

ORDINANCE NO. 1426

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON, amending the SEPA notice requirements codified in DMMC 16.04.160.

**WHEREAS**, the City Council supports improvements to the existing noticing procedures to ensure that property owners surrounding proposed development activity are properly notified, and

**WHEREAS**, one of the primary justifications for the adoption of Chapter 43.21C RCW the State Environmental Policy Act (hereinafter "SEPA) and implemented by Chapter 197-11 WAC was to ensure that concerned individuals and private organizations can be involved in governmental decisions in order to: (a) foster and promote the general welfare; (b) to create and maintain conditions under which man and nature can exist in productive harmony; and (c) fulfill the social, economic, and other requirements of present and future generations of citizens, and

**WHEREAS**, the Des Moines Municipal Code utilizes that SEPA noticing procedures established in DMMC 16.04.160 for all land use-related public noticing, and

**WHEREAS**, promoting citizen involvement is also established by Policy 1-03-04 of the Planning Element of the Des Moines Comprehensive Plan, and

**WHEREAS**, Policy 1-03-04 is envisioned to be implemented by encouraging citizen involvement through the SEPA public noticing and comment periods as established by Strategy 1-04-02 of the Planning Element of the Des Moines Comprehensive Plan, and

**WHEREAS**, the City Council desires to ensure that a notice mailed to an affected property owner is delivered to the owner's official mailing address, and

**WHEREAS**, public notification and public comment periods are important to the City of Des Moines review of proposed development projects, and

**WHEREAS**, pursuant to DMMC 18.56.080 amendment of the environment code (Title 16 DMMC) is a legislative (Type V) land use decision, and

**WHEREAS**, adoption of SEPA procedures is categorically exempt from SEPA pursuant to WAC 197-11-800(19) and DMMC 16.04.230, and

**WHEREAS**, notice of the public hearing was given to the public in accordance with law and a public hearing was held on the 11<sup>th</sup> day of October 2007, and all persons wishing to be heard were heard, and

**WHEREAS**, the City Council finds that the amendments contained in this ordinance are appropriate and necessary; now therefore,

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

**Sec. 1.** DMMC 16.04.160 and section 5(B)(part) of Ordinance No. 599 as amended by section 1(part) of Ordinance No. 766 are each amended as follows:

**Public notice procedure - Notice of DNS, mitigated DNS, or DS.** Whenever the City issues a DNS under WAC 197-11-340(2), a mitigated DNS under WAC 197-11-350(3), or a DS under WAC 197-11-360(3) the public notice of these actions shall be given as follows:

(1) Signs Required for Site-specific Proposals. Applicants shall post one or more large signs on the subject property giving public notice of a proposed action as set forth in this subsection.

(a) Size. All signs shall be four feet by eight feet in size.

(i) Single-family Residential Zone. All signs shall be two feet by four feet in size.

(ii) All Other Zones. All signs shall be four feet by eight feet in size.

(b) Number of Signs. One public notice sign shall be required per street frontage. In case of large parcels or street frontages exceeding 500 feet, the SEPA official may require the posting of additional signs.

(c) Location. Signs shall be located on the site of the proposed action, set back at least 10 feet from a public right-of-way or private road or easement as applicable, and shall be situated to maximize readability by the public from public rights-of-way. A sign may be located within the 10-foot setback, if determined necessary by the SEPA official to provide adequate visibility.

(d) Duration of Installation. Public notification signs shall be installed at the time the DNS, mitigated DNS, or DS is issued. Signage shall remain in place until the final decision on the underlying governmental action. Any required signage installed shall not be removed until the City has taken action on the application and the time for filing an appeal of that action has expired. If an application is denied, any required signage shall remain in place unless the applicant has informed the SEPA official, in writing, of their intent not to appeal.

(e) Alternative Signage.

(i) Finding of Necessity. Upon a finding of necessity by the SEPA official, the applicant may employ an alternative to the large sign requirement. Ten signs of a dimension of 11 inches by 17 inches may be posted within 300 feet of the site and at the closest street intersections, subject to the consent of any affected property owner, when one or more of the following conditions exist and the intent of this section is met:

(A) The applicant is not the property owner, and the property owner does not consent to the proposal.

(B) The site is subject to physical characteristics such as steep slopes, wetlands, submerged lands, or thick vegetation, or is located such that the large sign would not be highly visible to neighboring residents and property owners or interested citizens.

(ii) Small Sign Discretion. The SEPA official is further granted discretion to permit one or more signs of a dimension of 11 inches by 17 inches as an alternative to the large sign requirement when the following conditions exist and the intent of this section is met:

(A) Where in the opinion of the SEPA official, the project is of a substantially minor nature; and

(B) In the opinion of the SEPA official, adequate public notice would be rendered by employment of one or more signs of a dimension of 11 inches by 17 inches as an alternative to the large sign requirement.

(f) Additional Signage May Be Required. The SEPA official may require both large signs and the alternative posting measures described in subsection (1)(e) of this section, or may require that more than one large sign be posted, when necessary to assure that notice is clearly visible to the public.

(g) Affidavit of Certification - Signage. The applicant shall file an affidavit of certification-signage with the SEPA official stating that the signs as required by this subsection were installed on the subject property. The affidavit shall be in a form prescribed by the SEPA official. The affidavit of certification-signage shall be filed not less than 14 days prior to either the date of any scheduled hearing or the date by which the public may submit comments on

the application whichever is sooner. If the affidavit is not filed as required in this subsection, any scheduled hearing, or date by which the public may comment on the application, shall be postponed or extended in order to comply with this section.

(h) Removal of Signs. In any event, any required signage must be removed by the applicant within seven days following the last day that an appeal of the action could be filed. If not so removed by the applicant, any required signage shall be removed by the City at applicant's expense. By filing an application subject to the provisions of this subsection, the applicant consents to City personnel going upon the applicant's property for the purpose of removing any signage required by this section.

(i) Cash Deposit. The amount of \$100.00 shall be deposited by the applicant upon filing of any of the applications specified in this section to assure removal of any required signage in accordance with this subsection. This deposit shall be refunded if signs are timely removed in accordance with this subsection. If signs are not so removed, such deposit shall be forfeited to the City and shall be used to cover the expenses of removal by the City.

(j) Sign code exemption. Any required signage is exempt from the requirements of the sign code, chapter 18.42 DMMC.

(k) Design requirements. The SEPA official shall specify detailed design requirements for any required signage, including materials, stroke width, lettering, color, format, and other design characteristics.

(2) Bulletin boards. Notice shall be posted by the City at the official City posting places and on the indoor bulletin boards at the City planning, engineering, and public works building.

(3) Interested groups. The City shall notify in writing public agencies, private groups, or individuals who have expressed interest in a certain project.

(4) Newspaper. Notice shall be published in the official City newspaper.

(5) Property owners and occupants/tenants. For site-specific proposals, the City shall notify in writing all property owners and occupants/tenants within a 300-foot radius of the exterior boundaries of the subject property of the project proposal. If any portion of an apartment

or condominium complex lies within the 300-foot radius, all occupants/ tenants and property owners shall be given public notice. The applicant shall provide the SEPA official with a complete list of the names, parcel numbers, and tax payer's mailing addresses as shown in the records of the King County Assessor to within 45 days of initial application submittal of all such properties and mailing address for all occupants/tenants, certifying the same as a full and complete list under penalty of perjury. Occupants/tenants shall be addressed as "Occupant/Tenant" and by unit in a multiple-unit building but need not be identified by name. Property owners shall be identified by name. The form and wording of the written notice shall be prescribed by the SEPA official. The mailing labels submitted to the City shall only be valid for 180 days from the date of notification of complete application issued by the City as required by DMMC 18.56. Once the 180 days has passed the applicant shall be required to submit new mailing labels based on the records the King County Assessor at that time. The SEPA official shall provide the applicant with City envelopes. Thereafter, it shall be the responsibility of the applicant to insert the written notices, and address envelopes with the correct mailing address, stamp, and seal the envelopes and return them to the SEPA official. The applicant shall be responsible for payment of all costs connected with such notice, including, but not limited to postage, envelopes, letterhead, and notice reproduction.

The SEPA official shall be responsible for taking the written notices to the post office for delivery.

**Sec. 2. 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. 3. 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 14th day of February, 2008 and signed in authentication thereof this 14th day of February, 2008.



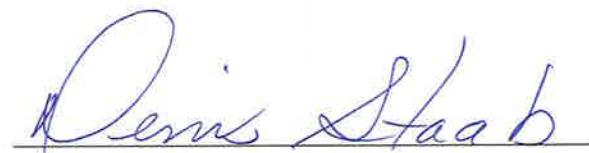
M A Y O R

APPROVED AS TO FORM:



City Attorney

ATTEST:



City Clerk

Published: February 20, 2008

Effective Date: March 15, 2008

LEGAL NOTICE  
SUMMARY OF ADOPTED ORDINANCE  
CITY OF DES MOINES

ORDINANCE NO. 1426, Adopted February 14, 2008.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This ordinance amends the SEPA notice requirements codified in DMMC 16.04.160.

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

Denis Staab  
City Clerk

Published: February 20, 2008