1. Amendments:** Recently enacted State legislation limits the ability of local governments to regulate accessory dwelling units (ADU). They must be permitted anywhere that a detached single-family dwelling is permitted. Design standards and bulk regulations that can be applied are also impacted. Additionally, ownership and minimum parking requirements are prohibited.

The State legislation also altered the criteria that local governments must use when considering Variance requests for numerical zoning standards. In short, an applicant must demonstrate that they face a “practical difficulty” now and can no longer be held to the higher “hardship” test language that focuses on losing all economic use of the land in question. Use Variance requests are still held to the “hardship” test. The proposed amendments to City Code Section 134-6 address this change.

Changes to how liquor and tobacco sales are regulated by the Zoning Ordinance are proposed to address concerns raised by the City Council and to provide greater clarity to ease code implementation. The most significant amendments include requiring a minimum number of employees for all businesses selling alcohol for off-premises consumption and establishing a 500-foot separation requirement for tobacco store uses. Currently, smaller operators must keep liquor in a locked case or behind a counter accessible to employees only. Larger operators must choose between always having more than one employee on duty, utilizing an electronic security cap/tag system, or displaying liquor in a locked case or behind a counter. The proposed changes would require all operators of businesses selling liquor to have more than one employee on duty at any given time. Smaller operators would also have to keep liquor in a locked cabinet, behind a counter, or utilize an electronic tag system. Existing legally established businesses would have non-conforming rights to continue to operate in accordance with the standards in place at the time they were established.

The draft language for the proposed changes to the nonconforming rights for pole signs was not ready at the time this Staff report was issued. Pole signs are prohibited by the Zoning Code. Components of an existing pole signs cannot be replaced if the work would match or exceed 50% of the replacement cost of the sign, exclusive of the foundation and supporting element. The intent of the amendment is to allow greater flexibility for component replacement on existing non-conforming pole signs. A draft will be released as soon as possible.

2. PlanDSM: Creating Our Tomorrow Plan: PlanDSM: Creating Our Tomorrow is the City's Comprehensive Plan. The proposed amendments are consistent with many of the goals and policies of PlanDSM, including the following:

- *Land Use Goal 1* - Develop new land development regulations consistent with this Comprehensive Plan, include development standards, provide for a mixture of land uses, mandate protection of natural resources, and promote flexible approaches to implementing the Plan.
- *Land Use Goal 2* – Direct new growth and redevelopment to areas with existing infrastructure and nodes and corridors based on proximity to transit, shopping, services, and public amenities.
- *Land Use Goal 4* – Continue to embrace the district character of Des Moines' neighborhoods while allowing for new development and redevelopment.
- *Housing Goal 1* – provide a diversity of housing options to accommodate residents of all ages, income levels, household sizes, and cultural backgrounds.
- *Housing Goal 3* – Promote sustainable housing development that utilizes existing resources and supports compact, walkable, and bikeable neighborhoods.
- *Community Character and Neighborhood Goal 2* – Further Des Moines' revitalization efforts to improve the strength, stability, and vitality of all neighborhoods.

III. STAFF RECOMMENDATION

Staff recommends approval of the proposed amendments to the Zoning Ordinance (City Code Chapter 134) and the Planning and Design Ordinance (City Code Chapter 135).

SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

Emily Webb asked a procedural question, noting that City Council had previously workshopped these items with staff, and wondered if the current presentation was being provided only as a courtesy since the Council would ultimately vote on them.

Jason Van Essen noted that the City Council shared thoughts and input on concepts during their workshop. The current presentation is focused on actual code language. The Commission plays an important role in providing additional input before the items go to Council for final consideration.

Chris Draper had questions about the changes to pole signs and wondered what the definition of a pole sign would be considered.

Jason Van Essen explained that a pole sign is supported by one or two posts above ground, in contrast to a monument sign, which is ground mounted. The purpose of the amendment is to provide slightly more flexibility for maintaining existing pole signs. Under the new standards, signs could have up to 15% more area and include up to 12 square feet of digital display, similar to the digital fuel pricing displays often seen at gas stations. He described this as a hybrid approach that allows operational adjustments while maintaining size limitations. Ultimately, he noted that the community's long-term goal is to move away from pole signs altogether.

Chris Draper asked for clarification on the changes to Tobacco Sales table changes and what "500" in the proposed Principal Use Table means.

Jason Van Essen explained that there is some confusion caused by the overlap of tobacco and liquor sales being merged together in one table. The change would remove Tobacco Stores from the Liquor Sales Table. It would only be listed in the Principal Use Table. The "500" label in the table means they must meet a 500-foot separation requirement.

Chris Draper clarified that two tobacco stores must be separated 500 feet from each other.

Jason Van Essen confirmed but noted that the amendment applies only to new applications and does not affect existing businesses. He noted that applicants can request relief from these restrictions through the Zoning Board of Adjustment if needed.

Chris Draper asked about the change of name from AHU to ADU for Accessory Dwelling Units and what other significant changes were made to the language.

Jason Van Essen stated the change of name was to make the code consistent with common language. Significant changes included the elimination of minimum parking and owner/resident requirements, and the simplification of design standards.

Chris Draper asked for clarification that parking requirements go away and that anyone can build an ADU and add density to a lot without living in one of the units.

Jason Van Essen confirmed that was correct. Noted they are permitted by right anywhere a standalone, detached house is permitted.

Chris Draper asked if there were any size restriction on ADUs.

Jason Van Essen stated the new language reflects the changes made through the State of Iowa Code, which now states that the ADU can be up to half the size of the house or 1,000 square feet, whichever is larger.

Chris Draper asked what the setbacks would be for a standalone ADU that is separated from the house.

Jason Van Essen stated it is 5-foot minimum, same as a detached garage.

PUBLIC HEARING

There was no one in attendance.

COMMISSION ACTION

Chris Draper made a motion for approval of the proposed amendments to the Zoning Ordinance (City Code Chapter 134) and the Planning and Design Ordinance (City Code Chapter 135).

THE VOTE: 10-0

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Jason Van Essen".

Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:mrw

134-3. USES

Accessory Uses

TABLE 134-3.9-1. ALCOHOLIC LIQUOR, WINE AND BEER SALES

USE	DISTRICTS											
	DX1	DX2	DXR	MX1	MX2	MX3	RX1, RX2	CX, EX, I1	I2	NX2, NX2A	P1, P2	F
Retail Sales												
Limited												
Alcoholic Liquor, Wine and Beer Sales	—	—	—	—	—	○ [*] 40%/500 1320	—	○ [*] 40%/500 1320	—	—	—	—
Wine and Beer Sales	—	○ [*] 40%/150	○ [*] 40%/150	○ [*] 40%/150	○ [*] 40%/150	○ [*] 40%/150	○ [*] 40%/150	○ [*] 40%/150	—	—	—	—
General												
Alcoholic Liquor, Wine and Beer Sales	40%/75	40%/75	40%/75	—	40%/75	40%/75	—	40%/75	—	—	—	—
Wine and Beer Sales	40%/75	40%/75	40%/75	—	40%/75	40%/75	—	40%/75	—	—	—	—
Large												
Alcoholic Liquor, Wine and Beer Sales	40%/75	40%/75	—	—	—	—	—	40%/75	—	—	—	—
Wine and Beer Sales	40%/75	40%/75	—	—	—	—	—	40%/75	—	—	—	—
Fuel Station												
Alcoholic Liquor, Wine and Beer Sales	—	—	—	—	○ [*] 40%/500 1320	○ [*] 40%/500 1320	—	○ [*] 40%/500 1320	○ [*] 40%/500 1320	—	—	—
Wine and Beer Sales	—	40%/150	40%/150	—	40%/150	40%/150	—	40%/150	40%/150	—	—	—
Liquor Store												
Alcoholic Liquor, Wine and Beer Sales	—	—	—	—	—	○ [*] 500 1320	—	○ [*] 500 1320	○ [*] 500 1320	—	—	—
Wine and Beer Sales	—	○ [*] 150	○ [*] 150	○ [*] 150	○ [*] 150	○ [*] 150	—	○ [*] 150	○ [*] 150	—	—	—
Tobacco Store												
Alcoholic Liquor, Wine and Beer Sales	—	—	—	—	—	○[*] 25%/500 1320	—	○[*] 25%/500 1320	○[*] 25%/500 1320	—	—	—
Wine and Beer Sales	—	○[*] 25%/150	○[*] 25%/150	○[*] 25%/150	○[*] 25%/150	○[*] 25%/150	—	○[*] 25%/150	○[*] 25%/150	—	—	—
Restaurant, Bar, Other Uses												

REMOVE SECTION

TABLE 134-3.9-1. ALCOHOLIC LIQUOR, WINE AND BEER SALES

USE	DISTRICTS											
	DX1	DX2	DXR	MX1	MX2	MX3	RX1, RX2	CX, EX, I1	I2	NX2, NX2A	P1, P2	F
Restaurant with Alcoholic Liquor, Wine and Beer Sales	50%	50%	50%	50%	50%	50%	50%	50%	50%	○* 50%	○* 50%	—
Bar	○*	○*	○*	—	○* ¹⁵⁰	○* ¹⁵⁰	—	○* ¹⁵⁰	—	—	○* 150	—
Other Uses with Alcoholic Liquor, Wine and Beer Sales	○*	○*	○*	○*	○*	○*	○*	○*	○*	○*	○*	○*

KEY:

○ = requires conditional use approval

* = supplemental use regulations apply

— = prohibited

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 or beer.} ~~wine, beer or tobacco products.~~

50% = at least 50% of the gross receipts from sales from the premises 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 or place of worship, 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 or place of worship, 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 or place of worship, 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.

1320 = the licensed premises occupied by such use must be separated by at least 1320 feet from the property line of the lot where any limited retail sales, fuel stations, liquor stores and tobacco stores engaged in the sale of alcoholic liquor is located.

ZONING CHAPTER 134

ARTICLE 3. USES

Contents:

134-3.1 Principal Uses

- [134-3.1.1 TABLE OF ALLOWED USES](#)
- [134-3.1.2 INTERPRETING THE USE TABLE](#)
- [Table 134-3.1-1 PRINCIPAL USE TABLE](#)

134-3.2 Use Classifications

- [134-3.2.1 GENERAL](#)
- [134-3.2.2 USE CATEGORIES](#)
- [134-3.2.3 USE SUBCATEGORIES](#)
- [134-3.2.4 SPECIFIC USE TYPES](#)
- [134-3.2.5 DETERMINATION OF USE CATEGORIES AND SUBCATEGORIES](#)

134-3.3 Residential Use Category

- [134-3.3.1 HOUSEHOLD LIVING](#)
- [134-3.3.2 GROUP LIVING](#)

134-3.4 Public, Civic and Institutional Use Category

- [134-3.4.1 AIRPORT](#)
- [134-3.4.2 ASSEMBLY](#)
- [134-3.4.3 CEMETERY](#)
- [134-3.4.4 COLLEGE OR UNIVERSITY](#)
- [134-3.4.5 FRATERNAL ORGANIZATION](#)
- [134-3.4.6 GOVERNMENT ADMINISTRATION](#)
- [134-3.4.7 HOSPITAL](#)
- [134-3.4.8 LIBRARY OR CULTURAL EXHIBIT](#)
- [134-3.4.9 PUBLIC RECREATION AREAS](#)
- [134-3.4.10 POSTAL SERVICE](#)
- [134-3.4.11 SAFETY SERVICE](#)
- [134-3.4.12 SCHOOL](#)
- [134-3.4.13 UTILITIES AND PUBLIC SERVICE FACILITIES](#)

134-3.5 Commercial Use Category

- [134-3.5.1 ADULT ENTERTAINMENT](#)
- [134-3.5.2 ANIMAL SERVICES](#)
- [134-3.5.3 ASSEMBLY AND ENTERTAINMENT](#)
- [134-3.5.4 BROADCAST OR RECORDING STUDIO](#)
- [134-3.5.5 BUSINESS OR TRADE SCHOOL](#)
- [134-3.5.6 COMMERCIAL SERVICES](#)
- [134-3.5.7 DATA CENTER](#)
- [134-3.5.8 DAY CARE](#)
- [134-3.5.9 DAY SERVICES ADULT](#)
- [134-3.5.10 EATING AND DRINKING PLACES](#)
- [134-3.5.11 FINANCIAL SERVICE](#)
- [134-3.5.12 FUNERAL AND MORTUARY SERVICE](#)
- [134-3.5.13 LODGING](#)
- [134-3.5.14 OFFICE](#)
- [134-3.5.15 PARKING, NON-ACCESSORY](#)
- [134-3.5.16 RETAIL SALES](#)
- [134-3.5.17 SELF-SERVICE STORAGE](#)
- [134-3.5.18 SIGN, GENERAL ADVERTISING](#)
- [134-3.5.19 SPORTS AND RECREATION, PRIVATE/PARTICIPANT](#)
- [134-3.5.20 VEHICLE SALES AND SERVICE](#)

134-3.6 Industrial Use Category

- [134-3.6.1 FABRICATION AND PRODUCTION](#)
- [134-3.6.2 INDUSTRIAL SERVICE](#)
- [134-3.6.3 STORAGE, DISTRIBUTION AND WHOLESALING](#)
- [134-3.6.4 JUNK OR SALVAGE YARD](#)
- [134-3.6.5 MINING OR MINERAL PROCESSING](#)

134-3.7 Agricultural Use Category

- [134-3.7.1 AQUACULTURE, AQUAPONICS, AEROPONICS OR HYDROPONICS](#)

Contents (continued):

134-3.7.2 GREENHOUSES, NURSERY, ORCHARD OR TRUCK FARM

134-3.7.3 ROW CROP PRODUCTION

134-3.7.4 URBAN GARDEN

134-3.7.5 URBAN FARM

134-3.8 Other Use Category

134-3.8.1 CONSUMER FIREWORKS SALES

134-3.9 Accessory Uses

134-3.9.1 GENERALLY APPLICABLE REGULATIONS

134-3.9.2 ACCESSORY ~~HOUSEHOLD~~ UNITS (AHU)

DWELLING

ADU

134-3.9.3 DRIVE-IN AND DRIVE-THROUGH USES

134-3.9.4 HOME OCCUPATIONS

134-3.9.5 OUTDOOR DINING AND DISPLAY

134-3.9.6 OUTDOOR STORAGE

134-3.9.7 RESIDENTIAL SUPPORT SERVICE

134-3.9.8 BOARDING AND ROOMING UNITS

134-3.9.9 LIQUOR, WINE, AND BEER SALES

134-3.9.10 ACCESSORY OFF-SITE PARKING USE

Table 134-3.9-1 ALCOHOLIC LIQUOR, WINE AND BEER SALES

134-3.10 Temporary Uses

134-3.10.1 DESCRIPTION AND PURPOSE

134-3.10.2 AUTHORITY TO APPROVE

134-3.10.3 GENERAL PROCEDURE

134-3.10.4 AUTHORIZED USES

134-3.10.5 GARAGE SALES

134-3.10.6 CAMPING

134-3.10.7 EMERGENCY SHELTER - PLACE OF WORSHIP

134-3. USES

Principal Uses

TABLE 134-3.1-1. PRINCIPAL USE TABLE																						
USE CATEGORY	DISTRICTS																				Reference	
Use Subcategory															N1, N2, N3, N4, N5							
Specific Use Type	A	DX1	DX2	DXR	MX1	MX2	MX3	RX1	RX2	CX	EX	I1	I2			NX1	NX2a	NX3	NM	P1		P2
RESIDENTIAL																						
Household Living																						
1 household (per lot)	●	●	●	●	●	●	●	●	●		-	-	-	●	●	●	●	●	-	-	-	134-3.3.1
2 households (per lot)	-	●	●	●	●	●	●	●	●		-	-	-	②	●	●	●	-	-	-	-	134-3.3.1
3 to 4 households (per lot)	-	●	●	●	●	●	●	●	●		-	-	-	④	●	●	●	-	-	-	-	134-3.3.1
5 to 8 households (per lot)•	-	●	●	●	●	●	●	●	●	●	-	-	-	-	●	●	●	-	-	-	-	134-3.3.1
9 or more households (per lot)•	-	●	●	●	●	●	●	●	●	●	-	-	-	-	-	●	●	-	-	-	-	134-3.3.1
Mobile home park	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	-	-	-	134-3.3.1
Group Living																						
Assisted living facility	-	●	●	●	●	●	●	●	●	●	-	-	-	-	-	●	●	-	-	-	-	134-3.3.2
Correctional placement residence	-	○*	○*	○*	○*	○*	○*	○*	○*	○*	-	-	-	-	-	○*	○*	-	-	-	-	134-3.3.2
Family home	●*	●*	●*	●*	●*	●*	●*	●*	●*	●*	-	-	-	●*	●*	●*	●*	●*	-	-	-	134-3.3.2
Home and community-based services waiver recipient residence	●*	●*	●*	●*	●*	●*	●*	●*	●*	●*	-	-	-	●*	●*	●*	●*	-	-	-	-	134-3.3.2
Shelter, temporary	-	●*	●*	●*	●*	●*	●*	●*	●*	●*	-	-	-	-	-	●*	●*	-	-	-	-	134-3.3.2
Other group living uses•	-	○	○	○	○	○	○	○	○	○	-	-	-	-	-	○	○	-	-	-	-	134-3.3.2
PUBLIC, CIVIC AND INSTITUTIONAL																						
Airport	-	-	-	-	-	-	-	-	-	-	-	●	●	-	-	-	-	-	-	●	○	134-3.4.1
Assembly																						
Place of Worship	-	●	●	●	○	●	●	○	●	●	●	-	-	-	-	○	○	-	-	●	-	134-3.4.2
Place of Assembly	-	●	●	●	○	●	●	○	●	●	●	-	-	-	-	○	○	-	-	●	-	134-3.4.2
Cemetery																						
City-owned	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	-	-	134-3.4.3
Non-city-owned	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	○*	-	134-3.4.3
College or University	-	●	●	●	-	-	-	●	●	●	●	-	-	-	-	-	-	-	-	●	-	134-3.4.4
Fraternal Organization	-	●	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	●	-	134-3.4.5
Government Administration	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	-	134-3.4.6
Hospital	-	●	●	●	-	-	-	●	●	●	●	●	●	-	-	-	-	-	-	●	-	134-3.4.7
Library or Cultural Exhibit	-	●	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	●	-	134-3.4.8
Public Recreation Areas	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	●	○	134-3.4.9
Postal Service	-	●	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	●	-	134-3.4.10
Safety Service	●	●	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	●	-	134-3.4.11
School	-	●	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	●	-	134-3.4.12

TABLE 134-3.1-1. PRINCIPAL USE TABLE																						
USE CATEGORY	DISTRICTS																				Reference	
Use Subcategory	A	DX1	DX2	DXR	MX1	MX2	MX3	RX1	RX2	CX	EX	I1	I2	N1, N2, N3, N4, N5	NX1	NX2, NX2a	NX3	NM	P1	P2		F
Specific Use Type																						
Utilities																						
Minor	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	○	134-3.4.13
Major	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	134-3.4.13
COMMERCIAL																						
Adult Entertainment	-	-	-	-	-	-	-	-	-	-	-	○*	○*	-	-	-	-	-	-	-	-	134-3.5.1
Animal Service																						
Boarding	●	-	-	-	-	-	●	-	-	●	●	●	●	-	-	-	-	-	-	-	-	134-3.5.2
Grooming	●	●	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-	-	134-3.5.2
Stable	●	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	134-3.5.2
Veterinary	●	●	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-	-	134-3.5.2
Assembly and Entertainment																						
Small	-	●	●	●	○	●	●	○	●	●	●	-	-	-	-	○	○	-	-	○	-	134-3.5.3
Large	-	●	●	●	-	●	●	-	●	●	●	-	-	-	-	-	○	-	-	○	-	134-3.5.3
Events Center	-	●	●	●	-	●	●	-	●	●	●	-	-	-	-	-	○	-	-	○	-	134-3.5.3
Broadcast or Recording Studio	-	●	●	-	-	●	●	-	●	●	●	●	●	-	-	-	-	-	-	●	-	134-3.5.4
Business or Trade School	-	●	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-	-	134-3.5.5
Commercial Service																						
Consumer Maintenance and Repair	-	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-	-	-	134-3.5.6
Personal Service	-	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-	-	-	-	134-3.5.6
Studio or Instructional Service	-	●	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-	-	134-3.5.6
Data Center																						
Minor	-	●	●	-	-	-	●	-	-	●	●	●	●	-	-	-	-	-	-	-	-	134-3.5.7
Major	-	-	-	-	-	-	-	-	-	-	●	●	●	-	-	-	-	-	-	-	-	134-3.5.7
Day Care	-	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-	-	●	-	134-3.5.8
Day Services, Adult	-	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-	-	●	-	134-3.5.9
Eating and Drinking Places																						
Restaurant	-	●	●	●	●	●	●	●	●	●	●	●	-	-	-	Ⓡ	-	-	○	○	-	134-3.5.10
Bar	-	○	○	○	-	○	○	-	-	○	○	○	-	-	-	-	-	-	○	○	-	134-3.5.10
Financial Service (except as below)	-	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-	-	-	-	134-3.5.11
Bail Bonds	-	-	-	-	-	-	●*	-	-	●*	-	-	-	-	-	-	-	-	-	-	-	134-3.5.11
Delayed Deposit Service	-	-	-	-	-	-	●*	-	-	●*	-	-	-	-	-	-	-	-	-	-	-	134-3.5.11
Pawnbroker	-	-	-	-	-	-	●*	-	-	●*	-	-	-	-	-	-	-	-	-	-	-	134-3.5.11
Funeral or Mortuary Service	-	-	-	-	-	-	-	●	-	●	●	●	●	-	-	-	-	-	-	-	-	134-3.5.12
Lodging																						
Bed & Breakfast	○*	○*	○*	○*	○*	○*	○*	○*	○*	○*	-	-	-	○*	○*	○*	○*	-	-	-	-	134-3.5.13
Hotel/Motel	-	●	●	●	-	●	●	●	●	●	●	-	-	-	-	-	-	-	-	-	-	134-3.5.13
Office																						
Business or Professional	-	●	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	●	-	134-3.5.14
Medical	-	●	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	●	-	134-3.5.14

TABLE 134-3.1-1. PRINCIPAL USE TABLE

USE CATEGORY	DISTRICTS																				Reference	
Use Subcategory	A	DX1	DX2	DXR	MX1	MX2	MX3	RX1	RX2	CX	EX	I1	I2	N1, N2, N3, N4, N5	NX1	NX2, NX2a	NX3	NM	P1	P2		F
Specific Use Type																						
Parking, Non-Accessory																						
Surface Parking Lot	-	○*	○*	○*	○*	○*	○*	-	○*	●	●	●	●	-	-	-	-	-	○*	○*	○*	134-3.5.15
Parking Structure	-	●	●	●	●	●	●	-	●	●	●	●	●	-	-	-	-	-	-	○*	-	134-3.5.15
Retail Sales																						
Limited	-	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-	-	-	134-3.5.16
General	-	●	●	●	-	●	●	-	-	●	●	●	-	-	-	-	-	-	-	-	-	134-3.5.16
Large-Format	-	●	○	-	-	-	-	-	-	●	●	●	-	-	-	-	-	-	-	-	-	134-3.5.16
Liquor Store	-	-	○	○	○	○	○	-	-	○	○	○	○	-	-	-	-	-	-	-	-	134-3.5.16
Tobacco Store	-	-	○	○	○	○	○	-	-	○	○	○	○	-	-	-	-	-	-	-	-	134-3.5.16
Self-Service Storage	-	○	○	-	○*	○*	-	-	-	○	○	○	○	-	-	-	-	-	-	-	-	134-3.5.17
Sign, General Advertising	-	○	○	○	○	○	○	-	-	(M)	○	○	○	○	○	○	○	-	-	-	-	134-3.5.18
Sports & Recreation, Private																						
Indoor	-	●	●	●	●	●	●*	-	-	●*	●	●	●	-	-	-	-	-	○	○	-	134-3.5.19
Outdoor	-	-	-	●	-	-	●*	-	-	●*	●	●	●	-	-	-	-	-	○	○	○	134-3.5.19
Vehicle Sales and Service																						
Fuel Station	-	-	○	○	-	○	●	-	-	●	●	●	●	-	-	-	-	-	-	-	-	134-3.5.20
Vehicle Sales	-	-	-	-	-	-	(V)	-	-	(V)	-	(V)	(V)	-	-	-	-	-	-	-	-	134-3.5.20
Vehicle Rental	-	(V)	(V)	(V)	-	(V)	(V)	-	-	(V)	(V)	(V)	(V)	-	-	-	-	-	-	-	-	134-3.5.20
Vehicle Maintenance/Repair, Minor	-	-	-	-	-	-	●*	-	-	●*	●*	●*	●*	-	-	-	-	-	-	-	-	134-3.5.20
Vehicle Maintenance/Repair, Major	-	-	-	-	-	-	-	-	-	●*	-	●*	●*	-	-	-	-	-	-	-	-	134-3.5.20
INDUSTRIAL																						
Fabrication and Production																						
Artisan	●*	●*	●*	●*	●*	●*	●*	-	-	●*	●*	●*	●*	-	-	-	-	-	-	-	-	134-3.6.1
Limited	-	-	○*	○*	○*	○*	●*	-	-	●*	●*	●*	●*	-	-	-	-	-	-	-	-	134-3.6.1
General	-	-	-	-	-	-	-	-	-	-	-	●*	●*	-	-	-	-	-	-	-	-	134-3.6.1
Intensive	-	-	-	-	-	-	-	-	-	-	-	-	○*	-	-	-	-	-	-	-	-	134-3.6.1
Industrial Service																						
Light	-	-	-	-	-	-	●*	-	-	●*	●*	●*	●*	-	-	-	-	-	-	-	-	134-3.6.2
Intensive	-	-	-	-	-	-	-	-	-	-	-	●*	●*	-	-	-	-	-	-	-	-	134-3.6.2
Storage, Distribution and Wholesaling																						
Equipment & Material Storage, Outdoor	-	-	-	-	-	-	-	-	-	-	-	●*	●*	-	-	-	-	-	-	○*	-	134-3.6.3
Trucking & Transportation Terminal, Minor	-	-	-	-	-	-	(V)*	-	-	(V)*	(V)*	(V)*	(V)*	-	-	-	-	-	-	○*	-	134-3.6.3
Trucking & Transportation Terminal, Major	-	-	-	-	-	-	-	-	-	-	-	(V)*	(V)*	-	-	-	-	-	-	○*	-	134-3.6.3
Warehouse	-	-	-	-	-	-	-	-	-	●*	●*	●*	●*	-	-	-	-	-	-	○*	-	134-3.6.3
Junk or Salvage Yard	-	-	-	-	-	-	-	-	-	-	-	-	○*	-	-	-	-	-	-	-	-	134-3.6.4
Mining or Mineral Processing	-	-	-	-	-	-	-	-	-	-	-	-	○	-	-	-	-	-	-	-	○	134-3.6.5
AGRICULTURAL																						

TABLE 134-3.1-1. PRINCIPAL USE TABLE

USE CATEGORY	DISTRICTS																				Reference	
Use Subcategory	A	DX1	DX2	DXR	MX1	MX2	MX3	RX1	RX2	CX	EX	I1	I2	N1, N2, N3, N4, N5	NX1	NX2, NX2a	NX3	NM	P1	P2		F
Specific Use Type																						
Aquaculture, Aquaponics, Aeroponics, or Hydroponics	●*	○*	○*	-	-	-	○*	-	-	●*	●*	●*	●*	-	-	-	-	-	●*	●*	-	134-3.7.1
Greenhouse, Nursery, Orchard or Truck Farm	●	-	-	-	-	-	-	-	-	○	○	○	○	-	-	-	-	●	●	●	-	134-3.7.2
Row Crop Production	●	-	-	-	-	-	-	-	-	○	○	○	○	-	-	-	-	●	●	●	-	134-3.7.3
Urban Garden	●*	●*	●*	●*	●*	●*	●*	●*	●*	●*	●*	●*	●*	●*	●*	●*	●*	●*	●*	●*	●*	134-3.7.4
Urban Farm	●*	●*	●*	●*	●*	●*	●*	●*	●*	●*	●*	●*	●*	○*	○*	○*	○*	○*	○*	●*	●*	134-3.7.5
OTHERS																						
Consumer Fireworks Sales	-	●*	●*	●*	●*	●*	●*	●*	●*	●*	●*	●*	●*	-	-	-	-	-	-	-	-	134-3.8.1
Wireless Telecommunications	Refer to Article 4 of this chapter.																					

Key:

- = permitted by right
- = permitted on upper floors only within primary frontage, and in ground floor within non-primary frontage
- = requires conditional use approval unless eligible for Type 1 Zoning Exception
- * = supplemental use regulations apply
- = prohibited
- ② = permitted by right where district includes "-2" extension
- ④ = permitted by right where district includes "-4" extension
- Ⓥ = permitted except where district includes "-V" extension
- Ⓡ = permitted with conditional use approval in NX2a district only
- Ⓜ = permitted on major commercial corridors only

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 tobacco store, place of worship, school, public park or licensed child care facility as defined by Iowa Code Chapter 237A, are located.

135-2. BUILDING TYPES

Accessory Structures

TABLE 135-2.22-1. ACCESSORY STRUCTURE TABLE																								
CATEGORY	DISTRICTS																					Reference		
Structure	A	DX1	DX2	DXR	MX1	MX2	MX3	RX1	RX2	CX	EX	I1	I2	N1, N2, N3, N4, N5	NX1	NX2, NX2a	NX3	NM	P1	P2	F			
ACCESSORY BUILDINGS																								
Construction Structures	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	135-2.22.2		
Kiosk	-	-	-	-	-	-	-	-	-	★	★	-	-	-	-	-	-	-	★	★	★	135-2.22.2		
Outbuilding and Detached Garages	★	-	-	-	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	135-2.22.2		
Parking Structure					★	★	★	★	★	★	★	★	★							★	-	135-2.22.2		
Temporary Building					★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	135-2.22.2		
Accessory Household Unit	★	-	-	★	-	-	-	★	★	-	-	-	-	★	★	★	★	-	-	-	-	135-2.22.2		
Seasonal Building	-	-	-	-	★	★	★	-	-	★	★	★	★	-	-	-	-	-	★	★	★	135-2.22.2		
Seasonal Agricultural Building	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	135-2.22.2		
Industrial Accessory Building	-	-	-	-	-	-	-	-	-	-	-	★	★	-	-	-	-	-	-	-	-	135-2.22.2		
ACCESSORY OUTDOOR PAVING & STRUCTURES																								
Ball Court	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	135-2.22.3		
Deck & Patio	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	135-2.22.3		
Dog Run	★	★	★	★	★	★	★	★	★	★	★	★	★			★	★	★	★	★	-	135-2.22.3		
Drive-Through Facility	-	-	-	-	-	-	★	-	-	★	★	★	-	-	-	-	-	-	-	★	-	135-2.22.3		
Flag Pole	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	135-2.22.3		
Fuel Station	-	-	★	★	-	★	★	-	-	★	★	★	★	-	-	-	-	-	-	-	-	135-2.22.3		
Gazebo	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	135-2.22.3		
Landscape Feature	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	135-2.22.3		
Temporary Storage Container	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	-	135-2.22.3		
Scoreboard	-	★	★	★	★	★	★	★	★	★	★	★	★	-	-	-	-	-	★	★	★	135-2.22.3		
Bus Shelter or Bench for Public Transit Agency	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	135-2.22.3		
Outdoor Automated Accessory Structures	-	★	★	★	★	★	★	★	★	★	★	★	-	-	-	-	-	-	-	-	-	135-2.22.3		
ACCESSORY UTILITY STRUCTURES																								
Antenna & Satellite Dish	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	-	135-2.22.4		
EV Charging Stations	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	-	135-2.22.4		
Mechanical Equipment	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	-	135-2.22.4		
Rainwater Collection/ Cisterns	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	-	135-2.22.4		
Solar - Building-mounted	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	-	135-2.22.4		
Solar - Freestanding	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	-	135-2.22.4		
Wind - Roof-mounted	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	★	-	135-2.22.4		
Wind – Freestanding	★	-	-	-	-	-	-	-	-	-	★	★	★	-	-	-	-	-	★	★	-	135-2.22.4		
KEY:•																								
★ = permitted with development standards																								

TABLE 135-2.22-1. ACCESSORY STRUCTURE TABLE																						
CATEGORY	DISTRICTS																				Reference	
Structure	A	DX1	DX2	DXR	MX1	MX2	MX3	RX1	RX2	CX	EX	I1	I2	N1, N2, N3, N4, N5	NX1	NX2, NX2a	NX3	NM	P1	P2		F•
– = permitted by Type 2 Design Alternative																						

#####

POLE SIGNS

134-7.3 NONCONFORMING SIGNS

7.3.3 ALTERATION, ENLARGEMENT OR EXPANSION

Nonconforming signs may not be enlarged or altered in a way which increases their nonconformity. Notwithstanding the foregoing, the following enlargements or expansions of a nonconforming sign are allowed:

- A. Enlargement or expansion of a pole sign, to an extent less than 15% of the sign area, as determined by the original, nonconforming pole sign area; or
- B. Repair or replacement of a pole sign, to an extent not more than 115% of the original sign area or pole height, as determined by the original, nonconforming pole sign area; or
- C. As set forth in subsection 7.3.6.

7.3.6 DAMAGE OR DESTRUCTION

- A. Unless authorized by section 7.3.3(A), if a nonconforming sign is damaged or destroyed by any means, including repair, alteration, replacement or upgrade, to the extent of 50% or more of its replacement cost at the time of damage or destruction, exclusive of the foundation and supporting elements below the bottom of the sign, the nonconforming sign must be removed.
- B. If a nonconforming sign is damaged or destroyed by any means, including repair, alteration, replacement or upgrade, to an extent of less than 50% of its replacement cost at the time of the damage or destruction, exclusive of the foundation and supporting elements below the bottom of the sign, the nonconforming sign may be re-established to the extent it existed before the damage, provided that a building permit application to re-establish the sign is filed within six months of the date of damage or destruction.
- C. For purposes of this subsection, as it applies to all signs, other than general advertising signs and pole signs containing electronic or multi-vision display sign faces, the phrase "damaged or destroyed" includes removal of the sign face for repair, alteration, replacement or upgrade.
- D. For purposes of this subsection as it applies to general advertising signs and pole signs containing electronic or multi-vision display sign faces, the phrase "damaged or destroyed" does not include removal of the electronic or multi-vision display sign face for repair or replacement if the sign structure and the sign face type (electronic or multi-vision display) are neither modified nor altered and if the size of the repaired or replacement electronic or multi-vision sign face remains the same as the size of the previously existing electronic or multi-vision sign face.
- E. For purposes of this subsection as it applies to pole signs not originally containing electronic or multi-vision display sign faces, as determined by the neighborhood services director, the phrase "damaged or destroyed" does include alteration, upgrade or modification of the pole sign to allow for the installation of an electronic or multi-vision display sign face, if the size of the alteration, upgrade or modification is no greater than 12 square feet, only if approved in accordance with the Type 1 zoning exception procedures of section 134-6.5 of this chapter.

28

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 Chapter 134 and 135, specifically Sections 134-3.5.16 and 134-3.9.9, relating to liquor/tobacco sales, Sections 134-9.15, 134-9.19, 134-9.23, and 135-12.21, relating to definitions, Sections 134-6.7.6 and 134-6.7.7, relating to the review and approval procedures of a zoning variance, Sections 134-3.9.2 and 135-2.22.2, relating to accessory dwelling units, and Sections 134-7.3.3 and 134-7.3.6, relating to pole signs.

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 Chapter 134 and 135, specifically Sections 134-3.5.16 and 134-3.9.9, relating to liquor/tobacco sales, Sections 134-9.15, 134-9.19, 134-9.23, and 135-12.21, relating to definitions, Sections 134-6.7.6 and 134-6.7.7, relating to the review and approval procedures of a zoning variance, Sections 134-3.9.2 and 135-2.22.2, relating to accessory dwelling units, and Sections 134-7.3.3 and 134-7.3.6, relating to pole signs, as follows:

Article 3. USES

134-3.5 COMMERCIAL USE CATEGORY

.....

3.5.16 RETAIL SALES

Uses involving the sale, lease or rental of new or used goods to the ultimate consumer. Examples of specific retail use types include retail sales of convenience goods, consumer shopping goods and building supplies and equipment.

- A. Limited Retail Sales.** Retail sales establishments occupying no more than 12,000 square feet of floor area.
- B. General Retail Sales.** Retail sales establishments occupying more than 12,000 square feet of floor area but no more than 40,000 square feet of floor area.
- C. Large-Format Retail Sales.** Retail sales establishments occupying more than 40,000 square feet of floor area.
- ~~**D. Liquor Store.** Limited retail sales establishment primarily engaged in the sale of off-premise consumption of alcoholic liquor, wine and beer, where more than 40% of gross receipts is derived from the sale of alcoholic liquor, wine, beer and tobacco. The regulations of section 134-3.9.9 of this article and Table 134-3.9-1 of this article shall apply to this principal use.~~
- ~~**E. Tobacco Store.** Limited retail sales establishment primarily engaged in the retail sale of tobacco and tobacco-related products, provided however that no more than 25% of the gross receipts from sales shall be derived from the sale of alcoholic liquor, wine or beer, and all sales of alcoholic liquor, wine or beer are for off-premises consumption only. The~~

~~regulations of section 134-3.9.9 of this article and Table 134-3.9-1 of this article shall apply to this principal use.~~

134-3.9 ACCESSORY USES

.....

3.9.2 ACCESSORY ~~HOUSEHOLD-DWELLING~~ UNITS (~~AHU~~ADU)

A. Where Allowed. ~~Accessory dwelling units (ADUs) that comply with this section 134-3.9.2, and with all other applicable sections of this code, are permitted in the A, DXR, RX1, RX2, N and NX districts where accessory to a one household dwelling on the same lot.~~

- ~~1.—Accessory household units (AHUs) that comply with this section 134-3.9.2, and with all other applicable sections of this code, are permitted in the following zoning districts:~~
 - ~~a.—as of right in A, DXR, RX1 and RX2 districts;~~
 - ~~b.—as of right in N and NX districts that allow two, three or four household units on a single lot;~~
 - ~~c.—as of right in N and NX districts, regardless of number of household units on the lot, if the lot is within 0.25 miles of a bus transit route established and used by a public regional transit agency and in accordance with section 134-3.9.2.D.3 of this chapter; and~~
 - ~~d.—in N districts that allow one household unit on a single lot subject to conditional use approval by the board of adjustment pursuant to section 134-6.4 of this chapter.~~
- ~~2.—On all lots where AHUs are permitted, an owner of the property shall reside in one of the household units on the property.~~

B. Number Allowed. No more than one ~~AD~~HU is permitted on a single lot.

C. Location. ~~AD~~HUs may be located internally within the principal dwelling unit or in a detached accessory outbuilding pursuant to section 135-2.22 of this code.

D. Other Regulations~~Floor Area.~~ The floor area of an ADU may not exceed 50% of the floor area within the principal household unit or 1,000 square feet, whichever is larger.

- ~~1.—Only one entrance to a house containing an accessory household unit (AHU) may be located on a facade that faces a street.~~

~~The floor area of an AHU may not exceed 50% of the floor area within the principal household unit.~~

- ~~2.—Lots within N and NX districts upon which AHUs are permitted by right pursuant to section 134-3.9.2.A.1.c are further subject to the following:~~
 - ~~a.—For purposes of measuring compliance with the distance requirement between a lot and a bus transit route, measurements must be taken on a direct line following the shortest distance from the property line of the lot containing the AHU to the nearest bus transit route(s).~~

- ~~b. The Neighborhood Services Director shall review and determine compliance with the distance requirement between a lot and a bus transit route prior to issuance of building permit(s) for, and construction of, an AHU.~~
- ~~c. An AHU that meets the distance requirement between a lot and a bus transit route at the time of issuance of the building permit(s), and thereafter fails to meet said requirement due to a change in the applicable bus transit route, shall constitute a non-conforming accessory use.~~

.....

3.9.9 LIQUOR, WINE, AND BEER SALES

- A. Description.** The retail sale of alcoholic liquor, wine and beer is permitted as a principal use, or as an accessory use to a permitted principal use where determined by the neighborhood services director that said accessory use is customary and incidental to such permitted principal use, only in the zoning districts and subject to the conditions indicated in Table 134-3.1-1 and Table 134-3.9-1 of this article and pursuant to this section.
- B. Conditional Use Approval Criteria.** Conditional use approval is required for the use of any premises, either as a principal or an accessory use, for the sale of alcoholic liquor, wine or beer, under the circumstances identified in Table 134-3.1-1 and Table 134-3.9-1 of this article. The board of adjustment is authorized to grant conditional use approval for such uses only when the business, operated in conformance with such reasonable conditions as may be imposed by the board, satisfies the following criteria:
 - 1. The business conforms with the conditions identified in indicated in Table 134-3.9-1 of this article.
 - 2. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing in the adjoining or surrounding residential area.
 - 3. The business is sufficiently separated from the adjoining residential area by distance, landscaping, walls or structures to prevent any noise, vibration or light generated by the business from having a significant detrimental impact upon the adjoining residential uses.
 - 4. The business will not unduly increase congestion on the streets in the adjoining residential area.
 - 5. The operation of the business will not constitute a nuisance.
- C. Supplemental Use Regulations.**

Any conditional use approval granted by the board of adjustment for the use of a premises, either as a principal or an accessory use, for the sale of alcoholic liquor, wine and beer is subject to the following supplemental use regulations, together with such additional special conditions as may be reasonably required by the board of adjustment to ensure that the conditional use review approval criteria of paragraph B of this subsection, are satisfied:

1. Any parking area provided for the use of customers of the business must be illuminated at an intensity of at least one footcandle of light on the parking surface at all times. The entire site must be landscaped and illuminated so as to minimize hiding places for possible criminal activity.
2. The business shall comply with the noise control regulations of article IV of chapter 42 of this code. Outside speakers and amplified sound ~~are~~ prohibited except when used in compliance with a type E sound permit.
3. Any such business must comply with the following requirements:
 - a. Every ~~limited~~ retail sales establishment, fuel station, liquor store, and tobacco store selling alcoholic liquor for off-premises consumption shall have more than one employee on duty at all times the business is open to the public. In addition, display alcoholic liquor only in a locked case or behind a counter accessible only to employees. Any other businessany limited retail sales establishment, fuel station, and tobacco store selling alcoholic liquor for off premises consumption shall either:
 - i. Display alcoholic liquor only in a locked case or behind a counter accessible only to employees or;
 - ii. Employ an electronic security cap or tag system on all containers of alcoholic liquor on display ~~or~~;
 - iii. ~~Have more than one employee on duty at all times the business is open to the public.~~
 - b. Conspicuously post 24-hour contact information for a manager or owner of the business near the main public entrance.
 - c. Not dispense alcoholic beverages from a drive-through window.
4. Litter and trash receptacles shall be located at convenient locations inside and outside the premises, and operators of such business shall remove all trash and debris from the premises and adjoining public areas on a daily basis.
- ~~5. The conditional use approval is subject to amendment or revocation if the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions of the conditional use approval.~~
- ~~65.~~ If the zoning enforcement officer determines at any time that the operation of such a business exhibits a pattern of violating the conditions of the conditional use approval, the zoning enforcement officer may apply to the board of adjustment to reconsider conditional use approval for such business. A copy of such application and notice of the hearing before the board on such business at least 30 days in advance and shall also be provided to all owners of record of property within 250 feet of the subject property. If the board of adjustment finds that the operation of such business exhibits a pattern of violating the conditions of the conditional use, the board shall have the authority to amend or revoke the conditional use approval.

D. Report of Findings.

- 1. Report of Findings – Alcoholic Liquor, Wine, or Beer.** Upon reasonable suspicion that any retail sales establishment other than a liquor store, fuel station, or tobacco store ~~retail sales establishment, or other uses with sales for on-premise~~

~~consumption excluding restaurants and bars,~~ derives more than 40% of its gross receipts from the sale of alcoholic liquor, wine, ~~or beer or tobacco products,~~ the zoning enforcement officer may require that the owner or operator of the business demonstrate within 45 days that during the prior six months no more than 40% of its gross receipts from sales are derived from the sale of alcoholic liquor, wine, ~~or beer or tobacco products.~~ If the business does not provide documentation demonstrating that less than 40% of its gross receipts from sales are derived from the sale of alcoholic liquor, wine, or beer within 45 days of the zoning enforcement officer's demand for such documentation, ~~In such event~~ it shall be presumed that the business's principal use is as a liquor store and must comply with all provisions of this chapter pertaining to liquor stores. ~~more than 40% of the gross receipts from sales are derived from the sale of alcoholic liquor, wine, beer or tobacco products, which~~ Such presumption may be overcome by the business timely furnishing a report of findings showing compliance with the alcohol sales percentage requirements of this section for businesses other than liquor stores~~fuel station and retail sales establishments,~~ prepared and verified by a certified public accountant as the result of an agreed-upon procedures engagement, identifying the total dollar volume of all receipts, and separately identifying the total dollar volume of gross receipts derived from the sale of alcoholic beverages, ~~from the sale of tobacco products,~~ and from the sale of all other merchandise and food exclusive of alcoholic beverages ~~and tobacco products,~~ from the business premises in the preceding six months.

If the presumption is not overcome in the time and manner set forth in the preceding paragraph, then any fuel station or retail sales establishment shall be deemed a liquor store for purposes of this zoning code and shall be subject to the enforcement provisions of this zoning code for any violation thereof.

2. Report of Findings - Tobacco. Upon reasonable suspicion that any retail sales establishment other than a tobacco store, fuel station or liquor store, , derives more than 40% of its gross receipts from the sale of tobacco products, cigarettes, vapor products, and/or alternative nicotine products, the zoning enforcement officer may require that the owner or operator of the business demonstrate within 45 days that during the prior six months no more than 40% of its gross receipts from sales are derived from the sale of tobacco products, cigarettes, vapor products, and/or alternative nicotine products. If the business does not provide documentation demonstrating that less than 40% of its gross receipts from sales are derived from the sale of tobacco products, cigarettes, vapor products, and/or alternative nicotine products within 45 days of the zoning enforcement officer's demand for such documentation, it shall be presumed that the business's principal use is as a tobacco store and must comply with all provisions of this chapter pertaining to tobacco stores. Such presumption may be overcome by the business timely furnishing a report of findings showing compliance with the tobacco sales percentage requirements of this section for businesses other than tobacco stores, prepared and verified by a certified public accountant as the result of an agreed-upon procedures engagement, identifying the total dollar volume of all receipts, and separately identifying the total dollar volume of gross receipts derived from the sale of tobacco products, cigarettes, vapor products, and/or alternative nicotine products and from the sale of all other merchandise and food exclusive of tobacco products,

cigarettes, vapor products, and/or alternative nicotine products, from the business premises in the preceding six months.

If the presumption is not overcome in the time and manner set forth in the preceding paragraph, then the business shall be deemed a tobacco store for purposes of this zoning code and shall be subject to the enforcement provisions of this zoning code for any violation thereof.

- E. 3. Report of Findings — Restaurant or Other Uses with On-Premises Alcoholic Consumption.** Upon reasonable suspicion that any restaurant or “Other” use with on-site alcoholic consumption does not derive at least 50% of its gross receipts from the sale of prepared food, and food-related services, non-alcoholic beverages, goods other than alcoholic liquor, wine, and beer, admission fees, rental or other facility-use charges, or services the zoning enforcement officer may require that the owner or operator or the restaurant or “Other” use with on-site alcoholic consumption demonstrate within 45 days that during the prior six months at least 50% of its gross receipts were derived from the sale of prepared food, and food-related services, non-alcoholic beverages, goods other than alcoholic liquor, wine, and beer, admission fees, rental or other facility-use charges, or services. If the business does not provide documentation demonstrating that at least 50% of its gross receipts were derived from the sale of prepared food, food-related services, non-alcoholic beverages, goods other than alcoholic liquor, wine, and beer, admission fees, rental or other facility-use charges, or services, within 45 days of the zoning enforcement officer’s demand for such documentation, In such event it shall be presumed that the business’s principal use is as a bar and must comply with all provisions of this chapter pertaining to bars. Such less than 50% of the restaurant’s gross receipts are derived from the sale of prepared food and food-related services, which presumption may be overcome by the business timely furnishing a report of findings showing compliance with the percentage requirements of this section for restaurants, prepared and verified by a certified public accountant as the result of an agreed-upon procedures engagement, identifying the total dollar volume of all receipts, and separately identifying the total dollar volume of gross receipts derived from the sale of alcoholic beverages and from the sale of prepared food and food-related services exclusive of alcoholic beverages and tobacco products, from the business premises in the preceding six months.

~~F. Report of Findings — Tobacco Store.~~ ~~Upon reasonable suspicion that any tobacco store derives more than 25% of its gross receipts from the sale of alcoholic liquor, wine or beer, the zoning enforcement officer may require that the owner or operator of the business demonstrate within 45 days that during the prior six months no more than 25% of the gross receipts from sales were derived from the sale of alcoholic liquor, wine or beer. In such event it shall be presumed more than 25% of its gross receipts from sales are derived from the sale of alcoholic liquor, wine or beer, which presumption may be overcome by the business timely furnishing a report of findings showing compliance with the percentage requirements of this section for tobacco stores, prepared and verified by a certified public accountant as the result of an agreed-upon procedures engagement, identifying the total dollar volume of all receipts, and separately identifying the total dollar volume of gross receipts derived from the sale of alcoholic beverages, from the sale of tobacco products, and from the sale of all other merchandise and food exclusive of alcoholic beverages and tobacco products, from the business premises in the preceding six months.~~

EG. Prohibited Accounting for Alcoholic Beverages. The sale of an alcoholic beverage and any of its component ingredients whether mixed into one beverage or sold separately to the same customer, regardless of intent, shall not be divided for accounting purposes under this chapter.

FH. Effective Date.

1. All fuel stations, retail sales establishments, tobacco stores and restaurants that have not continuously held an alcoholic liquor license or a beer or wine permit since July 1, 2012, shall comply with the requirements of paragraphs A., B., C., D., and E., F., and G. of this sub-section.
2. Any fuel station, retail sales establishment, tobacco store or restaurant which has continuously held an alcoholic liquor license or a wine or beer permit since July 1, 2012, shall comply with paragraphs A., B., C., D., and E., F., and G. of this subsection, exclusive of any changed separation requirements, commencing on December 31, 2013, and prior to that date shall continue to be subject to the general regulations regarding nonconforming uses, as set forth in section 134-7.2 of this code.
3. Section 134-3.9.9(C) shall be effective on and after November 1, 2025. Every limited retail sales establishment, fuel station and tobacco store which held a liquor license on October 31, 2025 and continuously holding such liquor license shall display alcoholic liquor only in a locked case or behind a counter accessible only to employees.

Article 6. REVIEW AND APPROVAL PROCEDURES

134 -6.7 ZONING VARIANCES

.....

6.7.6 BOARD OF ADJUSTMENT DECISION

- A. Following receipt of a complete zoning variance application, the board of adjustment must hold a public hearing to consider the requested zoning variance. Following the close of the public hearing, the board of adjustment must act to approve the requested zoning variance, approve the zoning variance with conditions, or deny the zoning variance request based on the applicable standards and review criteria of section 134-6.67.7 of this article. Approval of a zoning variance requires an affirmative vote of at least four members of the board of adjustment and may occur on the consent portion of the board of adjustment's agenda.
- B. In approving a zoning variance, the board of adjustment is authorized to impose such conditions and restrictions as the board determines to be necessary to ensure compliance with the standards of section 134-6.67.7 of this article, to reduce or minimize the effect of the zoning variance upon other properties in the area, and to better carry out the general purpose and intent of this zoning ordinance.

6.7.7 STANDARDS AND REVIEW CRITERIA

A. General. Except for variances with respect to the area, dimensional, or other numerical limitations, A-a zoning variance may only be approved when the variance will not be contrary to the public interest, and where owing to special conditions a literal enforcement of the regulations of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done.

A zoning variance with respect to the area, dimensional, or other numerical limitations will be governed by the review criteria, conditions, and limitations set forth in subsection (C), below.

A zoning variance under this subsection (A) further may not be approved unless the board of adjustment determines that all of the following facts have been established by the applicant:

1. The subject property cannot yield a reasonable return from any use permitted by the subject zoning regulations. Failure to yield a reasonable return may only be shown by proof that the owner has been deprived of all beneficial or productive use of the subject property. It is not sufficient to merely show that the value of the land has been depreciated by the regulations or that a zoning variance would permit the owner to maintain a more profitable use;
2. The plight of the owner is due to unique circumstances not of the owner's own making, which unique circumstances must relate specifically to the subject property and not to general conditions in the neighborhood; and
3. The use or construction to be authorized by the zoning variance will not alter the essential character of the area in which the subject property is located.

B. Floodplain Variances. No zoning variance from the F zoning district regulations may be approved unless the board of adjustment determines that the general zoning variance standards and review criteria of paragraph A of this section have been met and that all of the following additional following facts have been established by the owner of the subject property:

1. Zoning variances from the F zoning district regulations may only be granted upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that the zoning variance is the minimum necessary, considering the flood hazard, to afford relief;
 - c. A showing that the Iowa Department of Natural Resources and the city engineer has been notified of the requested zoning variance and offers no objection; and
 - d. A showing that the proposed variance does not impede emergency access to the subject property or surrounding neighborhood.

C. Area, Dimensional, or Other Numerical Limitations

1. The board of adjustment may grant variances with respect to the area, dimensional, or other numerical limitations as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in practical difficulties to the property owner in

making a beneficial use of the property allowed by the zoning ordinance, and so that the spirit of the ordinance shall be observed and substantial justice done.

2. For purposes of this subsection, “area, dimensional, or other numerical limitations” subject to variance include, but are not limited to requirements for minimum lot size, setbacks, yard widths, height, bulk, sidewalks, fencing, signage, and off-street parking.
3. To receive the requested area, dimensional, or other numerical variance under this section, the property owner must prove:
 - a. that the practical difficulties faced are unique to the property at issue;
 - b. that the practical difficulties faced are not self-created; and
 - a.c. that granting the variance will not significantly alter the essential character of the surrounding neighborhood.

Article 7 NONCONFORMITIES

134-7.3 NONCONFORMING SIGNS

.....

7.3.3 ALTERATION, ENLARGEMENT OR EXPANSION

Nonconforming signs may not be enlarged or altered in a way which increases their nonconformity. Notwithstanding the foregoing, the following enlargements or expansions of a nonconforming sign are allowed:

- A. Enlargement or expansion of a pole sign, to an extent less than 15% of the sign area, as determined by the original, nonconforming pole sign area; or
- B. Repair or replacement of a pole sign, to an extent not more than 115% of the original sign area or pole height, as determined by the original, nonconforming pole sign area; or
- C. As set forth in subsection 7.3.6.

7.3.6 DAMAGE OR DESTRUCTION

- A. Unless authorized by section 7.3.3(A), if a nonconforming sign is damaged or destroyed by any means, including repair, alteration, replacement or upgrade, to the extent of 50% or more of its replacement cost at the time of damage or destruction, exclusive of the foundation and supporting elements below the bottom of the sign, the nonconforming sign must be removed.
- B. If a nonconforming sign is damaged or destroyed by any means, including repair, alteration, replacement or upgrade, to an extent of less than 50% of its replacement cost at the time of the damage or destruction, exclusive of the foundation and supporting elements below the bottom of the sign, the nonconforming sign may be re-established to the extent it existed before the damage, provided that a building permit application to re-establish the sign is filed within six months of the date of damage or destruction.
- C. For purposes of this subsection, as it applies to all signs, other than general advertising signs and pole signs containing electronic or multi-vision display sign faces, the phrase “damaged or destroyed” includes removal of the sign face for repair, alteration, replacement or upgrade.

D. For purposes of this subsection as it applies to general advertising signs and pole signs containing electronic or multi-vision display sign faces, the phrase “damaged or destroyed” does not include removal of the electronic or multi-vision display sign face for repair or replacement if the sign structure and the sign face type (electronic or multi-vision display) are neither modified nor altered and if the size of the repaired or replacement electronic or multi-vision sign face remains the same as the size of the previously existing electronic or multi-vision sign face.

E. For purposes of this subsection as it applies to pole signs not originally containing electronic or multi-vision display sign faces, as determined by the neighborhood services director, the phrase “damaged or destroyed” does include alteration, upgrade or modification of the pole sign to allow for the installation of an electronic or multi-vision display sign face, if the size of the alteration, upgrade or modification is no greater than 12 square feet, only if approved in accordance with the Type 1 zoning exception procedures of section 134-6.5 of this chapter.

Article 9 DEFINITIONS

.....

134-9.15 Terms Beginning with “L”

.....

Liquor store: an establishment or place of business primarily engaged in the sale for off-premise consumption of alcoholic liquors, wine and beer ~~where more than 40% of gross receipts is derived from the sale of alcoholic liquors, wine, beer and tobacco.~~

.....

134-9.19 Terms Beginning with “P”

Principal use or primary use: the main use of land or structures as distinguished from an accessory use.

Primarily engaged in: a business will be considered to be primarily engaged in sales of a product or category of products if more than 40% of the business’s gross income is derived from the sale of such product or category of products.

.....

134-9.23 Terms Beginning with “T”

Tobacco store: a place of business primarily engaged in the retail sale of tobacco related products, cigarettes, alternative nicotine products, and vapor products, or any combination thereof, all as defined in Iowa Code chapter 453A, or any successor provision thereto~~provided however that no more than 25% of the gross receipts from sales shall be derived from the sale of alcoholic liquor, wine or beer, and all sales of alcoholic liquor, wine or beer are for off-premises consumption only.~~

135-2. BUILDING TYPES

.....

2.22.2 ACCESSORY BUILDINGS

Accessory buildings shall be fully enclosed, unless otherwise stated. The following are classified as accessory buildings:

.....

F. **Accessory ~~Household-Dwelling~~ Unit (AHUADU) Building.** A stand-alone accessory structure for a permitted accessory ~~household-dwelling~~ unit(s) use.

1. Location. ADHU buildings must be located in the rear yard.
2. Setback. ADHU buildings shall be setback a minimum of five feet from any lot line.
3. Height. ~~The maximum height is 17 feet, except where a higher maximum height is otherwise expressly permitted. The height shall not exceed the maximum height permitted for the principal building.~~
4. Roof Type. ~~Roof type should match that of the principal structure. Refer to the roof type requirements of the associated building type. Permitted roof types shall be limited to those allowed for permitted principal buildings.~~
5. ~~Materials. Materials shall match those of the principal structure. Refer to the building material requirements of the associated building type.~~
6. ~~Character. AHU buildings shall be compatible with the color and character of the primary structure on the lot.~~
7. ~~Maximum Lot Coverage. The lot coverage of all accessory structures on a lot, including an AHU building, may not exceed 576 square feet or 25% of the rear yard, whichever is greater.~~
8. ~~Parking. One additional off-street parking space must be provided per AHU.~~

Article 12. DEFINITIONS

.....

135-12.21 Terms Beginning with "S"

Single housekeeping unit: an interactive group of persons with established ties and familiarity with each other, jointly occupying a single household, including joint access to and use of all common areas including living, kitchen and eating areas within the household unit, and sharing household activities and responsibilities such as chores, expenses, meals and maintenance.

Residence in the household is fairly stable as opposed to transient and members of the household have some control over who becomes a member of the household. Factors that a residence is not operating as a single housekeeping unit may include, but are not limited to: the residents do not share a lease agreement or ownership of the property; members of the household have separate, private entrances from other members; members of the household have separate food storage facilities, such as separate refrigerators.

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

FORM APPROVED:

/s/ Chas M. Cahill

Chas M. Cahill

Assistant City Attorney