

ORDINANCE NO. 15,865

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 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 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 section 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

T. M. Franklin Cownie, Mayor

Attest: I, P. Kay Cmelik, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 20-0282), passed by the City Council of said City at a meeting held February 10, 2020 signed by the Mayor on February 10, 2020 and published and provided by law in the Business Record on February 28, 2020. Authorized by Publication Order No. 11058.

P. Kay Cmelik, City Clerk