

ORDINANCE NO. 1661

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to zoning, enacting an interim zoning Ordinance relating to land use, amending Footnote 58 of DMMC 18.52.010B, adding an interim definition to DMMC 18.01.050, and declaring an emergency necessitating immediate adoption of interim control regulations to ensure the City Council's intent for regulating the proportion of required commercial uses within Mixed Use Developments.

WHEREAS, on July 7, 2016 the City Council enacted Ordinance 1656, making modifications related to the W-C Woodmont Commercial Zone, and

WHEREAS, Mixed Use developments were added as an allowed use within certain portions of the W-C Woodmont Commercial Zone with, among other things, certain conditions for the proportion of required commercial uses, and

WHEREAS, the City Council's intent was for a minimum of 60 percent of the ground floor to be occupied by commercial uses, and

WHEREAS, there is a potential conflict within the DMMC that may be contrary to the City Council's intent for regulating the proportion of required commercial uses within Mixed Use Developments, and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorize adoption of interim zoning controls with certain limitations, including the requirement to hold a public hearing on the adopted interim zoning controls within 60 days of its adoption, and the adoption of findings of facts, and

WHEREAS, in accordance with RCW 35A.63.220, interim zoning controls may be effective for no longer than six months, but may be effective for up to a year if a work plan is developed for related studies providing for such a longer period, and

WHEREAS, the City Council finds that the amendments contained in this Ordinance are appropriate and necessary for the preservation of the public health and welfare, and to clarify and confirm the City Council's intent for regulating the proportion of required commercial uses within Mixed Use Developments within the W-C Woodmont Commercial and T-C Transit Community Zones, and

WHEREAS, the City Council further finds that passage of this Ordinance constitutes an emergency; now therefore,

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

Sec. 1. Findings. RCW 35A.63.220 and RCW 36.70A.390 authorize adoption of interim zoning measures with certain limitations. In compliance with the requirements of these statutes and applicable case law authority, the City Council adopts as findings the pronouncements contained in the above recital provisions.

Sec. 2. Interim regulation adopted. Footnote 58 of DMMC 18.52.010B and section 133 of Ordinance No. 1591 as amended by section 12 of Ordinance No. 1601 as amended by section 8 of Ordinance No. 1618-A as amended by section 2 of Ordinance No. 1644 as amended by section 1 of Ordinance No. 1645 as amended by section 8 of Ordinance No. 1655 as amended by section 4 of Ordinance No. 1656 is amended to read as follows:

58. Mixed Use. This regulation applies to all parts of Table 18.52.010B that have a [58].

Mixed use development shall conform to the following limitations and standards in the T-C and W-C Zones:

(a) Mixed use structures within the W-C Zone shall only be permitted south of South 268th Street.

(b) Mixed use structures shall contain area for retail trade or personal and business services at street level as follows:

(i) Pedestrian access from the public sidewalk to the retail trade or personal and business services shall be provided;

(ii) A minimum of 60 percent of the gross floor area located at the street level shall be occupied by retail trade or personal and business services;

(iii) A minimum of 75 percent of the street level building frontage adjacent to public right(s)-of-way shall contain floor area for retail trade or personal and business services uses; and

(iv) Building space allocated for retail trade or personal and business service uses at the street level shall have a minimum gross interior depth dimension of 55 feet measured perpendicular to the property line abutting the public street(s) serving the site.

(c) The City Manager or the City Manager's designee is authorized to consider and approve up to a 20-percent reduction of the bulk requirements specified in subsection (58)(b) of this section when a development proposal incorporates on-site parking substantially at street floor level for retail trade or personal and business service uses and the City Manager or designee determines that the proposed reduction(s) does not compromise, interrupt, or interfere with the desired functionality of the building or the continuity of City pedestrian-oriented design goals in the general area and pedestrian access to the site from the public sidewalk or right-of-way.

(d) Mixed use developments shall comply with all the requirements of chapter 18.155 DMMC, except for private recreational requirements established by DMMC 18.155.050(2).

(e) Mixed use projects in the W-C Zone shall include a Crime Prevention Through Environmental Design ("CPTED") review as part of the design review process.

(f) A detached structure that contains residential uses and does not meet the requirements for mixed use structures is prohibited.

Sec. 3. Interim definition added. DMMC 18.01.050 and section 5 of Ordinance No. 1591 as amended by section 1 of

Ordinance No. 1628 as amended by section 1 of Ordinance No. 1655 are amended to add the following definition:

"Gross floor area" means the area included within the surrounding exterior walls of a structure or building expressed in square feet and fractions thereof. The gross floor area of structure or building not provided with surrounding exterior walls shall be the area under each outer edge of the roof.

Sec. 4. Public hearing on interim zoning control.

Pursuant to RCW 36.70A.390 and RCW 35A.63.220, the City Council shall hold a public hearing on this interim control regulation within sixty (60) days of its adoption, or before December 12, 2016. The Council shall hold this hearing on December 1, 2016. Immediately after the public hearing, the City Council shall adopt findings of fact on the subject of this interim control regulation and either justify its continued imposition or rescind the regulation.

Sec. 5. Declaration of emergency.

The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority vote plus one of the whole membership of the Council, and that the same is not subject to a referendum (RCW 35A.12.130). Without an immediately effective interim regulation of the proportion of required commercial uses within Mixed Use Developments within the identified zones, applicants for such projects or uses could become vested, leading to development that could be incompatible with the regulations adopted in this interim control and which may eventually be adopted by the City. Therefore, the interim regulation in this Ordinance must be imposed as an emergency measure to protect the public health, safety and welfare, and to prevent the submission of applications to the City in an attempt to vest rights for an indefinite period of time. This Ordinance does not affect any existing vested rights.

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Sec. 6. 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. 7. Effective date. This Ordinance shall take effect and be in full force immediately upon adoption, as long as it is approved by a majority plus one of the entire membership of the Council, as required by RCW 35A.12.130.

PASSED BY a majority plus one of the whole membership of the City Council of the City of Des Moines this 13th day of October, 2016 and signed in authentication thereof this 13th day of October, 2016.


M A Y O R

APPROVED AS TO FORM:



Interim Assistant City Attorney

ATTEST:



City Clerk

Published: October 18, 2016

Effective Date: Immediately Upon Adoption

LEGAL NOTICE
SUMMARY OF ADOPTED ORDINANCE
CITY OF DES MOINES

ORDINANCE NO. 1661, Adopted October 13, 2016.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This Ordinance relates to zoning, enacts an interim zoning Ordinance relating to land use, amends Footnote 58 of DMMC 18.52.010B, adds an interim definition to DMMC 18.01.050, and declares an emergency necessitating immediate adoption of interim control regulations to ensure the City Council's intent for regulating the proportion of required commercial uses within Mixed Use Developments.

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

Bonnie Wilkins, CMC
City Clerk

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