

**ORDINANCE NO. 1440**

**AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON** relating to zoning, rescinding Ordinance No. 1401, re-enacting Ordinance No. 715 adopting the Des Moines Shoreline Master Program on October 15, 1987, amending DMMC 18.90.010, and declaring an emergency.

**WHEREAS**, the State Legislature enacted the Shoreline Management Act requiring cities and counties throughout the state to adopt and amend from time to time Shoreline Master Programs, and

**WHEREAS**, the Des Moines Planning Agency recommended that the City Council approve a draft update to the City's Shoreline Master Program (SMP) after receiving public testimony at a public hearing conducted on November 21, 2005, and

**WHEREAS**, on February 23, 2006, after considering recommendations by City staff, the Planning Agency, and public testimony at a segmented public hearing over the course of three public meetings, the City Council approved a draft update of the SMP and directed staff to forward it to the Department of Ecology (DOE) for its review, and

**WHEREAS**, DOE concluded its review on June 30, 2006 and determined that the City of Des Moines draft update of the SMP required changes in order to comply with Chapter 90.58 RCW, the Shoreline Management Act of 1971 and the SMP guidelines (WAC 173-26, Part III), and

**WHEREAS**, the City was delayed in responding to review comments by DOE by five months due to the fact that funding for the SMP update was not renewed by the State for the 2006-2007 fiscal year until December 2006, and

**WHEREAS**, revisions and edits to the draft SMP in response to comments by DOE were reviewed in three meetings by the City Council Environment Committee in February and March 2007, and

**WHEREAS**, the City Council Environment Committee recommended on March 22, 2007 that the revisions to the draft SMP be reviewed by the full Des Moines City Council at future hearing scheduled on April 26, 2007, and

**WHEREAS**, pursuant to RCW 36.70A.106, the City of Des Moines notified the Washington State Department of Community Trade and Economic Development (CTED) of the update to the SMP and CTED acknowledged receipt of this notice on February 22, 2007, and

**WHEREAS**, the draft update to the SMP was processed in accordance with the requirements of the State Environmental Policy Act (SEPA), a final determination of non-significance was issued on March 1, 2007 by the responsible official, and the appropriate comment period expired on March 16, 2007 without comment, and the appeal period concluded on March 26, 2007, and

**WHEREAS**, notice of the April 26, 2007 public hearing was given to the public in accordance with the law and a public

hearing was held on the 26th day of April, 2007 and all persons wishing to be heard were heard, and

**WHEREAS**, the City Council adopted the updated policies and regulations set forth in the SMP update attached as "Exhibit A" to Ordinance No. 1401 on April 26, 2007, and

**WHEREAS**, on January 31, 2008, the City received notice from DOE that it had denied the City's Shoreline Master Program, and

**WHEREAS**, due to DOE's denial of the Des Moines Shoreline Master Program approved by the City Council on April 26, 2007 through Ordinance No. 1401, the City Council now finds it necessary to rescind Ordinance No. 1401 and re-enact Ordinance No. 715 adopting the 1987 version of the Des Moines Shoreline Master Program, and

**WHEREAS** the City Council finds that passage of this ordinance constitutes an emergency affecting protection of public safety and public property; now therefore,

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

**Sec. 1. Rescinded.** Ordinance No. 1401 is hereby rescinded.

**Sec. 2. Re-enacted.** Section 1 of Ordinance No. 715, by rescission of Ordinance No. 1401 which amended section 1 of Ordinance No. 715, is hereby re-enacted.

**Sec. 3. Amended.** DMMC 18.90.010 is amended to read as follows:

**Adopted by reference.** The attached document, consisting of 90 pages, entitled Des Moines Shoreline Master Program, is hereby adopted as the official Shoreline Master Program for the City of Des Moines.

**Sec. 4. Emergency declared.** This ordinance is necessary for protection of public safety and public property. An emergency is declared requiring the immediate response of the City through adoption of this public emergency ordinance.

**Sec. 5. 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.

**Sec. 6. Effective date of public emergency ordinance.**  
This ordinance shall take effect and be in full force immediately upon adoption as a public emergency ordinance by a majority plus one of the whole membership of the Des Moines City Council.

**PASSED BY** the City Council of the City of Des Moines this 23rd day of October, 2008 and signed in authentication thereof this 23 day of October, 2008.

  
M A Y O R

APPROVED AS TO FORM:

  
City Attorney

ATTEST:

  
City Clerk

Published: October 29, 2008

LEGAL NOTICE

SUMMARY OF ADOPTED ORDINANCE

CITY OF DES MOINES

ORDINANCE NO. 1440, Adopted October 23, 2008.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This ordinance relates to zoning; rescinds Ordinance No. 1401; re-enacts Ordinance No. 715 adopting the Des Moines Shoreline Master Program on October 15, 1987; amends DMMC 18.90.010; and declares an emergency.

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

Denis Staab  
City Clerk

Published: October 29, 2008