

ORDINANCE NO. 1655

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to the Zoning Code and City land use and development regulations, and amending chapters 18.01, 18.10, 18.15, 18.20, 18.52, 18.55, 18.105, 18.140, 18.190, 18.195, 18.200, and 18.210 DMMC to correct omissions, errors, inconsistencies and to clarify City Council intent.

WHEREAS, the City Council directed City staff to prepare an ordinance for its consideration which corrects omissions, errors, inconsistencies and clarifies City Council intent, and

WHEREAS, every seven years, RCW 36.70A.130(1) requires the City of Des Moines to take legislative action to review and, if needed, revise its development regulations, and

WHEREAS, at the March 10, 2016 City Council Finance and Economic Development Committee meeting, staff presented an analysis of the City's development regulations currently in effect and proposed revisions needed to comply with chapter 36.70A RCW and to correct omissions, errors, inconsistencies and to clarify City Council intent, and

WHEREAS, the Planning, Building and Public Works Director, acting as the SEPA responsible official, reviewed this proposed non-project action and determined that the proposed textual code amendments result in no substantive changes respecting use or modification of the environment and are therefore categorically exempt from threshold determination and EIS requirements in accordance with WAC 197-11-800 (19) (b) and chapter 16.05 DMMC, and

WHEREAS, the City Council set the date for the public hearing by Resolution No. 1331, fixing the public hearing for July 7, 2016 as required by DMMC 18.30.070, and

WHEREAS, the textual code amendments proposed in this Draft Ordinance were provided to the Department of Commerce as required by RCW 36.70A.106, and

WHEREAS, notice of the public hearing was issued on June 20, 2016 in accordance with the DMMC, and

WHEREAS, a public hearing was held on July 7, 2016 where all persons wishing to be heard were heard, and

WHEREAS, the City Council finds that the Title 18 DMMC amendments contained in this Ordinance comply with the requirements of chapter 36.70A RCW and are appropriate and necessary; now therefore,

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

Sec. 1. DMMC 18.01.050, *Definitions*, and section 5 of Ordinance No. 1591, shall be amended to amend and add the following definitions:

...

"Accessory dwelling unit (ADU)" means a detached structure or an attached part of a structure that is subordinate and incidental to the main or primary dwelling unit. ADUs provide complete independent living facilities exclusive for one single housekeeping unit, including provisions for living, sleeping, cooking, and sanitation. References to "accessory living quarters" or "ALQs" throughout the DMMC shall mean "accessory dwelling units" or "ADUs" and may be used interchangeably.

...

"Basement" means that portion of a building having its floor subgrade below ground level on all sides as defined by the International Building Code.

...

"Building" means any structure having a roof, but excluding all forms of vehicles even though immobilized. When a use is required to be within a building, or where special authority granted pursuant to this Title requires that a use shall be within an entirely enclosed building, then the term "building" means one so designed and constructed that all exterior walls of the structure shall be solid from the ground to the roof line, and shall

contain no openings except for windows and doors which are designed so that they may be closed.

...

"Building site" means a parcel of land assigned to a use, to a main building, or to the main building and its accessory buildings, together with all yards and open spaces required by this title, whether the area so devoted is comprised of one lot, a combination of lots, or combination of lots and fractions of lots.

...

"Developable area" means the "site area" less the following areas:

(1) Areas within a project site that are required to be dedicated for public rights-of-way;

(2) Environmentally critical areas and their buffers to the extent they are required by the City to remain undeveloped;

(3) Areas required for storm water control facilities, including but not limited to retention/detention ponds/vaults, bio filtration swales and setbacks from such ponds and swales;

(4) Areas required by the City to be dedicated or reserved as on-site recreation areas;

(5) Other areas, excluding setbacks, required by the City to remain undeveloped.

...

"Grade" means the average of the finished ground level at the center of all exterior walls of a building. In case walls are parallel to or within five feet of a sidewalk, the sidewalk shall be considered the finished ground level.

...

"Grade, mean average street frontage" means the mathematical average of the highest and lowest elevations of the public right-of-way parallel to the building frontage. Mean average street frontage grade is a horizontal plane at a specific elevation.

...

"Home occupation" means an occupation customarily incident to the use of the premises as a dwelling place and not one in which the use of the premises as a dwelling place is largely incidental to the occupation carried on; provided, such occupation is carried on by a member of the family residing within the dwelling place.

...

"Housekeeping unit" means no more than three unrelated, or an unlimited number of individuals who are related. This definition does not limit the number of residents if the limit prevents the City from making reasonable accommodations to disabled persons to afford them equal opportunity to use and enjoy a dwelling as required by federal or state law.

...

"Kennel" means a place where four or more adult dogs or cats or any combination thereof are kept, whether by owners of the dogs and cats or by persons providing facilities and care, whether or not for compensation, but not including a small animal hospital or clinic. An adult dog or cat is one of either sex, altered or unaltered, that has reached the age of four months.

...

"Loading space" means an on-site space or berth on the same lot or site with the buildings or use served, such space to serve for the temporary parking of a vehicle while loading or unloading merchandise, materials, or passengers.

...

"Lot" means a building site that is described by reference to a recorded plat, by metes and bounds, or by section, township, and range which has direct legal access to a street or has access to a street over an easement approved by the City.

...

"Lot line":

(1) "Lot front line or front lot line" means in the case of an interior lot, a line separating the lot from the street; and in the case of a corner lot and reverse corner lot, the lot front line shall be the line separating the narrowest street frontage of the lot from the street. In case of corner lots or reverse corner lots having equivalent street frontages, that property line the prolongation of which creates the front property line for the greatest number of interior lots in the same block shall be considered as the lot front line of such corner or reverse corner lot.

(2) "Lot perimeter line or perimeter lot line" means a lot line constituting the boundary of a planned unit development or townhouse development.

(3) "Lot rear line or rear lot line" means a lot line which is opposite and most distant from the lot front line. For the purpose of establishing the lot rear line or a triangular or trapezoidal lot, or of a lot the rear line of which is formed by two or more lines, the following shall apply:

(a) For a triangular or gore-shaped lot, a line 10 feet in length with the lot and farthest removed from the lot front line and at right angles to the line comprising the depth of such lot shall be used as the lot rear line;

(b) In the case of a trapezoidal lot, the rear line of which is not parallel to the front line, the lot rear line shall be deemed to be a line at right angles to the line comprising the depth of such lot and drawn through a point bisecting the recorded lot rear line;

(c) In the case of a pentagonal lot the rear boundary of which includes an angle formed by two lines, such angles shall be employed for determining the lot rear line in the same manner as prescribed for a triangular lot.

(d) In no case shall the application of the above be interpreted as permitting a main building to locate closer than five feet to any property line.

(4) "Lot side line or side lot line" means any lot boundary line not a lot front line or a lot rear line.

...

"North American Industrial Classification System" (NAICS) means the current edition of the book North American Industrial Classification System as published on line by the U.S. Office of Management and Budget.

...

"Residence" means a building or structure, or portion thereof, which is designed for and used to provide a place of abode for human beings, but not including hotels or motel units having no kitchens. The term "residence" include the term "residential"

as referring to the type of or intended use of a building or structure.

...

"Roof" means a structural covering over any portion of a building or structure, including the projections beyond the walls or supports of the building or structure. An open work covering shall not be considered a roof if the upper horizontal surface area of the component solid portions thereof measured on the horizontal plane do not exceed 20 percent of the area of the covering.

...

"Side street" means a street which is adjacent to a corner lot or reverse corner lot and which extends in the general direction of the line determining the depth of the corner or reverse corner lot.

...

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above it, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused under floor space is more than six feet above grade, as defined above, or is more than 12 feet above grade at any point, such basement, cellar, or unused under floor space shall be considered a story.

"Street" means a public or recorded private thoroughfare which affords primary means of access to abutting property.

"Street line" means the boundary line between a street and the abutting property.

...

"Structure" means anything constructed in the ground, or anything erected which requires location on the ground or water, or is attached to something having location on or in the ground, but not including fences less than six feet in height, or paved areas.

...

"Yard" means an open space other than a court on a lot on which a building is situated, unoccupied and unobstructed from the ground upward unless specifically otherwise permitted in this Title.

"Yard - types and measurements".

(1) "Front yard" means an area extending across the full width of the lot and lying between the lot front line and a line drawn parallel thereto, and at a distance therefrom equal to the required front yard depth as prescribed in each zone. Front yards shall be measured by a line at right angles to the lot front line, or by the radial line or radial line extended in the case of a curved lot front line.

(2) "Side yard" means an open area measured from the lot side line toward the center of the lot and extending from the rear line of the required front yard, or from the lot front line if there is no required front yard, toward the lot rear line to a point measuring two-thirds of the depth of the lot, except that on the side street side of corner lots and reverse corner lots the required side yard shall extend to the rear line of the lot. The width of the side yard shall be measured horizontally from, and be parallel to the lot side line from which it is measured.

...

Sec. 2. DMMC 18.10.050, *Adoption of official zoning map*, and section 1 of Ordinance No. 179 as amended by section 1 of

Ordinance No. 1235 as amended by section 8 of Ordinance No. 1237 as amended by section 1 of Ordinance No. 1261 as amended by section 1 of Ordinance No. 1267 as amended by section 1 of Ordinance No. 1289 as amended by section 1 of Ordinance No. 1372 as amended by section 5 of Ordinance No. 1397 as amended by section 1 of Ordinance No. 1420 as amended by section 2 of Ordinance No. 1431 as amended by section 2 of Ordinance No. 1520 as amended by section 3 of Ordinance No. 1546 as amended by section 13 of Ordinance No. 1576 as amended by section 35 of Ordinance No. 1591 as amended by section 13 of Ordinance No. 1601 as amended by section 9 of Ordinance No. 1618-A are each amended to read as follows:

18.10.050 Adoption of official zoning map. The map filed in the City Clerk's office and marked Exhibit "A" to Ordinance No. 1655 and adopted July 7, 2016, constitutes the zoning map for the City. The map referenced herein supersedes all previously adopted maps. If the designations of the map are found to be in conflict with other land use designations, the map is deemed to control.

Sec. 3. DMMC 18.15.020, *Nonconforming Buildings and Uses, Application*, and section 38 of Ordinance No. 1591, are amended to read as follows:

18.15.020 Application.

(1) The foregoing regulations set forth in this Title shall be subject to the general provisions, conditions, and exceptions contained in this chapter.

(2) The provisions of this chapter shall apply to buildings, structures, land, and uses which become nonconforming as a result of the application of this Title to them, from classification or reclassification of the property under this Title or any subsequent amendments thereto, or from governmental acquisition of property for right-of-way expansion or essential public facility construction. If a use originally authorized by a variance, conditional use permit, or other valid use

permit prior to August 3, 1964, is located within a zone in which such use is not permitted by the terms of this Title, such use shall be a nonconforming use. Uses validly established prior to August 3, 1964, shall not be deemed nonconforming only because of failure to secure a conditional use permit required under this Title.

Sec. 4. DMMC 18.15.060, *Reconstruction of buildings partially destroyed or damaged*, and section 42 of Ordinance No. 1591, are each amended to read as follows:

18.15.060 Reconstruction of buildings partially destroyed or damaged.

(1) Except as provided in subsection (2) of this section, a nonconforming building damaged or partially destroyed by fire, explosion, or other casualty or act of God or the public enemy, may be restored within the pre-existing building footprint within the nonconforming portion of the site and the occupancy or use of such building or part thereof which existed at the time of such partial destruction or damage may be continued so long as the existing nonconformities are not being increased or expanded in any way and subject to all other provisions of this chapter.

(2) In a Single-Family Residential Zone, nonconforming single-family residential buildings partially destroyed by catastrophe or disaster such as fire, explosion, earthquake, flooding, etc., may be reconstructed as existed prior to the catastrophic event, subject to the following limitations:

(a) This subsection shall not apply to reconstruction voluntarily initiated by the property owner.

(b) The work must be vested by permit application within one (1) year of such happening and any restoration or reconstruction not vested by

permit application within twelve (12) months from the date of the fire or other casualty shall be deemed abandoned and not allowed to be restored.

(c) Reconstructed building height and lot coverage shall not exceed preexisting height and lot coverage or the provisions of this Title, whichever is greater.

(d) Reconstructed yard areas shall not be less than preexisting yards or the provisions of this Title, whichever is less.

(e) The City Manager or his designee may require minor upgrades to the rebuilt improvements that are intended to achieve a greater level of compliance with the site and design guidelines in this Title.

(f) When new building area is proposed in addition to partial reconstruction of a nonconforming building, the new building area shall conform to the provisions of this Title.

(g) Reconstructed building area shall conform to the requirements of Title 14 DMMC, Buildings and Construction.

Sec. 5. DMMC 18.20.060, *Land Use Review Procedures, Exempt actions*, and section 56 of Ordinance No. 1591, shall be amended to read as follows:

18.20.060 Exempt actions.

(1) As authorized by RCW 36.70B.140(1), the following land use actions are not subject to the provisions of RCW 36.70B.070, 36.70B.080, 36.70B.090, 36.70B.110, 36.70B.120, and 36.70B.130 because the City Council has determined that these projects present special circumstances that warrant a review process different from the process specified by this chapter:

(a) Business Park and Institutional Campus (I-C) master plans. (DMMC 18.105.050);

(b) Street vacations and other actions relating to use of public areas or facilities (Title 12 DMMC);

(c) Type VI land use actions (DMMC 18.20.210); and

(d) Abatement of nonconforming uses (DMMC 18.15.110).

(2) As authorized by RCW 36.70B.140(2), the following Type I land use actions shall not be subject to the provisions of RCW 36.70B.060, 36.70B.110, 36.70B.120, and 36.70B.130:

(a) Lot line adjustments (chapter 17.25 DMMC).

(b) Construction permits required under Title 14 DMMC that are categorically exempt from environmental review under chapter 16.05 DMMC, SEPA, or for which environmental review has been completed in conjunction with other project permits.

Sec. 6. DMMC 18.20.080, and those parts of section 58 of Ordinance No. 1591 and section 2 of Ordinance No. 1628 shown below, are each amended to read as follows:

18.20.080 Project review.

(1) Specific types of project approval are categorized as is set forth in 18.20.080A Project Review Chart below.

18.20.080A Project Review Chart

	Decision Maker	Applicable Code Section
Type I - Administrative land use decisions made without legal requirement for public comment	Planning, Building and Public Works Director	DMMC 18.20.150 and 18.20.160
Accessory dwelling unit (ADU) development permit	Planning, Building and Public Works Director	DMMC 18.55.140
...
Type II - Administrative land use decisions made after legally required opportunity for public comment	Planning, Building and Public Works Director	DMMC 18.20.170
...
Shoreline substantial development permit	Planning, Building and Public Works Director	DMMC 16.20.010
...
Type IV - Quasi-judicial and other nonlegislative decisions by the City Council made after legally required opportunity for public comment	City Council	DMMC 18.20.190
...
Approval of business park and institutional campus master plans (exempt DMMC 18.20.060(1))	City Council	DMMC 18.105.050
...

Sec. 7. DMMC 18.52.010A, and those parts of the Residential Use Chart, and Limitations 1 (a), 14, 15 and 45, and section 132

of Ordinance No. 1591 noted below, shall be amended to read as follows:

Use is: P: Permitted P/L: Permitted but with special limitations CUP: Conditional use review required UUP: Unclassified use review required	SF R	RA- 3600	RM- 2400	RM- 1800	RM- 900	RM- 900 A	RM- 900 B	R- SE	R-SR > 35000	R-SR < 3500 0	PR-R
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Accessory buildings and uses	P/L [1]	P/L[1]	P/L[1]	P/L[1] [16]	P/L[1] [16]	P	P _j	P/L[1] [27]	P/L[1] [27]	P/L[1]	P
...											
Correctional institutions								UUP [45]			
...											
Multiple family dwelling		P/L [14]	P	P	P	P					P
...											
Townhouse development		P/L [15]	P/L [15]	P/L [15]	P/L [15]						
...											

1. Accessory Buildings and Uses. This regulation applies to all parts of Table 18.52.010A that have a [1].

Accessory buildings and uses including, but not limited to, the following:

- (a) Accessory dwelling units (ADUs);

...

...

14. Duplex. This regulation applies to all parts of Table 18.52.010A that have a [14].

A duplex shall be permitted in the RA-3,600 Zone if only a single-family dwelling existed on a lot on August 3, 1964, any additional dwelling unit shall be attached to and made a part of the building containing the existing dwelling unit.

...

15. Townhouse Development. This regulation applies to all parts of Table 18.52.010A that have a [15].

Townhouse developments shall be permitted in the RA-3,600 Zone and multi-family zones as noted in the table above with no more than one townhouse dwelling per lot.

...

45. Correctional Facilities in R-SE Zone. This regulation applies to all parts of Table 18.52.010A that have a [45].

Correctional facilities shall be permitted as a conforming use in the R-SE Zone if an Unclassified Use Permit was approved prior to 2010.

Sec. 8. DMMC 18.52.010B, and those parts of the Commercial Use Chart and Limitations 14, 21, and 44, and section 133 of Ordinance No. 1591 as amended by section 12 of Ordinance No. 1601 as amended by section 8 of Ordinance 1618-A as amended by section 1 of Ordinance No. 1645, shall be amended to read as follows:

Use is: P: Permitted	NC	I-C	B-P	C-C	D-C	H-C	PR-C	T-C	W-C
P/L: Permitted, but with special limitations									
CUP: Conditional use review required									
UUP: Unclassified use review required									

...									
Brewery / Winery / Distiller y					P/L [21]				
...									
Columbarium scramatories, mausoleums with permitted cemeteries	CUP	CUP	CUP	CUP		CUP	CUP		CUP
...									
Contractor s	P/ L[3]		P/L [14]			P	P/L [14]	P	P
...									
Mixed Use	UUP	UUP		UUP	P/L [26]	UUP	P/L [50]	P/L [58]	P/L [58]
...									
Self- storage/ mini- warehouse leasing			P				P/L [44]	P/L [62]	
...									

...

14. Contractors. This regulation applies to all parts of Table 18.52.010B that have a [14].

Contractors in the B-P and PR-C Zones shall be limited to building and special trade (23).

...

21. Retail Trade (With Ancillary Wholesale Trade). This regulation applies to all parts of Table 18.52.010B that have a [21].

Retail trade with ancillary wholesale trade in the D-C Zone is limited to the following:

(a) Breweries/Wineries/Distilleries (3121) if accessory uses in conjunction with eating or drinking places or retail.

(b) Building materials, hardware, and garden supply, except mobile home dealers (52);

(c) General merchandise stores (53);

(d) Food stores (54);

(e) Gasoline service stations, and other alternative motor vehicle fuels (5541);

(f) Apparel and accessory stores (56);

(g) Home furniture, furnishings, and equipment stores (57);

(h) Eating and drinking places (58); and

(i) Miscellaneous retail (59), except fuel dealers (598).

...

44. Real Estate Rental and Leasing. This regulation applies to all parts of Table 18.52.010B that have a [44].

Mini-warehouses and self-storage units (53113) may be on joint use parcels abutting Pacific Highway provided another non-storage commercial use fronts on Pacific Highway South.

Sec. 9. DMMC 18.55.080, *Single Family Residential Zone Front Yard* and section 141 of Ordinance No. 1591, shall be amended to read as follows:

18.55.080 Front Yard. Every lot in a Single-Family Residential Zone shall have a front yard with a depth of not less than 20 feet. In through lots in the RS-4,000 Zone in the Redondo Neighborhood, the front yard setback shall be measured from the street with the highest roadway classification. In cases where the street classifications are equal, the City shall give deference to the predominant development pattern of yard setbacks and driveway locations.

Sec. 10. DMMC 18.55.100, *Single Family Residential Zone Rear Yard* and section 143 of Ordinance No. 1591, shall be amended to read as follows:

18.55.100 Rear Yard.

(1) In a Single-Family Residential Zone every lot type except through lots shall have a rear yard, except that through lots in the RS-4,000 Zone in the Redondo Neighborhood may have a rear yard with the setback measured from the street with the lower roadway classification. In cases where the street classifications are equal, the City shall give deference to the predominant development pattern of yard setbacks and driveway locations.

(2) For lots 6,400 square feet or more in area, the rear yard shall have a depth of not less than 20 feet.

(3) For lots less than 6,400 square feet in area, the rear yard shall have a depth of not less than 10 feet.

Sec. 11. DMMC 18.55.130, *Single Family Residential Zone, Placement of buildings and structures* and section 146 of Ordinance No. 1591, shall be amended to read as follows:

18.55.130 Placement of buildings and structures.
Placement of buildings and structures on any lot in a Single-Family Residential Zone shall conform to the following:

(1) Interior lots.

(a) Any building or structure any portion of which contains a dwelling unit or accessory dwelling unit shall not be located closer to any property line than allowed by the yard requirements of this chapter;

(b) The distance between a building or structure containing a dwelling unit or accessory dwelling unit and any other buildings on the same lot shall be not less than 10 feet;

(c) On the rear third of a lot accessory buildings or structures not containing accessory dwelling units may be built on the lot side lines and the lot rear line; provided, not less than 10 feet of the lot rear line shall be free and clear of buildings and structures; and provided further, if the lot rears upon an alley, a garage with a vehicular entrance from the alley shall maintain a distance of not less than 15 feet from the centerline of the alley.

(2) Corner lots and reverse corner lots.

(a) Except as specified below, any building or structure containing a dwelling unit or accessory dwelling unit and any other building on the same lot shall observe a distance from any lot

side line of five feet from one side and 10 feet from the side street side and the rear property line specified by this chapter;

(b) The distance between a building or structure containing a dwelling unit or accessory dwelling units and any other buildings on the same lot shall be not less than 10 feet;

(c) On the rear third of a corner lot accessory buildings or structures not containing accessory dwelling unit may be built on the lot interior side line and the lot rear line; provided, if the lot rears upon an alley, a garage with a vehicular entrance from the alley shall maintain a distance not less than 15 feet from the centerline of such alley;

(d) On the rear third of a reverse corner lot accessory buildings or structures not containing accessory dwelling units may be built to the lot interior side line, but no building or structure shall be erected closer to the lot rear line than five feet unless an alley intervenes, in which case accessory buildings or structures may be built to the lot rear line unless the accessory building is a garage with a vehicular entrance directly from the alley, in which case such building or structure shall maintain a distance of not less than 15 feet from the centerline of the alley;

(e) In all cases the width of the required side yard on the side street side shall be observed.

Sec. 12. DMMC 18.105.070, B-P Zone *Performance Standards*, and section 263 of Ordinance No. 1591, shall be amended to read as follows:

18.105.070 Performance standards. Every use permitted within the B-P Zone pursuant to this

chapter shall conform to the following performance standards:

...

(2) Outdoor storage.

(a) Outdoor storage shall only be allowed as an accessory use to another principal use.

(b) The material(s) being stored shall not exceed 12 feet in height as measured from the high point of the outdoor storage area.

(c) The material(s) being stored shall be wrapped or enclosed to prevent wind-blown debris.

(d) The outdoor storage area shall not exceed 40 percent of the building footprint or 15 percent of the lot area, whichever is less.

(e) Outdoor storage shall be screened from public view by a 12-foot landscaped buffer or another building in the same approved master plan. A buffer shall contain at least 75 percent coniferous trees of a minimum size of six feet at planting. Deciduous trees shall be a minimum of two-and-one-half-inch caliper as measured per ANSI Z 60.1-2004. All trees shall be planted no less than 20 feet apart on-center. For every 16 square feet of buffer area, at least one evergreen shrub of a minimum size of two feet shall be provided. Ground cover of a minimum one-gallon size shall be planted in the buffer area sufficient to cover the area within three years of planting. Landscaping shall not serve as a substitute for the required setbacks of the underlying zoning.

(f) Outdoor storage areas adjacent to public streets and to future or existing bicycle or pedestrian paths shall be screened by a minimum of a six-foot masonry wall in addition to the

landscaping requirements established by subsection (2)(e) of this section. The screening wall shall be set back a maximum distance of 15 feet from the property line. The height of the wall shall be measured from the high point of the outdoor storage area.

(g) Outdoor storage shall only be allowed between the rear lot line and the extension of the front facade of the principal structure, provided no outdoor storage is allowed between a building and a side street lot line.

(h) The City Manager or the City Manager's designee may modify the requirements for spacing, number and size of plantings upon a satisfactory showing by a licensed landscape architect that an alternate proposal will accomplish the same buffering goals.

...

Sec. 13. DMMC 18.140.060, *Uses requiring conditional use permit*, and section 325 of Ordinance No. 1591 shall be amended to read as follows:

18.140.060 Uses requiring conditional use permit.

The following uses may locate subject to the issuance of a conditional use permit processed as provided in the Hearing Examiner code:

(1) Cemeteries; except such use is not permitted in the Downtown Commercial (D-C) and T-C Zones; and further provided:

(a) No building shall be located closer than 100 feet from a boundary line;

(b) A protective fence and a landscaped strip of evergreen trees and shrubs at least 10 feet in width shall be installed on all common boundary lines with Residential zoned property;

(2) Columbariums, crematories, and mausoleums; provided, these uses are specifically excluded from the D-C, T-C and all Residential Zones unless inside a cemetery;

...

Sec. 14. DMMC 18.190.200, *Location and height of wall, fence, or hedge*, and section 400 of Ordinance No. 1591 shall be amended to read as follows:

18.190.200 Location and height of wall, fence, or hedge. In any Residential Zone a wall, fence, or hedge is permitted under the following conditions:

(1) Where a fence is installed directly on the ground, the height of the fence shall be the vertical distance from the top board, rail, or wire to the ground directly below the fence; where a masonry or stone wall is used as a fence, the height shall be the vertical distance from the top surface of the wall to the ground on the high side of the wall;

(2) A wall, fence, or hedge not more than 42 inches in height may be permitted on any part of a lot that is not otherwise restricted;

(3) On all residential lots, either partially or fully view-obscuring walls, fences, or hedges not exceeding six feet in height shall be permitted on any lot line; except that any wall, fence, or hedge greater than 42 inches in height and located within the required front yard and side yard adjacent to a street shall be constructed of wrought iron, chain link, or similar materials that, as a whole, shall not be greater than 20 percent view obscuring or, if other materials are used that are greater than 20 percent view obscuring, the property owner shall first obtain approval from the City Traffic Engineer to ensure that safe sight distance

is maintained and a traffic hazard shall not be created;

(4) Where a retaining wall protecting a cut below the natural grade is located on the line separating lots or parcels, such retaining wall may be topped by a fence, wall, or hedge of the same height that would otherwise be permitted at the location if no retaining wall existed, and the top of the retaining wall shall be considered the bottom of the fence;

(5) Where a retaining wall contains a fill, the height of the retaining wall built to retain the fill shall be considered as contributing to the permissible height of a wall, fence, or hedge, and shall be measured from the ground on the low side; provided, that in any event a protective fence not more than 42 inches in height may be erected at the top of the retaining wall and any portion of such fence above the six-foot maximum height shall be no greater than 50 percent view obscuring;

(6) Electric fences shall not be permitted in any Residential Zone except as allowed in DMMC 18.190.310(2);

(7) No fence shall be located in any public right-of-way, unless a right-of-way permit is obtained from the City;

(8) Any fence exceeding a height of six feet, and any retaining wall exceeding a height of 48 inches, shall require the property owner to obtain a building permit; the provisions and conditions of this section shall not apply to fences required by state law to surround and enclose public utility installations, or to chain link fences enclosing school grounds and public playgrounds.

Sec. 15. DMMC 18.190.230, *Yard requirements on through lots*, and section 403 of Ordinance No. 1591 shall be amended to read as follows:

18.190.230 Yard requirements on through lots.

(1) If a through lot is improved as one building site, the main building shall conform to the requirements of the zone of the frontage occupied by such main building, and in Residential Zones no accessory building shall be located closer to either street than the distance constituting the required front yard on such street, and required side yards shall extend the full depth of the lot except as provided in DMMC 18.55.090.

(2) If a through lot is divided by a zone boundary line, the line shall be considered a property boundary line for purposes of determining the required yards and open spaces.

Sec. 16. DMMC 18.195.060, *Storage Areas* and section 417 of Ordinance No. 1591, shall be amended to read as follows:

18.195.060 Storage areas. All outside storage areas and loading docks shall be screened from public view by another building in the same approved master plan or by fencing and a Type III landscaping strip with a minimum depth of five feet unless determined by design review that such screening is not necessary because stored materials are not visually obtrusive. The five-foot deep landscaped area may occur within the street right-of-way abutting the property line upon approval of the Planning, Building and Public Works Department.

Sec. 17. DMMC 18.195.420, *Modification of Landscaping Requirement(s)*, and section 453 of Ordinance No. 1591, shall be amended to read as follows:

18.195.240 Modification of landscaping requirement(s).

(1) The Planning, Building and Public Works Department may authorize reduced width of plantings

or waive some or all landscaping requirements in the following instances:

(a) Whenever a building utilized for business or office purposes is proposed to be placed within 10 feet of the street right-of-way and there are no loading docks on such street, and at least 50 percent of the wall length is utilized for window and door construction, and the setback is utilized in effect as a sidewalk; provided, approved street trees are planted within the 10-foot setback no more than 30 feet on center;

(b) When architectural barriers or berms are incorporated into the design of the landscaping and contribute to the intent of the type of landscaping required and the minimum width of planting is not reduced by more than 50 percent;

(c) When application of requirements of this section for commercial properties would result in more than 15 percent of the site area being landscaped, in which instance the Planning, Building and Public Works Department may modify those requirements such that not more than 15 percent of the site must be landscaped; provided, however, that the landscaping and corresponding setbacks required are those most beneficial to the public;

(d) When the inclusion of significant existing vegetation located on the site would result in as good as or better satisfaction of the purposes of this chapter;

(e) When, in the case of required perimeter landscaping adjacent to street rights-of-way, the ultimate street improvements for that right-of-way have been installed or will be installed as a requirement of approval of the development, and the Planning, Building and Public Works Department determines that the proposed landscaping of that portion of the right-of-way between the property line and sidewalk is acceptable, the Planning, Building

and Public Works Department may allow such landscaping in lieu of required landscaping within the development; provided, the type and area of planting is comparable to that normally required and adequate provisions are made for permanent maintenance;

(f) When conditions on or adjacent to the site, including differences in elevation, existing vegetation, location of existing structures or utilities, continuity of design concepts within a zone, or emergency vehicle access would render application of requirements of this chapter ineffective or result in scenic view obstruction.

(g) When supported by a crime prevention assessment of their property using principles from the crime prevention through environmental design (CPTED) program to reduce opportunities for criminal activity to occur.

(2) An application for adjustment of landscaping requirements shall be filed on forms prescribed by the City, executed and sworn to by the owner or tenant of the property concerned or by duly authorized agents. Such application shall clearly and in detail state what adjustments of requirements are being requested and the reasons such adjustments are warranted, and shall be accompanied with such supplementary data, such as sketches, surveys, and statistical information, as deemed necessary to substantiate the adjustment.

(a) The applicant shall give all owners of property located within 100 feet of any boundary of the subject property written notice of the proposed alternative landscaping within 20 days of filing an application. The Planning, Building and Public Works Department shall allow 15 days for comment before making a decision.

(b) The decision of the Planning, Building and Public Works Department regarding

alternative landscaping shall be made within 45 days of filing of an application, shall be transmitted in writing to the applicant and all interested parties and shall identify reasons for denial or requirements for modifications, if any.

(c) The decision of the Planning, Building and Public Works Department shall be final unless an aggrieved person appeals that decision to the Hearing Examiner by filing a written notice of appeal within 10 days of such decision in accordance with the Hearing Examiner Code.

Sec. 18. DMMC 18.200.070, *Exemptions* and section 467 of Ordinance No. 1591, shall be amended to read as follows:

18.200.070 Exemptions. The following shall not require a sign permit; however, these exemptions shall not be construed as relieving the owner of a sign from planning review for compliance with zoning and design guidelines, the responsibility of its erection and maintenance in accordance with the Building Code (Title 14) and its compliance with the provisions of this chapter or any other law or ordinance regulating the same:

...

(7) One nonelectrical and nonilluminated business identification wall sign not over 36 square feet in area if allowed in that zone.

...

Sec. 19. DMMC 18.210.090, *Required Number of Off Street Parking Spaces*, and section 513 of Ordinance No. 1591 as amended by section 16 of Ordinance No. 1601 as amended by section 12 of Ordinance No. 1618-A, shall be amended to read as follows:

...

(15) Residences.

(a) Single-family: two parking spaces per dwelling unit.

(b) Duplex and townhouse: two parking spaces per dwelling unit and one parking space for every five dwellings for use as visitor parking. A minimum of one visitor parking space shall be provided.

(c) Multifamily.

(i) Two parking spaces per dwelling.

(ii) One guest parking space shall be provided per each 10 dwellings.

(iii) For one-bedroom dwellings within the PR Zone: one and one-half parking spaces per dwelling.

...

(d) Retirement apartments: one parking space per dwelling unit, except that the plan shall show two parking spaces, spaces not initially installed. The additional parking spaces plus required landscaping shall be installed at such time that the structure is not used for retirement apartment purposes.

(e) Rooming and lodging houses: one space per occupant.

(f) Children's institutions, homes for the retired (group homes): one space for each five employees plus one for each four beds.

(g) Mixed use.

(i) Except as provided below, two parking spaces per dwelling.

(ii) For one-bedroom dwellings within the PR Zone: one and one-half parking spaces per dwelling.

(iii) On-site parking for nonresidential areas shall be provided based upon the ratio specified by this section.

(iv) Multifamily (as Part of a Mixed Use Development) in the T-C Zone.

(A) For a studio dwelling: one parking space.

(B) For one-bedroom dwellings: one parking space.

(C) For two-bedroom or more dwellings: 1.75 parking spaces.

(D) One guest parking space shall be provided per each 10 dwellings.¹

(h) Accessory dwelling units: one parking space.

...

Sec. 20. DMMC 18.210.130, *Parking Area Dimensions*, and section 517 of Ordinance No. 1591 shall be amended to read as follows:

18.210.130 Parking area dimensions. Minimum parking area dimensions for surface and structured parking facilities shall be as provided in Table 1 following DMMC 18.210.100.

Sec. 21. DMMC 18.210.160, *Driveways and maneuverability*, and section 520 of Ordinance No. 1591 shall be amended to read as follows:

18.210.160 Driveways and maneuverability.

(1) Adequate ingress to and from each parking space shall be provided without moving another vehicle and without backing more than 50 feet, except that vehicles may be parked in a stacked or tandem way on commercial properties only upon City approval of a stacked or valet parking plan developed in accordance with subsection (7) of this section. All parking spaces shall be so arranged that ingress and egress is possible without backing over a sidewalk or walkway/bicycle area unless specifically approved by the City Manager or City Manager's designee.

(2) Turning and maneuvering space shall be located entirely on private property except that the usable portion of an alley may be credited as aisle space subject to approval as to safety by the City Manager or City Manager's designee.

(3) Backing onto public streets to exit a parking stall shall be prohibited, except in Single-Family Residential and RA Zones.

(4) When off-street parking is provided in the rear of a building and a driveway lane alongside the building provides access to the rear parking area, such driveway shall require a minimum width of 12 feet and a sidewalk of at least a three-foot section, adjoining the building, curbed or raised six inches above the driveway surface.

(5) Ingress and egress to any off-street parking lot shall not be located closer than 20 feet from point of tangent to an intersection or crosswalk. They may not be permitted where, in the opinion of the City Manager or City Manager's

designee, dangerous or confusing traffic patterns would result.

(6) Driveway intersections with north-south bearing streets shall be minimized to the extent possible in order to diminish traffic hazards, to conserve space and to promote orderly development generally. Driveways shall be limited to one per building site per street frontage, except the lesser of one driveway for each 150 feet of street frontage or three driveways for two lots having common parking may be permitted upon a finding of the City Manager or City Manager's designee that smoother or safer flow of traffic can result without significant disruption of the streetscape.

(7) Stacked or valet parking plan requirements.

(a) Stacking spaces for vehicle parking or for auto rental/sales uses may be allowed on commercial properties; provided, that the area utilized for stacking spaces conforms with the parking lot landscaping requirements of DMMC 18.210.220. Stacking of required off-street parking spaces shall not be allowed for employee or customer parking. Stacking aisle widths shall be a minimum of eight feet, six inches.

(b) Stacking spaces for commercial uses other than vehicle parking or auto rental/sales may be allowed through the use of valet parking, upon approval of a valet parking plan, by the City Manager or City Manager's designee. The area of the lot utilized for stacking spaces shall conform with the parking lot landscaping requirements of DMMC 18.210.220. Stacking aisle widths shall be a minimum of eight feet, six inches. At a minimum, the valet parking plan shall include, but not be limited to:

(i) A site plan showing the location of the valet parking on the property;

(ii) The hours of operations;

(iii) A detailed description of the valet parking system's operation including methods to control noise, glare from impacting adjacent properties, and methods to eliminate any impacts on adjacent or nearby residential neighborhoods;

(iv) The name, address and phone number of the operator of the valet parking.

Valet parking is allowed on or off-site. No valet parking shall be allowed on public rights-of-way.

Sec. 22. DMMC 18.210,180, *Lighting*, Loading Areas and Off-Street Parking Lighting, and section 522 of Ordinance No. 1591 shall be amended to read as follows:

18.210.180 Lighting. Any lighting on a parking lot shall illuminate only the parking lot, and be designed to avoid undue glare or reflection on adjoining premises, including public streets. Where a common boundary is shared with any residential property, illuminating devices shall be so shaped and directed to focus their light away from residential property. Parking lot lighting shall not exceed 20 feet in height, except that the City Manager or his designee may approve a taller light post standard based on an energy efficient lighting design.

Sec. 23. 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. 24. Effective date. This Ordinance shall take effect and be in full force five (5) days after its final approval by the Des Moines City Council in accordance with law.

PASSED BY the City Council of the City of Des Moines this 7th day of July and signed in authentication thereof this 7th day of July, 2016.


M A Y O R

APPROVED AS TO FORM:


Interim City Attorney

ATTEST:


City Clerk

Published: July 12, 2016

LEGAL NOTICE
SUMMARY OF ADOPTED ORDINANCE
CITY OF DES MOINES

ORDINANCE NO. 1655, Adopted July 7, 2016.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This Ordinance relates to the Zoning Code and City land use and development regulations, and amends chapters 18.01, 18.10, 18.15, 18.20, 18.52, 18.55, 18.105, 18.140, 18.190, 18.195, 18.200, and 18.210 DMMC to correct omissions, errors, inconsistencies and to clarify City Council intent.

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

Bonnie Wilkins, CMC
City Clerk

Published: July 12, 2016