

ORDINANCE NO. 1486

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to design review procedures, requirements, and guidelines, adopting design guidelines for the Downtown Neighborhood entitled the *Marina District Design Guidelines*; amending DMMC 18.27.050, 18.27.060, 18.58.020, and 18.58.090; adding new sections to chapters 18.16 DMMC and 18.18 DMMC; and codifying new sections to chapters 18.16 and 18.18 DMMC.

WHEREAS, the Growth Management Act requires, among other things, that "cities...take action to review and, if needed, revise their **comprehensive plans** and development regulations (*emphasis added*) to ensure the plan and regulations comply with the requirements of this chapter...Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan," and

WHEREAS, on January 22, 2009, City Council adopted a vision for the Downtown Neighborhood, also known as the 'Marina District', and a mission statement that identified public actions to make that vision a reality, and

WHEREAS, the vision and mission statement clearly express the importance of design principles in creating and maintaining a sense of place and enhancing the economic vitality of the Marina District, and

WHEREAS, one of the recommended actions is to adopt design guidelines to be used in reviewing all new development and major renovations in the Downtown Neighborhood, and

WHEREAS, elements of the vision and mission statement for the Marina District were subsequently adopted into the Downtown Neighborhood Element of Des Moines Comprehensive Plan on November 12, 2009, and

WHEREAS, within the Marina District, the City Council desires that new construction and major redevelopment projects incorporate high-quality building materials and superior design elements and that promote a positive image for the neighborhood, and

WHEREAS, Des Moines' existing design review procedures and regulations do not fully implement the City Council's vision for the Marina District, and

WHEREAS, existing design review regulations that apply City-wide do not provide adequate assurance that new construction within the Downtown Neighborhood will contain high-quality building materials and superior design elements and will promote a positive image for the Marina District, and

WHEREAS, design review processes and design guidelines are land use regulations commonly used by municipalities throughout Washington state, and

WHEREAS, the *Marina District Design Guidelines* implement the Des Moines Comprehensive Plan by clearly and articulately communicating the City's preferences relating to site planning, height, bulk and scale, architectural elements and materials, pedestrian environment, landscaping and signs, and will

facilitate the City's review and approval of development proposals within the Downtown Neighborhood, and

WHEREAS, on October 1, 2009, City Council remanded review of the draft *Marina District Design Guidelines* to the Des Moines Planning Agency, and

WHEREAS, the Planning Agency has met ten (10) times to discuss the draft *Marina District Design Guidelines* and provided changes to the document, and

WHEREAS, the Planning Agency held an open house on March 22, 2010 to provide an opportunity for the public to review and comment on the draft design guidelines, and

WHEREAS, the Planning Agency briefed City Council of its progress and recommendations on January 28, 2010 and May 6, 2010, and

WHEREAS, notice of the public hearing before the City Council was given to the public in accordance with law and a public hearing was held on the 24th day of June 2010, and all persons wishing to be heard were heard, and

WHEREAS, the Des Moines Planning, Building and Public Works Director acting as the SEPA responsible official issued a determination of nonsignificance (DNS) on the 17th day of May 2010 and the accompanying comment and appeal periods have lapsed, and

WHEREAS, proper and timely notice was given to the Washington State Department of Commerce of these amendments as required by RCW 36.70A, and

WHEREAS, the City Council finds that the amendments contained in this ordinance are appropriate and necessary for the preservation of the public health, safety and welfare; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. Adoption by reference.

(1) The *Marina District Design Guidelines* attached to this ordinance as Exhibit "A", as presently constituted or as may be subsequently amended, is hereby adopted by reference as though fully set forth in this ordinance.

(2) Not less than one (1) copy of the *Marina District Design Guidelines* is filed in the office of the City Clerk and is available for use and examination by the public.

Sec. 2. A new section is hereby added to chapter 18.16 DMMC to read as follows:

General design requirements. All new development and significant redevelopment proposals within the RM-900 zone in the Downtown Neighborhood, as delineated in the Des Moines Comprehensive Plan, shall demonstrate substantial compliance, as

determined by the planning official, with the adopted 'Marina District Design Guidelines.' The guidelines address design issues related to site planning; height, bulk and scale; architectural elements and materials; pedestrian environment; landscape design; and signs. The guidelines provide objectives and techniques for ensuring that new construction provides lasting benefit to the community; minimizes incompatibility among land uses; and promotes economic investment in the Downtown Neighborhood.

Sec. 3. A new section is hereby added to chapter 18.18 DMMC to read as follows:

General design requirements. All new development and significant redevelopment proposals within the RM-900A zone in the Downtown Neighborhood, as delineated in the Des Moines Comprehensive Plan, shall demonstrate substantial compliance, with the adopted *Marina District Design Guidelines*.

Sec. 4. DMMC 18.27.050 and section 5 of Ordinance No. 1104 as amended by section 3 of Ordinance No. 1237 as amended by section 1 of Ordinance No. 1427 as amended by section 2 of Ordinance No. 1439 are each amended to read as follows:

General site design requirements. All new development and significant redevelopment proposals within the D-C zone shall demonstrate substantial compliance, as determined by the planning official, with the adopted *Marina District Design Guidelines* and shall conform to the following site design requirements:

(1) Walkways. Paved pedestrian walkways shall be provided on-site on newly developed properties or materially remodeled, enlarged, or repaired to the extent of 50 percent of the market value as specified below:

(a) Pedestrian walkways shall be provided at or around building(s) of sufficient extent to provide safe pedestrian passage. A minimum six-foot walkway shall be provided adjacent to the principal building entrance(s);

(b) A minimum six-foot pedestrian walkway shall be provided that connects walkways at the building to the street sidewalks. Where no street sidewalk exists, the connecting walkway shall extend to the public right-of-way;

(c) Walkways and sidewalks shall be differentiated from vehicular circulation or vehicular parking areas as approved by the community development director;

(d) Walkways shall conform with all applicable provisions of Chapter 51-10 WAC -

Barrier-free facilities, as presently constituted or as may be subsequently amended; and

(e) Lighting shall be provided where stairs, curbs, ramps, or abrupt changes in walkway direction occur.

(2) Parking and loading areas. All uses shall conform to the off-street parking provisions and loading area provisions set forth by chapter 18.44 DMMC.

(3) Vehicular access and other right-of-way improvements. There shall be no customer/employee vehicular access to 8th Avenue South between South 223rd Street and South 227th Street from commercial properties. Vehicular access and other right-of-way improvements shall otherwise conform to the provisions of Title 12 DMMC.

(4) Uses within the right-of-way. Sidewalk cafes, vendors, and similar temporary commercial uses within the public right-of-way shall conform to the provisions of Title 12 DMMC and the following provisions:

(a) A minimum of six feet (6') of unobstructed sidewalk shall be maintained;

(b) The applicant shall demonstrate proof of public liability insurance and consent to a public place indemnity agreement;

(c) The duration of right-of-way use permits for commercial purposes shall be limited to one year; applicants may reapply for right-of-way use permits;

(d) Sale or consumption of alcoholic beverages is prohibited;

(e) Applications for right-of-way use permits for commercial purposes shall include the following information:

(i) Proposed items to be placed within the right-of-way, such as seating, tables, fencing, vending carts, etc.;

(ii) Proposed activities to occur within the right-of-way, such as dining, amplification of music, preparation and sale of food or beverage items, etc.;

(iii) Proposed periods of operation, including months of the year, days of the week, hours, etc., and

(iv) Proposed source(s) of utilities such as electrical power;

(f) Applicants must immediately clear the public right-of-way when ordered to do so by city authorities for reasons of public health or safety; and

(g) In reviewing a proposed use within the public right-of-way, the community development director may include conditions as may be reasonably needed to ensure that the use is consistent with the purpose of the D-C zone, and to minimize the likelihood of adverse impacts. The community development director shall deny the request if it is determined that adverse impacts cannot be mitigated satisfactorily.

(5) Landscaping. All uses shall conform to the landscaping and screening provisions set forth by chapter 18.41 DMMC.

(6) Outdoor uses. Outdoor activities such as sales, display, storage, dining, etc., shall not obstruct vehicular or pedestrian visibility or movement.

Sec. 5. DMMC 18.27.060 and section 6 of Ordinance No. 1104 as amended by section 3 of Ordinance No. 1237 are each amended to read as follows:

General building design requirements.

All new development and significant redevelopment proposals within the D-C zone shall demonstrate substantial compliance, as determined by the planning official, with the adopted *Marina District Design Guidelines* and shall conform to the following building design requirements:

(1) Structural encroachments into the right-of-way, such as cornices, signs, eaves, sills, awnings, bay windows, balconies, facade treatment, marquees, etc. shall conform to the provisions set forth by Title 12 DMMC, the Uniform Building Code, and the following provisions:

(a) Structural encroachments into the right-of-way shall be capable of being removed without impact upon the structural integrity of the primary building;

(b) Structural encroachments into the right-of-way shall not result in additional building floor area than would otherwise be allowed;

(c) Except for awnings, signs, and marquees, the maximum horizontal encroachment into the right-of-way shall be two feet;

(d) The maximum horizontal encroachment in the right-of-way by signs shall be four feet;

(e) The maximum horizontal encroachment in the right-of-way by awnings and marquees shall be six feet;

(f) The minimum horizontal distance between the structural encroachment and the curbline shall be two feet;

(g) Except for awnings over the public sidewalk which may be continuous, the maximum length of each balcony, bay window, or similar feature that encroaches the right-of-way shall be 12 feet;

(h) The applicant shall demonstrate proof of public liability insurance and consent to a public place indemnity agreement;

(i) Owners of structural encroachments into the right-of-way must clear the public right-of-way when ordered to do so by city authorities for reasons of public health or safety; and

(j) In reviewing a proposed structural encroachment into the public right-of-way, the community development director may include conditions as may be reasonably needed to ensure that the structure is consistent with the purpose of the D-C zone, and to minimize the likelihood of adverse impacts. The community development director shall deny the request if it is determined that adverse impacts cannot be mitigated satisfactorily.

(2) Pedestrian entrances to non-residential uses at street level shall conform to all applicable provisions of chapter 51-10 WAC - Barrier-free facilities, as presently constituted or as may be subsequently amended.

(3) The width of all floors above the second level floor shall not exceed 80 percent (80%) of the width of the street level floor.

Sec. 6. DMMC 18.58.020 formerly 2.32.020 and section 1 of Ordinance 474 as amended by section 2 (8)(part) of Ordinance No. 1135 as amended by section 98 of Ordinance No. 1174 as amended by section 2 of Ordinance No. 1268 are each amended to read as follows:

Intent and purpose. These regulations are adopted for the following purposes:

(1) To promote the public health, safety, and general welfare of the citizens of the city;

(2) To recognize that land use regulations aimed at the orderliness of community growth, the protection and enhancement of property values, the minimization of discordant and unsightly surroundings, the avoidance of inappropriateness and poor quality of design and other environmental and aesthetic objectives provide not only for the health, safety, and general welfare of the citizens, but also for their comfort and prosperity and the beauty and balance of the community, and as such, are the proper and necessary concerns of local government;

(3) To protect, preserve, and enhance the social, cultural, economic, environmental, aesthetic, and natural values that have established the desirable quality and unique character of Des Moines;

(4) To promote and enhance construction and maintenance practices that will tend to promote visual quality throughout Des Moines;

(5) To recognize environmental and aesthetic design as an integral part of the planning process; and

(6) To implement adopted land use policies and regulations, including the ~~Greater~~ Des Moines Comprehensive Plan, *Marina District Design Guidelines*, Pacific Ridge Neighborhood Improvement Plan, and Pacific Ridge Design Guidelines.

Sec. 7. DMMC 18.58.090 formerly 2.32.090 and section 9 of Ordinance No. 474 as amended by section 2(8)(part) of Ordinance No. 1135 as amended by section 98 of Ordinance No. 1174 as amended by section 2 of Ordinance No. 1268 are each amended to read as follows:

Criteria. Decisions to approve, conditionally approve, or deny a design review application shall be based on the following criteria:

(1) **Relationship to building site.**

(a) The site should be planned to accomplish the desirable transition with the streetscape, provide for adequate planting, and to facilitate pedestrian movement.

(b) Parking and service areas shall be located, designed, and screened from public view.

(c) The height and scale of each building should be compatible with its site and adjoining buildings.

(2) Relationship of building and site to adjoining area.

(a) Buildings and structures should be made compatible with adjacent buildings of conflicting architectural styles by such means as screens, sight breaks, and materials.

(b) Harmony in texture, lines, and masses should be encouraged.

(c) Attractive landscape transition to adjoining properties should be provided.

(3) Landscape and site treatment.

(a) Where existing topographic patterns contribute to beauty and utility of a development, they should be preserved and developed.

(b) Grades of walks, parking spaces, terraces, other paved areas, and large expanse of walls should provide an inviting and stable appearance.

(c) Landscape treatment should enhance architectural features, strengthen vistas and important axes, and provide shade.

(d) In locations where plants will be susceptible to injury by pedestrian or motor traffic, they should be protected by appropriate curbs, tree guards, or other devices.

(e) Where building sites limit planting, the placement of trees or shrubs in parkways or paved areas is encouraged.

(f) Screening of service yards and other places which tend to be unsightly should be accomplished by use of walls, fencing, planting, or combinations of these. Screening should be effective in winter and summer.

(g) In areas where general planting will not prosper, other materials such as fences, walls, and pavings of wood, brick, stone, gravel, etc. should be used.

(h) Exterior lighting, when used, should enhance the building design and the adjoining landscape. Lighting standards and fixtures should be of a design and size compatible with the building and adjacent areas. Lighting

should be shielded and restrained in design. Excessive brightness and brilliant colors should be avoided.

(4) **Building design.**

(a) Evaluation of a project shall be based on the quality of its design and relationship to the natural setting of its surroundings.

(b) Building components, such as windows, doors, eaves, and parapets, should be proportionate and relative to each other.

(c) Colors should be harmonious, with bright or brilliant colors used only for accent.

(d) Design attention should be given to mechanical equipment or other utility hardware on roofs, grounds, or buildings to screen them from view.

(e) Exterior lighting, when used, shall be part of the architectural concept. Fixtures, standards, and all exposed accessories should be harmonious with the building design.

(f) Monotony of design in single or multiple building projects should be avoided. Variety of detail, form, and siting should be used to provide visual interest. In multiple building projects, variable siting of individual buildings maybe used to prevent a monotonous appearance.

(5) **Signs.**

(a) Signs shall conform to the ordinances of the City relative to signs.

(b) Signs should be part of the architectural concept. Size, materials, color, lettering, location, number, and arrangements should be harmonious with the building design.

(c) The number and size of signs should be minimized to avoid visual clutter.

(d) Colors shall be used harmoniously and with restraint. Excessive brightness and brilliant colors shall be avoided. Lighting should be harmonious with the design. If external spot or flood lighting is used, it should be arranged so that light source is shielded from view.

(6) **Miscellaneous structures and street furniture.**

(a) Miscellaneous structures and street furniture located on private property, public ways, and other public property should be designed to be part of the architectural concept of the design and landscape. Materials should be compatible with buildings. Scale should be appropriate. Colors should be in harmony with buildings and surroundings. Proportions should be to scale.

(b) Lighting in connection with miscellaneous structures and street furniture should meet the criteria applicable to site, landscape, buildings, and signs.

(7) In addition to the criteria above, properties within Pacific Ridge as delineated by the Des Moines Comprehensive Plan shall satisfy the purpose and intent of the Pacific Ridge design guidelines.

(8) In addition to the criteria above, properties within Downtown Neighborhood, as delineated by the Des Moines Comprehensive Plan, shall satisfy the purpose and intent of the *Marina District Design Guidelines*.

Sec. 8. Codification.

(1) Section 2 of this ordinance shall be codified as a new section in chapters 18.16 DMMC.

(2) Section 3 of this ordinance shall be codified as a new section in chapter 18.18 DMMC.

Sec. 9. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this ordinance is deemed to control.

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Sec. 10. Effective date. This ordinance shall take effect and be in full force thirty (30) days after its passage, approval, and publication in accordance with law.

PASSED BY the City Council of the City of Des Moines this 29th day of July, 2010 and signed in authentication thereof this 29th day of July, 2010.



M A Y O R

APPROVED AS TO FORM:



City Attorney

ATTEST:



City Clerk

Published: August 6, 2010

Effective Date: August 28, 2010

LEGAL NOTICE
SUMMARY OF ADOPTED ORDINANCE
CITY OF DES MOINES

ORDINANCE NO. 1486, Adopted July 29, 2010.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This ordinance relates to design review procedures, requirements, and guidelines, adopts design guidelines for the Downtown Neighborhood entitled the *Marina District Design Guidelines*; amends DMMC 18.27.050, 18.27.060, 18.58.020, and 18.58.090; adds and codifies new sections to chapters 18.16 DMMC and 18.18 DMMC.

The full text of the ordinance will be mailed without cost upon request.

Sandy Paul, CMC
City Clerk

Published: August 6, 2010