

ORDINANCE NO. 1536

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON amending DMMC 17.36.150 relating to park requirements for subdivisions and short plats within the City of Des Moines.

WHEREAS, the City of Des Moines has adopted DMMC 17.36.150 to ensure subdivisions and shorts plats provide appropriate provisions for parks space as required RCW 58.17.110(2), and

WHEREAS, such park requirements have been in effect since 1992 without modification, and

WHEREAS, changes in state law and case law have called into question the legality and enforceability of certain provisions relate to the City's methodology for collecting park in-lieu fees, and

WHEREAS, clear and predictable development regulations to encourage efficient permitting is a planning goal established by the Growth Management Act (Chapter 36.70A RCW), and

WHEREAS, the Des Moines Planning Agency at its January 9, 2012 regular meeting recommended that the City Council amend the park in-lieu provisions of the City Subdivision Code, DMMC 17.36.150, and

WHEREAS, the Finance and Economic Development Committee has determined that modifications to the City's park in-lieu provisions are required to facilities economic growth within the City, and

WHEREAS, notice of the public hearing was given to the public pursuant to DMMC 17.44.030, and

WHEREAS, such public hearing was held on February 23, 2012 and all persons wishing to be heard were heard, and

WHEREAS, the City Council finds that the recommended amendments to DMMC 17.36.150 are appropriate to provide a clear, concise, and legal method of enforcing the park in-lieu requirements needed to promote the health and welfare of the citizens; now therefore,

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

Sec. 1. Findings of fact. The findings of fact and conclusions set forth in Exhibit 1, attached hereto and incorporated by this reference, are adopted in full by the City Council in support of its decision to amend the park in-lieu requirements for new subdivisions and short plats.

Sec. 2. DMMC 17.36.150 and section 67 of Ordinance No. 931 is amended to read as follows:

Parks.

(1) General Obligation. Proposed residential subdivisions shall either provide a minimum of 778 square feet of park area per lot consistent with the requirements of DMMC 17.36.150(2) - DMMC 17.36.150(4) or make an in-lieu fee payment consistent with the requirements of DMMC 17.36.150(5) in order to comply with the level of service standard of 6.5 acres of park land per 1,000 population established in the City of Des Moines 2010 Parks, Recreation and Senior Services Master Plan, Section 2.3.

(2) Criteria for City Acceptance of a Mini-Park. Applicants proposing to develop a Mini-Park in order to fulfill the general obligation to provide appropriate provisions for parks and playgrounds as established in DMMC 17.36.150(1) of this section shall comply with the following criteria:

(a) Use/Description: The proposed Mini-Park shall be designed and improved as play space for toddlers and young children to serve the basic needs of the neighborhood.

(b) The amenities within the Mini-Park shall include sand play areas, play apparatus, play equipment, picnic area, sports courts, and sanitation accommodations.

(c) Size: The proposed Mini-Park shall be a minimum of 0.5 acres.

(3) Tracts Required. Recreational areas shall be located in a separate tract which shall be deeded to the City.

(4) Lot Area. The area of the Mini-Park tract shall not be included in the compilation of lot area for any lot.

(5) Payment in Lieu of Mini-Park Development. If the land proposed to be developed as a Mini-Park does not meet the criteria established in DMMC 17.36.150(2) then , the applicant shall make an in-lieu cash payment to the City which shall be deposited into the City's MCI Fund. The in-lieu amount shall be based on the following formula:

Total Number of Existing Residential Units equals
(=) W

Total Number of Lots within the subdivision equals
(=) X

Total site area of the proposed subdivision equals
(=) Y

Total appraised value of all property within the proposed subdivision as determined by the King County Assessor's website at the time of approval of the final plat documents equals (=) Z

In-lieu Fee equals (=) Z multiplied by (((X-W) multiplied by 778 square feet)) divided by Y).

Sec. 3. 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.

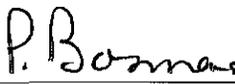
(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this Ordinance is deemed to control.

Sec. 4. 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 12th day of April, 2012 and signed in authentication thereof this 12th day of April, 2012.


MAYOR

APPROVED AS TO FORM:



City Attorney

ATTEST:



City Clerk

Effective Date: May 12, 2012

Published: April 18, 2012

LEGAL NOTICE
SUMMARY OF ADOPTED ORDINANCE
CITY OF DES MOINES

ORDINANCE NO. 1536, Adopted April 12, 2012.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This ordinance amends DMMC 17.36.150 relating to park requirements for subdivisions and short plats within the City of Des Moines.

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

Sandy Paul, CMC
City Clerk

Published: April 18, 2012

EXHIBIT 1 TO ORDINANCE NO. 1536

FINDINGS of FACT

1. The City must ensure that all subdivisions provide appropriate provisions for open spaces, parks, recreation, and playgrounds pursuant to RCW 58.17.110(2).
2. When draft development regulations "appropriate provisions" should be defined in a manner consistent with the City's adopted level of service ("LOS") standards related to the underlying provision pursuant to WAC 365-196-820(4).
3. All subdivisions must provide adequate provisions for open spaces, parks and playgrounds pursuant to DMMC 17.16.130(2)(c).
4. All short plats must provide adequate provisions for open spaces, parks and playgrounds pursuant to DMMC 17.12.110(3).
5. The City's adopted Level of Service Standard for Park Space is 6.5 acres per 1,000 people or 283 square feet per person (sf/person) pursuant to the *City of Des Moines 2010 Parks, Recreation, and Senior Services Master Plan* adopted November 5, 2009 and Goal 6-01-06 of the Recreational Element of the *Des Moines Comprehensive Plan*.
6. Within the City of Des Moines 2.75 individuals reside in each single family residential homes pursuant to the Office of Financial Management's *Official Base 2000 Population and Housing by Structure Type and Group Quarters Used for the Development of Population Estimates*, Revised July 2011, Table 2.
7. The amount park in-lieu is based on the value of the total amount of land needed to provide 778 square feet of park space as established by the appraised land value determined by the King County Assessor.
8. The General Planning Element of the *Des Moines Comprehensive Plan*, Strategy 1-03-02 states that the City should, "[U]tilize the Comprehensive Plan as the policy basis for preparing neighborhood plans, establishing development regulations, prioritizing capital improvement

construction, reviewing individual development proposals and making other decisions affecting the growth and development of Des Moines and the surrounding area.

9. The General Planning Element of the *Des Moines Comprehensive Plan*, Strategy 1-04-03(2) states that the City should "review and amend as appropriate the Zoning Code, Subdivision Code and other development regulations to establish development standards that are clear and predictable, that simplify the review process, and adapt to varied site or neighborhood conditions.
10. The General Planning Element of the *Des Moines Comprehensive Plan*, Strategy 1-04-03(2) states that the City should, "[C]onsistently and equitably enforce development standards. If such enforcement is not possible, re-evaluate the standards and amend them to be more precisely defined.
11. The Land Use Element of the *Des Moines Comprehensive Plan*, Policy 2-03-03 states that the City should, "[E]nsure that future development has adequate public facilities and services or such services can be concurrently provided.
12. The Land Use Element of the *Des Moines Comprehensive Plan*, Strategy 2-04-16 states that the City should "[R]equire that new development maintain and enhance on-site open spaces, and provide on-site recreation facilities in new subdivisions and multifamily developments or pay appropriate in-lieu fees as required by the DMMC.
13. The Land Use Element of the *Des Moines Comprehensive Plan*, Strategy 2-04-16 states that the City should, [E]stablish standards for new development to provide on- and off-site roadways, utilities and other public facilities as necessary to serve the additional demand generated by the development.

CONCLUSIONS

1. Based Findings of Fact 1 - 7, all subdivisions and short plats must provided 778 square feet of park space per lot or pay an in-lieu fee amount equal to the value of 778 square feet per lot in order to ensure that every subdivision and short plat provides appropriate provisions

for park space concurrently with the development of the associated housing.

2. Findings of Fact 1 - 13, implement the policies and strategies of the *Des Moines Comprehensive Plan* by establishing development regulations which ensure that public facilities are provided concurrently with development in a consistent and equitably manner.