

ORDINANCE NO. 1509

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to the zoning and amending chapter 18.42 DMMC relating to regulation of signs within the City of Des Moines, repealing chapter 12.16 DMMC and sections of chapter 18.42 DMMC, and codifying new sections in chapter 18.42 DMMC.

WHEREAS, the City of Des Moines has adopted a sign code in chapter 18.42 DMMC, the purposes of which are stated in DMMC 18.42.010, and

WHEREAS, such sign code has been in effect since 1983, and

WHEREAS, recent court rulings have called into question the legality and enforceability of certain sign code provisions relating to portable signs, real estate signs, and political signs, and

WHEREAS, Strategy 1-04-03(2) of the Des Moines Comprehensive Plan 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, and

WHEREAS, clear and predictable development regulations to encourage efficient permitting is a planning goal established by the Growth Management Act, and

WHEREAS, the SEPA responsible official reviewed this proposed non-project action and determined that the proposed textual code amendments are within the scope of the existing environmental document, and

WHEREAS, the textual code amendment proposed by this ordinance has been processed in accordance with the requirements of the State Environmental Policy Act (hereinafter "SEPA), a determination of non-significance was issued on January 26, 2011 by the responsible official, and the applicable SEPA comment period has concluded, and

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

WHEREAS, the Washington State Department of Commerce comment period concluded on March 29, 2011, and

WHEREAS, the Finance and Economic Development Committee met on January 11, 2011 to review the proposed amendments to the City's Sign Code, and

WHEREAS, the Finance and Economic Development Committee has determined that modifications to the City's sign regulations are required to facilitate economic growth within the City, and

WHEREAS, on January 27, 2011, the City Council adopted Resolution No. 1142 setting a public hearing for March 24, 2011 to consider the amendments to the Des Moines Zoning Code described herein, and

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

WHEREAS, such public hearing was held on March 24, 2011 to hear proponents and opponents, and all persons wishing to be heard were heard, and

WHEREAS, the City Council finds that the amendments to the sign code contained in this ordinance are appropriate to provide a clear, concise, and legal method of enforcing the sign code to promote the health, safety, and welfare of the citizens, as well as to promote the enhancement of business and to maintain the visual environment of the City; now therefore,

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

Sec. 1. A new section is added to chapter 18.42 DMMC to read as follows:

Signs prohibited on, above, or over right-of-way.

(1) Except as provided in subsections (2) and (3) of this section, DMMC 18.42.050, section 3 of this Ordinance, and DMMC 18.42.320, no person shall place a sign of any size or description:

(a) On, above, or over the right-of-way of a City street;

(b) On, above, or over the right-of-way of a state highway;

(c) On a bridge or overpass; or

(d) On a public or utility improvement.

(2) For a period of thirty (30) days or less, signs advertising community events sponsored by public service organizations may be placed on, above, or over the right-of-way of a City street or a state highway with the written permission of the City Manager, and an approved right-of-way permit.

(3) Banners installed over a State highway shall be subject to the requirements established by WAC 468-95-148 and chapter 47.42 RCW. The City Manager is authorized to establish a fee schedule for labor, equipment, and materials expended from public funds for installation of banners.

(4) This section shall not apply to official traffic control devices installed by the City Traffic Engineer, or the State.

Sec. 2. A new section is added to chapter 18.42 DMMC to read as follows:

Electronic reader board and changeable message center signs. Except as provided in subsection (11) of this section, all

electronic reader board signs and changeable message center signs shall comply with the following:

(1) Advertising messages on electronic reader boards and message centers may contain words, phrases, sentences, symbols, trademarks, and logos. A single message or a message segment must have a static display time of at least two seconds after moving onto the reader board or message center, with all segments of the total message to be displayed within ten seconds. A one-segment message may remain static on the reader board or message center with no duration limit.

(2) Displays may travel horizontally or scroll vertically onto electronic reader boards or message center, but must hold in a static position for two seconds after completing the travel or scroll.

(3) Displays shall not appear to flash, undulate, or pulse, or portray explosions, fireworks, flashes of light, or blinking or chasing lights. Displays shall not appear to move toward or away from the viewer, expand or contract, bounce, rotate, spin, twist, or animation as it moves onto, is displayed on, or leaves the reader board or message center.

(4) Electronic signs requiring more than four seconds to change from one single message display to another shall be turned off during the change interval.

(5) Maximum brightness shall not exceed 5,000 nits during daylight hours when measured from the face of the sign and 500 nits from sunset to sunrise when measured from the face of the sign.

(6) Signs shall have programmable dimming capacity

(7) Audio speakers associated with signs allowed under this section are prohibited.

(8) Signs allowed under this section shall not exceed or be in addition to the total allowable freestanding sign area allowed in the various zones established in Article 5 of this Chapter.

(9) Signs allowed under this section shall not be used as wall signs and shall not be used as individual tenant signs.

(10) Electronic reader board and changeable message center signs shall not be placed on, above, or over the right-of-way.

(11) This section shall not apply to official traffic control devices installed by the City Traffic Engineer or the State.

Sec. 3. A new section is added to chapter 18.42 DMCC to read as follows:

Commercial Zones. The following signs are permitted in the Pacific Ridge Commercial Zone 1, Pacific Ridge Commercial Zone 2,

Business Park Zone and all commercial zones abutting Pacific Highway South that are not within the Pacific Ridge Neighborhood:

(1) Freestanding signs. For single business properties, multiple-tenant buildings, multiple-building complexes, and shopping centers, freestanding signs are allowed as follows:

(a) Number of free standing signs.

(i) For building sites with up to 300 feet of street frontage, one sign is allowed.

(ii) For building sites with more than 300 feet of street frontage and having more than one vehicular access, two signs are allowed; provided that the total allowable sign area is not exceed and the signs are more than 100 feet apart.

(b) Freestanding sign size.

(i) Each sign allowed shall not exceed 80 square feet in area.

(ii) For properties with less than 80 feet of street frontage, sign area shall not exceed one square foot of sign area for each lineal foot of street frontage.

(c) Freestanding sign height.

(i) For single business properties and multiple business properties, freestanding signs shall not exceed fifteen (15) feet in height as measure from median sidewalk grade.

(ii) For shopping centers and multi-building complexes freestanding signs shall not exceed twenty (20) feet in height as measure from median sidewalk grade.

(d) Allowed signs, sign area, or sign height may not be transferred from one street frontage to another.

(e) Off-premises signs, including but not limited to billboards, are prohibited. The City Manager or designee may approve monument signs located on a separate parcel of property within a multiple-building complex or shopping center when the following conditions exist.

(i) The multiple-building complex or shopping centers appears and functions as one building site; and

(ii) The monument sign appears and functions as an on-premises sign; and

(iii) The approval would not result in additional signs or sign area for the multiple-building complex or shopping center than would otherwise be allowed; and

(iv) All monument and wall signs within the multiple-building complex or shopping center conform to the provisions of this chapter.

(f) Freestanding signs shall not be located on, above, nor project over the public right-of-way.

(2) Wall Signs.

(a) Each single business property is permitted a total sign area not exceed one (1) square feet per lineal foot of street frontage, up to a maximum of 100 square feet.

(b) Each multiple business property, is permitted a total sign area not to exceed 20 square feet plus forty (40) square feet per licensed business; provided, however, that each business must be guaranteed a minimum of at least 25 square feet signage.

(c) Each multi-building complex and shopping center is permitted a total sign area not to exceed 150 square feet plus (40) forty square feet per licensed business; provided, however, that each business must be guaranteed a minimum of at least 35 square feet signage.

(d) Except for buildings containing multiple business, wall signage shall not extend horizontally a distance greater than 50 percent of the width of the building wall on which it is displayed.

(e) Allowed wall signage is not transferable from one property to another; except within a shopping center or multi-building complex.

(f) Wall signs shall not placed higher than 35 feet above median sidewalk grade.

(g) Projecting signs may not project further than six feet from the surface of the building. A Right-of-Way use permit shall be required for signs projecting over the public right-of-way.

(3) Internally illuminated signs shall be constructed using individual letters/characters, or sign cabinets with an opaque field or background so that only the individual letters/characters are illuminated.

(4) Reader board signs and changeable message center signs are permitted as per the requirements established in Section 2 of this Ordinance.

(5) Gasoline price signs shall not be located in, nor project over the public right-of-way, and shall not be portable. Such signs may be freestanding or attached to canopy columns. The area of the price sign shall not count towards the allowed total wall or freestanding signage.

(6) Temporary signs shall be permitted as provided in DMMC 18.42.090 and 18.42.240.

Sec. 4. DMMC 18.42.010 and section 1 (part) of Ordinance No. 584 are amended to read as follows:

Purpose. It is the purpose of this chapter to safeguard the life, health, property, and welfare of the citizens of the City by regulating and controlling the design, construction, location, use, illumination, and maintenance of signs and sign structures visible from any portion of public property or rights-of-way. The intent of the standards set forth in this chapter is:

(1) To protect the right of business to identify its premises and advertise its products through the use of signs without undue hindrance or obstruction.

(2) To encourage the design of signs that attract and invite rather than demand the public's attention and to curb the proliferation of signs.

(3) To encourage the use of signs that enhance the visual environment of the City.

(4) To assure equal protection and fair treatment under the law through consistent application of the regulations and consistent enforcement.

(5) To promote the enhancement of business and residential properties and neighborhoods by fostering the erection of signs complementary to the buildings and uses to which they relate and which are harmonious with their surroundings.

Sec. 5. DMMC 18.42.040 and section 3(part) of Ordinance No. 584 is amended to read as follows:

Required. No sign shall be erected, re-erected, constructed, painted, posted, applied, altered, structurally revised, or repaired except as provided in this chapter and pursuant to a permit issued by the City Manager or designee. A separate permit shall be required for a sign or signs for each business entity and/or a separate permit for each group of signs or a single supporting structure installed simultaneously. Thereafter, each additional sign erected on the structure must have a separate permit.

Sec. 6. DMMC 18.42.030 and section 2 of Ordinance No. 584 as amended by section 1 of Ordinance No. 634 as amended by section 11 of Ordinance No. 1267 are amended to read as follows:

Definitions. For the purpose of this chapter, the definitions in this section apply:

(1) "Abandoned sign" means a sign that no longer correctly identifies, exhorts, or advertises any person, business, lessor, owner, product, or activity conducted or available on the premises where the sign is located.

(2) "Advertising copy" means any letters, figures, symbols, logos, or trademarks which identify or promote the sign user or any product or service; or which provides information about the sign user, the building or the products or services available.

(3) "Awning" means a cloth structure attached to, supported by, and projecting from a building and providing protection of the weather elements. Also called a "canopy."

(4) "Awning sign" means any sign which forms part of or is integrated into an awning and which does not extend beyond the limits of the awning.

(5) "Building" means a roofed and walled structure built for permanent use.

(6) "Changing message center" means an electronically controlled message center with different copy changes of a public service or commercial nature.

(7) "Comprehensive design plan" means building, design, landscaping, and signs integrated into one architectural plan, the comprehensive plan being complete in all other building, structural, and electrical requirements.

(8) "Double-faced sign" means a sign that has a sign on opposite sides of a single display surface or sign structure.

(9) "Electrical sign" means a sign or sign structure in which electrical wiring, connections and/or fixtures are used as part of the sign proper.

(10) "Facade" means the entire building front or street wall face of a building extending from the grade of the building to the top of the parapet or eaves and the entire width of the building elevation or elevations.

(11) "Flashing sign" means a sign with any portion thereof which changes light intensity or switches on and off in a constant pattern or contains moving parts or the optical illusion of motion caused by use of electrical energy or illumination.

(12) "Freestanding sign" means a sign attached to the ground and supported by uprights placed on or in the ground.

(13) "Frontage" means the measurement of the length of the property line along a street.

(14) "Grade" means the elevation as measured at the relative ground level in the immediate vicinity of the sign.

(15) "Ground sign" means a freestanding sign that is less than five feet in height.

(16) "Incidental sign" means a small nonelectric information sign two square feet or less in area which pertains to goods, products, services, or facilities which are available on the premises where the sign occurs and is intended primarily for the convenience of the public while on those premises.

(17) "Information sign" means a sign which gives directional information or identifies specific use areas and which is necessary to maintain the orderly internal use of the premises, such as those signs which identify employee parking, shipping, clearance, or which restrict ingress and egress. Excluded from this definition are signs which are not directly related to an identified need for orderly internal use of the property and off-premises or portable signs.

(18) "Inspector" includes any City employee working under the authority and direction of the City Manager or designee.

(19) "Landscaping" means any material used as a decorative feature, such as textured concrete bases, planter boxes, rockeries, driftwood, pole covers, decorative framing, and shrubbery or planting materials, used in conjunction with a sign, which expresses the theme of the sign but does not contain advertising copy.

(20) "Mansard roof" means a sloped roof or roof-like facade architecturally able to be treated as a building wall.

(21) "Marquee" means a permanent structure attached to, supported by, and projecting from a building and providing protection from the weather elements, but does not include a projecting roof. For the purposes of this chapter, a freestanding permanent roof-like structure providing protection from the elements, such as a service station gas pump island, will also be considered a marquee.

(22) "Marquee sign" means any sign which forms part of or is integrated into a marquee and which does not extend beyond the limits of the marquee.

(23) "Monument sign" means a sign above grade which is mounted or attached to a wide base or grade. These signs are composed of a sign face and a sign base. The base and architectural detail must be consistent with the character of the primary structure.

(24) "Multiple-building complex" means a group of structures housing at least one retail business, office, commercial venture, or independent or separate part of a business located on different properties but with shared accesses and parking facilities.

(25) "Multiple business property" means a single property housing more than one retail business, office, or commercial venture in a single structure; but not including residential apartment buildings or shopping centers.

(26) "Off-premises directional sign" means a sign erected for the purpose of directing pedestrian or vehicular traffic to a facility, service, or business located on other premises.

(27) "On-premises sign" means a sign which carries only advertisements strictly applicable to a lawful use of the premises on which it is located, including signs or sign devices indicating the business transacted, principal services rendered, and goods sold or produced on the premises, name of the business, name of the person, firm, or corporation occupying the premises.

(28) "Perimeter" means the boundary lines used to define the extent of an area.

(29) "Person" means any person, firm, partnership, association, corporation, company, institution, or organization.

(30) "Pole sign" means any freestanding sign more than five feet in height that does not meet the definition of monument sign. These signs are composed of the sign cabinet or base and the sign pole or pylon by which it connects to the ground.

(31) "Portable sign" means a sign which is not permanently affixed and is designed for or capable of being moved, except those signs explicitly designed for people to carry on their person.

(32) "Premises" means the real estate (as a unit) which is involved by the sign or signs mentioned in this chapter.

(33) "Projecting sign" means a sign which is attached to and projects more than one foot from a structure or building face.

(34) "Public commercial parking area" means an open area other than a street, alley, or private parking area serving the occupants, patrons, or employees of a dwelling, hotel, business, or apartment to which the private parking area is

appurtenant, which area is used for the parking of more than four automobiles.

(35) "Reader board" means a sign face designed with readily changeable letters allowing frequent changes of copy either manually or electronically.

(36) "Real estate sign" means a portable or freestanding sign erected by the owner or his agent advertising the real estate upon which the sign is located for rent, lease, or sale or directing to the property.

(37) "Revolving sign" means a sign which rotates or turns in motion in a circular pattern.

(38) "Roof line" means the top edge of a roof or parapet; the top line of a building silhouette.

(39) "Roof sign" means a sign supported by and erected on or above the roof line of a building or structure.

(40) "Shopping center" means a grouping of retail business and/or service uses on a single development site consisting of 5 acres or more housed in multiple structures or a single building with common parking facilities.

(41) "Sign" means any visual communication device, structure, or fixture which is visible from off premises and which directs attention to an object, product, place, activity, facility, service, event, attraction, person, institution, organization, business, or building. Painted wall designs or patterns which do not represent a product, service, or trademark or which do not identify the user are not considered signs.

(42) "Sign area" means the entire area within a circle or polygon enclosing the extreme limits of the advertising message together with any frame or decoration forming an integral part of the display or used to differentiate the sign from the background against which it is placed. If the sign is composed of more than two sign cabinets or modules, the area enclosing the entire perimeter of all cabinets and/or modules within a single square or rectangular figure is the area of the sign. Multi-sided signs, signs composed of two or more sides of equal area attached to each other but occupying different planes, shall have their areas computed by excluding the area of one side from the sum of the areas of all other sides. The total surface area of spherical or cylindrical signs is the sign area.

(43) "Sign height" means the vertical distance from grade to the highest point of a sign or

any vertical projection thereof, including its supporting columns.

(44) "Sign structure" means any structure which supports or is designed to support any sign as defined in this chapter. A sign structure may be a single pole and may or may not be an integral part of the building.

(45) "Single business property" means a single structure housing one business located on a single property without shared access and/or parking facilities.

(46) "Street" means a right-of-way, dedicated to the public use, which provides vehicular access to adjacent properties.

(46) "Street frontage" means the linear frontage of a single parcel of property or common development site abutting a public street.

(48) "Temporary construction sign" means a sign jointly erected and maintained on premises undergoing construction, by an architect, contractor, subcontractor, and/or materialman, upon which property the individual is furnishing labor or material.

(49) "Temporary sign" means any sign or advertising display constructed of cloth, canvas, light fabric, paper, cardboard, or other light materials, with or without frames, intended to be displayed for a limited time only. Signs painted upon window surfaces which are readily removed by washing shall be considered temporary signs.

(50) "Under marquee sign" means a sign attached to and suspended from the underside of a marquee or canopy.

(51) "Wall sign" means a sign attached or erected parallel to and extending not more than one foot from the facade or face of any building to which it is attached and supported throughout its entire length, with the exposed face of the sign parallel to the plane of the wall or facade. Signs incorporated into mansard roofs, marquees, or canopies shall be treated as a wall sign.

Sec. 7. DMMC 18.42.050 and section 3(A) of Ordinance No. 584 as amended by section 1 of Ordinance No. 637 as amended by section 1 of Ordinance No. 1139 are amended to read as follows:

Exemptions. The following shall not require a sign permit; these exemptions shall not be construed as relieving the owner of a sign from the responsibility of its erection and maintenance and

its compliance with the provisions of this chapter or any other law or ordinance regulating the same:

(1) The changing of the advertising copy or message on a lawfully erected, painted, or printed sign, theater marquee, or similar signs specifically designed for the use of replaceable copy.

(2) Painting, repainting or cleaning of a lawfully erected sign structure or the changing of the advertising copy or message thereon and other normal maintenance unless a structural or electrical change is made.

(3) Temporary decorations customary for special holidays, such as Christmas and Independence Day, erected entirely on private property.

(4) Real estate signs subject to the following requirements:

(a) Signs shall not exceed eight (8) square feet in residential zones and twenty-four (24) square feet in commercial zones.

(b) Signs shall be limited to one sign per street frontage on the premises for sale, lease, or rent, and three portable directional signs to such property.

(c) Portable off-premises directional real estate signs providing directions to an open house at a specified residence or commercial building that is offered for sale or rent are permitted only when:

(i) Signs are not placed on trees, foliage, utility poles, or placed on or interfere with official traffic control devices and their support structures installed by the City Traffic Engineer or the State.

(ii) Each sign does not exceed four (4) square feet in area and thirty-six (36) inches in height.

(iii) The agent or seller is physically present at the property for sale or rent.

(iv) The total number of directional signs is limited to three (3).

(v) Each sign if located in the public right-of-way is subject to the requirements and regulations of section (12), e through k, of this section.

(vi) The signs may only be in place during the hours of the open house.

(5) On-premises information signs guiding or directing traffic onto or off of a lot or within a lot, incidental signs, and internal information signs not over eight square feet in area and do not exceed six feet in height. The information or copy displayed by or on any internal informational sign shall be limited to only those letters and/or symbols necessary to convey the required message in as brief a manner as reasonably possible and shall not advertise in any manner the facility occupying the premises nor goods or services available nor hours of operation.

(6) Political signs subject to the following requirements:

(a) Political signs promoting or publicizing candidates for public office or issues that are to be voted upon in a general or special election may be displayed on private property. Such signs shall be removed within ten (10) days following the election; provided, that signs promoting successful candidates in a primary election may remain displayed until ten (10) days following the immediately subsequent general election.

(b) It is prohibited for any person to paste, paint, affix, or fasten a political sign on any tree, foliage, utility pole, on any public building or structure, or on or interfere with any official traffic control device and their support structures installed by the City Traffic Engineer or the State.

(c) Political signs posted within public right-of-way are subject to the requirements and regulations of section (12), e through k, of this section. Additionally, political signs in the right-of-way are limited to a maximum surface area of four (4) square feet and a maximum height of five (5) feet.

(d) It shall be the responsibility of the candidate to have the signs removed.

(7) One nonelectrical and non-illuminated business identification sign containing no advertising matter over four square feet in area.

(8) One on-premises non-illuminated bulletin board not over twelve (12) square feet in area for a charitable or religious organization.

(9) For each street frontage of the premises, one non-illuminated temporary construction sign denoting the architect, engineer, and/or contractor when placed on work under construction, and not exceeding thirty-two (32) square feet in area.

(10) Memorial signs or tablets, including names of buildings, and date of erection when cut into a masonry surface or when constructed of bronze or other noncombustible materials.

(11) Non-electrical identification signs which contain no more than the name and address of the dweller or tenant of a residence shall be allowed. Only one such sign not over two square feet in area shall be allowed for each street frontage of a residential dwelling within the City.

(12) Portable signs located in the public right-of-way subject to the following requirements:

(a) Signs shall not be affixed to the ground, including through the use of stakes or other means that may damage property.

(b) No more than two (2) signs are allowed per business and no person may have more than two (2) signs at any one (1) time.

(c) Sign area shall neither exceed six (6) square feet per sign face nor thirty-six (36) inches in height.

(d) Signs are allowed only during the hours of operation of the business or for the duration of special events and must be taken indoors each day.

(e) Signs may not be placed on or attached to other objects, including but not limited to buildings, structures, trees, plants, utility poles, utility boxes, utility equipment, other signs, or on or interfere with any official traffic control device and their support structures installed by the City Traffic Engineer or the State.

(f) Signs shall not be placed in a manner that interferes with vehicle, bicycle, wheelchair, or pedestrian sight line views, or travel.

(g) Signs shall not be placed in street medians or traffic islands.

(h) Signs shall not be placed in a manner that will damage City landscaping, irrigation or other City infrastructure or obstruct a drainage system. Any damage as the result of the placement of the portable will be the responsibility of the owner of the sign.

(i) Signs shall be professionally prepared and maintained in good condition so as to preserve the aesthetic value of the total environment.

(j) Signs shall have a name and contact phone number or other contact information on them.

(k) Signs placed in violation of this subsection are subject to immediate removal and maybe subject to destruction by the City, without prior notice. If the owner of the sign is present at the time of removal, the owner is given an opportunity to remove the sign immediately.

(13) Signs used exclusively for:

(a) Display of official notices used by any court, public body, or official, or for the posting of notices by any public officer in the performance of a public duty, or by any person in giving legal notice, provided however that such notices are subject to the requirements and regulations of section (12), e through k, of this section.

(b) Official directional, warning, or information signs of a public or semipublic nonprofit entity erected by or with the approval of the City; provided, however, the design and placement of such signs shall be subject to the approval of the City Manager or designee and if located in the public Right-of-Way, shall require a Right-of-Way Use Permit and shall be subject to the requirements and regulations of section (12), e through k, of this section. All such signs shall be installed by or under the direction of the City Manager or designee and may be removed by the City if they become damaged, unsightly, or otherwise fall into a state of disrepair. Upon such removal, replacement signs may be installed. The City Manager is authorized to establish a fee schedule for labor, equipment, and materials expended from public funds for installation of signs and/or posts.

(14) Official traffic control devices and their support structures installed by the City Traffic Engineer or State.

(15) Signs not intended to be viewed from and not readable from off premises.

(16) Window merchandise displays.

(17) Point-of-purchase advertising displays, such as product dispensers.

(18) National flags, flags of political subdivisions and symbolic flags of an institution.

(19) Barber poles.

(20) Historic site markers and plaques.

(21) Gravestones.

(22) Structures intended for separate use, such as phone booths.

(23) Identification signs upon recycling collection containers or other collection containers for public, charitable or nonprofit organizations.

(24) Lettering or symbols painted directly onto or flush-mounted magnetically onto an operable motor vehicle operating in the normal course of business.

(25) Sculptures, fountains, mosaics, or other public art features that do not incorporate advertising or identification of a business or product.

(26) Temporary construction signs subject to the following standards:

(a) Sign shall not exceed 32 square feet.

(b) No more than one sign is allowed per street frontage.

(c) Sign shall be removed upon completion of the project, except as provided in DMMC 18.42.120.

Sec. 8. DMMC 18.42.060 and section 3(B) of Ordinance No. 584 is amended to read as follows:

Application. Applications for sign permits shall be made to the City Manager or designee upon forms provided by the City.

(1) Applications for sign permits shall be accompanied by:

(a) Two site (plat) plans showing the location of the affected lot, building or buildings, and sign or signs, showing both existing signs and awnings and the proposed sign;

(b) Two copies of a scale drawing of the proposed sign or sign revision, including size, height, copy, structural and footing details, material specifications, methods of attachment, illumination, landscaping, front and end views of awning, sample of canvas, calculations for dead load and wind pressure, photograph of site and building marked to show where sign or awning is proposed, and any other information required to ensure compliance with appropriate laws;

(c) Written consent of the owner of the building, structure, or property where the sign is to be erected;

(d) A permit fee as set by written administrative directive.

(2) Exceptions.

(a) The City Manager or designee may waive submission of plans and specifications when the structural aspect is of minor importance.

(b) If the sign to be installed is to replace a nonconforming sign, the permit and plan check fees may be waived at the discretion of the City Manager or designee.

Sec. 9. DMMC 18.42.070 and section 3(C) of Ordinance No. 584 is amended to read as follows:

Inspections.

(1) All signs controlled by this chapter are subject to periodic inspection by the inspector. The inspector shall keep records reflecting inspection dates and results thereof.

(2) Footing inspections shall be made by the inspector for all signs having footings.

(3) Every new sign shall bear the permit number and date of issue prominently and permanently affixed.

(4) Every temporary sign requiring a permit shall bear a legible notation of its expiration date.

(5) If the inspector is required to reinspect a new installation due to no fault of the inspector, a reinspection fee shall be charged in accordance with administration directive.

Sec. 10. DMMC 18.42.090 and section 3(E) of Ordinance No. 584 as amended by section 1 of Ordinance No. 873 as amended by section 2 Ordinance No. 1139 are amended to read as follows:

Special use permits. The City Manager or designee is authorized to grant a special use permit for the following purposes:

(1) Temporary signs, banners and/or posters not exceeding forty (40) square feet, strings of pennants, ribbons, flags, streamers, balloons, spinners, or other devices of a carnival nature may be permitted for temporary or special events, such as a grand opening, but such use shall not exceed forty-five (45) days within a three-month period.

No more than three types of temporary signs may be displayed at any one time.

(2) Temporary signs exceeding forty (40) square feet but not exceeding two hundred (200) square feet may be permitted for temporary or special events, such as a grand opening, but such use shall not exceed forty-five (45) days. Only five such permits shall be issued to any business during a calendar year. The total aggregate of temporary signs shall be no more than four hundred (400) square feet.

(3) Inflatable displays exceeding forty (40) square feet and searchlights may be permitted for temporary or special events, such as a grand opening, but such use shall not exceed ten (10) days. Only three (3) such permits shall be issued to any business during a calendar year.

(4) Off-premises directional signs advertising group sales of single-family residences or condominiums; provided, the following conditions shall apply:

(a) Each sign permitted under this section may contain two sign faces, each of which is no larger than sixteen (16) square feet, and no more than two signs per group sale shall be permitted;

(b) The maximum height of any such sign shall be eight (8) feet from grade;

(c) The maximum duration of any such sign shall be ninety (90) days or whenever the property advertised in the sign is sold, whichever occurs first; provided, the special permit may be renewed and reissued for additional 90-day periods if the property advertised in the sign has not been sold.

(d) An applicant who is granted a permit under this section shall relinquish the general privilege to place three (3) off-premises directional signs per property under the provisions of DMMC 18.42.050(4) but shall be permitted to place an additional three (3) off-premises directional signs for the entire group sale; provided, such signs comply with the requirements in DMMC 18.42.050(4).

Sec. 11. DMMC 18.42.100 and section 3(F) of Ordinance No. 584 is amended to read as follows:

Purpose. The requirements and restrictions of this chapter may be modified by the City Manager or designee when an applicant is using a comprehensive design plan to integrate signs into the framework of the building or buildings, landscaping, and other design features of the property, utilizing an

overall design theme. Comprehensive design may be used on an existing building where the facade is being altered, new construction or in freestanding signs.

Sec. 12. DMMC 18.42.110 and section 3(F)(1) of Ordinance No. 584 is amended to read as follows:

Application -- Supplementary material.

Applications for comprehensive design plan permits shall be submitted on forms provided by the City Manager or designee and shall be accompanied by the following:

(1) A narrative describing the proposed plan, including, but not limited to, the following information:

(a) How the physical components of the sign structure relate to the copy area, detailing legibility and readability factors based on traffic speed, sign placement, and letter size;

(b) How the sign(s) relate to the immediate surroundings, including buildings, other signs, landscaping, and other decorative features;

(c) How the sign or signs relate to the desired land use characteristics promoted by the comprehensive plan and this chapter;

(d) How the elements and design of the sign(s) promote and enhance the overall design theme established by the adopted design guidelines for the Marina District or the Pacific Ridge Neighborhood;

(e) Evaluation of potential adverse effects on adjacent property.

(2) A site plan and colored renderings of the sign(s) and building faces on which the signs will be mounted. Graphic submittals shall illustrate how the total sign proposal will appear from the street(s) from which the signage is intended to be seen.

(3) Regular sign permit application.

Sec. 13. DMMC 18.42.120 and section 3(F)(2) of Ordinance No. 584 is amended to read as follows:

Criteria for granting. The City Manager or designee shall employ the following criteria when evaluating the proposed comprehensive signage plan;

(1) Whether the proposal manifests an exceptional effort toward creating visual harmony between the sign, buildings, and other components of

the subject property through the use of a consistent design theme;

(2) Whether the sign or signs promote the planned land use in the area of the subject property and enhance the aesthetics of the surrounding area;

(3) Whether the sign placement and size obstructs or interferes with any other signs or property in the area or obstructs natural or scenic views;

(4) Whether the proposed sign or signs is/are better coordinated, more harmonious with surrounding development including other signage and the architectural concepts employed in the building's site then could be installed under existing criteria in this chapter.

Sec. 14. DMMC 18.42.130 and section 4(part) of Ordinance No. 584 as amended by section 3 of Ordinance No. 1237 are amended to read as follows:

Applicability. The regulations in Article IV shall apply in all zones and to all signs governed by this chapter, subject to the specific regulations of each zone.

Sec. 15. DMMC 18.42.150 and section 4(B) of Ordinance No. 584 are amended to read as follows:

Prohibited signs. The following signs are prohibited:

(1) Abandoned signs;

(2) Signs or sign structures, which by coloring, shape, wording, or location resemble or conflict with official traffic control signs or devices;

(3) Signs that create a safety hazard for pedestrian, wheelchair, bicycle, or vehicular traffic;

(4) All flashing signs;

(5) Signs attached to or placed on a vehicle or trailer parked on public or private property or public Right-of-Way; provided, however, that this provision shall not be construed as prohibiting the identification of a firm or its products on a vehicle operating during the normal course of business. Public transit vehicles and taxis are exempt from this provision;

(6) Off-premises signs, except real estate signs, political signs, and portable signs as expressly allowed in DMMC 18.42.050, public service/civic event signs, garage sale signs, and

off-premises signs permitted by special use permit as provided in DMMC 18.42.090;

(7) Any sign affixed to or painted on trees, rocks, or other natural features, or utility poles and the like including advertising signs affixed to or painted on fences;

(8) Roof signs;

(9) All portable reader board signs;

(10) Strings of pennants, banners, posters, ribbons, streamers, balloons, spinners, searchlights, or other devices of a carnival nature, except as provided in DMMC 18.42.090;

(11) Home occupation signs.

(12) Any sign that is not specifically permitted by this chapter.

Sec. 16. DMMC 18.42.270 and section 4(N) of Ordinance No. 584 are amended to read as follows:

Placement. All signs, except real estate directional signs, political signs, and portable signs expressly allowed under DMMC 18.42.050, and off-premises signs approved under DMMC 18.42.090, must be located on the premises of the business that they advertise. Advertising signs located on premises other than the premises of the business they advertise are forbidden, notwithstanding single ownership of more than one premises, except where the premises are contiguous. For the purposes of this section "contiguous" means that such buildings are joined and/or interior access provided from one to the other.

Sec. 17. DMMC 18.42.280 and section 5(part) of Ordinance No. 584 as amended by section 3 of Ordinance No. 1237 are amended to read as follows:

Applicability. In addition to the provisions in Article IV, the regulations in Article V shall apply within the various zones.

Sec. 18. DMMC 18.42.290 and section 5(A) of Ordinance No. 584 as amended by section 5 of Ordinance No. 1267 are amended to read as follows:

Residential. The following signs are permitted in all residential zones:

(1) One (1) nonelectrical identification sign per street frontage not exceeding two (2) square feet which contains no more than the name and address of the dweller or tenant of the residence;

(2) One (1) nonelectric identification sign per entrance to a subdivision; providing, that the sign does not exceed twenty-four (24) square feet in area;

(3) Except in the PR-R zone where a wall sign for a nonresidential use within a mixed-use development may be illuminated, one (1) nonelectric identification sign, not exceeding (twenty-four) (24) square feet, per street frontage for nonresidential uses allowed in the residential zones;

(4) Community centers, schools, and churches are permitted one readerboard sign not exceeding twenty-four (24) square feet, not exceeding eight (8) feet in height;

(5) Temporary signs not exceeding sixteen (16) square feet per street frontage for nonresidential uses in a residential zone;

(6) In areas zoned for multiple-family residences, other than duplexes, one nonelectric identification sign not exceeding twenty-four (24) square feet per street frontage and appropriate to the architectural design and landscape;

(7) In the PR-R zone, onsite real estate signs for the individual dwellings shall be displayed together within or on a sign cabinet or display board. One (1) display cabinet or board shall be allowed per street frontage;

(8) No pole signs shall be permitted and monument signs may not exceed ten (10) feet in height except by special use permit. No off-premises signs shall be permitted except as authorized by this chapter.

(9) Internally illuminated signs shall be constructed using individual letters/characters, or sign cabinets with an opaque field or background so that only the individual letters/characters are illuminated.

Sec. 19. DMMC 18.42.300 and section 5(B) of Ordinance No. 584 amended by section 2 of Ordinance No. 1237 is each amended to read as follows:

Neighborhood Commercial Zones. The following signs are permitted in the Neighborhood Commercial Zone (N-C) and commercially zoned properties located in the Redondo Neighborhood:

(1) One nonelectrical and nonilluminated business identification sign containing no advertising matter more than four square feet in area which is permanently affixed to a wall;

(2) Total sign area for a single business shall not exceed one square foot per lineal foot of street frontage up to a maximum of 100 square feet and freestanding signs may not exceed 40 square feet. No freestanding sign shall exceed the height of the primary use structure;

(3) Revolving signs are prohibited;

(4) Temporary signs are permitted as provided in DMMC 18.42.050;

(5) Projecting signs are prohibited.

Sec. 20. DMMC 18.42.320 and section 5(D) of Ordinance No. 584 is amended to read as follows:

Marina District. The following signs are permitted on commercially zoned properties within the Marina District as established by the Des Moines Comprehensive Plan:

(1) Each public commercial parking lot may have one sign per street frontage not exceeding 24 square feet in sign area.

(2) Reader Board signs and Changeable Message Center signs are permitted as per the requirements established in section 2 of this Ordinance.

(3) Projecting signs may not project further than six (6) feet from the surface of the building. A Right-of-Way use permit shall be required for signs projecting over the public right-of-way.

(4) Freestanding signs may not exceed fifteen (15) feet in height as measured from the sidewalk grade, and shall not be located on, above, nor project over the public right-of-way.

(5) No more than one freestanding is permitted for properties with less than three hundred (300) feet of street frontage. Multiple business properties or multi-building complexes with over three hundred (300) feet of street frontage and more than one vehicular access is allowed one additional freestanding sign; provided that the total allowable sign area is not exceed and the signs are over one hundred (100) feet apart.

(6) Each single business property is permitted a total sign area not to exceed two square feet per lineal foot of street frontage, up to a maximum of two hundred (200) square feet. Freestanding signs may not exceed fifty (50) square feet.

(7) Each multiple business property or multi-building complex is permitted one freestanding sign

not to exceed one square foot per lineal foot of street frontage up to a maximum of one hundred (100) square feet. Each business within shall be permitted a wall sign not to exceed one square foot per lineal foot of street frontage; provided, however, that each business must be guaranteed a minimum of at least twenty-four (24) square feet regardless of street frontage.

(8) Gasoline price signs shall not be located in, nor project over the public right-of-way, and shall not be hand written. Such signs may be freestanding or attached to canopy columns. The area of the price sign shall not count towards the allowed total wall or freestanding signage.

(9) Temporary signs shall be permitted as provided in DMMC 18.42.050.

Sec. 21. DMMC 18.42.340 and section 6(A) of Ordinance No. 584 as amended by section 1 of Ordinance No. 791 are amended to read as follows:

Removal of unlawful signs-Notice. The City Manager or designee may order the removal of any sign erected, installed, or maintained in violation of this chapter.

(1) **Signage, General.** Any property owner or occupant erecting or maintaining signage not in compliance with the provisions of this chapter, except portable signs which are regulated in subsection (2) of this section, shall be given written notice, by certified letter, specifying the violation and a direction to correct the violation or remove the sign within thirty (30) days. Such notice shall be given to the holder of the sign permit or, if no permit exists, to the named owner of the land where the sign is erected. In the event the violation is not corrected within the 30-day period, the City Manager or designee shall thereupon revoke the permit and remove, or cause the removal of the sign, and shall assess all costs and expenses incurred against the named owner of the sign and/or named owner of the land. Any sign which is a source of immediate peril to persons or property may be removed summarily and without notice. Alternatively, this subsection may be enforced pursuant to chapter 18.72 DMMC.

(2) **Portable Signage.** Portable signage includes any sign not permanently affixed; real estate signs; political signs; portable Reader Board signs; streamers; pennants; banners; signs attached to or mounted on trees, fences, utility poles, or vehicles parked in proximity to a business with the purpose of attracting attention to such business; or any similar signs. Except as provided for in DMMC 18.42.050(12)(k), portable signs in violation of

this chapter located in the right-of-way must be removed upon 24-hour notice. Such notice shall be given by delivering a written notice of violation to the owner, occupant, or person ostensibly in charge or control of the real property upon which the sign is located. Such notice shall state the violation and shall require that the violation be corrected within twenty-four (24) hours. In the event the violation is not corrected within twenty-four (24) hours, the City Manager or designee shall cause the sign or signs to be impounded. If the portable sign is located off site of the premises to which the sign reasonably relates, or if ownership of the sign cannot be reasonably determined, no notice of violation shall be provided and the sign shall be impounded forthwith. In the event a sign is removed, there shall be a removal fee and a storage fee as set by Administrative Order of the City Manager. No sign shall be returned until the removal and storage fee is paid in full. The sign shall be stored for not less than ten (10) days, and thereafter the City Manager or designee shall dispose of the sign in any manner. No cause of action shall be maintained against the City for damage to signs properly impounded, whether such damage occurred during the impoundment or storage. A second violation occurring within a 12-month period shall be consider a Class 1 civil infraction. A third violation occurring within a 12-month period shall result in a criminal prosecution and immediate impoundment of the sign without notice. This enforcement provision supersedes the processes contained in DMMC 18.72.060, and provides for immediate prosecution pursuant to DMMC 18.72.070. For such repeat offenses sign alteration or substitution shall be no defense.

Sec. 22. DMMC 18.42.350 and section 6(C) of Ordinance No. 584 as amended by section 8 of Ordinance No. 1267 are amended to read as follows

Nonconforming signs

(1) Nonconforming signs that were legally and permanently installed prior to May 15, 2011, shall be allowed to continue in use so long as they are continuously maintained, are not relocated, are not structurally altered or made more nonconforming in any way.

(2) Nonconforming off-premises signs shall be abated in accordance with DMMC 18.48.090.

Sec. 23. Repealer.

(1) The previously codified provisions of chapter 12.16 DMMC, and the following, are each repealed:

(a) Section 1 of Ordinance No. 542 as amended by section 1 of Ordinance No. 1079;

(b) Section 2 of Ordinance No. 542 as amended by section 2 of Ordinance No. 1079;

(c) Section 3 of Ordinance No. 1079; and

(d) Section 4 of Ordinance No. 542 as amended by section 51 of Ordinance No. 1009 as amended by section 4 of Ordinance No. 1079.

(2) DMMC 18.42.020 and section 1(part) of Ordinance No. 584 are each repealed.

(3) DMMC 18.42.220 and section 4(I) of Ordinance No. 584 are each repealed.

(4) DMMC 18.42.230 and section 4(J) of Ordinance No. 584 are each repealed.

(5) DMMC 18.42.240 and section 4(K) of Ordinance No. 584 as amended by section 3 of Ordinance No. 1139 are each repealed.

(6) DMMC 18.42.260 and section 4(M) of Ordinance 584 are each repealed.

(7) DMMC 18.42.310 and section 5(C) of Ordinance No. 584 as amended by section 6 of Ordinance No. 1267 are each repealed.

(8) DMMC 18.42.325 and section 10 of Ordinance No. 920 are each repealed.

(9) DMMC 18.42.327 and section 7 of Ordinance No. 1267 are each repealed.

(10) DMMC 18.42.330 and section 6(part) of Ordinance No. 584 are each repealed.

(11) DMMC 18.42.370 and section 6(B) of Ordinance No. 584 are each repealed.

Sec. 24. Codification.

(1) Section 1 of this Ordinance shall be codified as a new section in Article IV of chapter 18.42 DMMC entitled "**Signs prohibited on, above, or over the right-of-way.**"

(2) Section 2 of this Ordinance shall be codified as a new section in Article IV of chapter 18.42 DMMC entitled "**Electronic reader board and changeable message center signs.**"

(3) Section 3 of this Ordinance shall be codified as a new section after DMMC 18.42.300 and before DMMC 18.42.320 in Article V of chapter 18.42 DMMC entitled "**Commercial Zones.**"

Sec. 25. 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. 26. 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 April, 2011 and signed in authentication thereof this 14th day of April, 2011.


MAYOR

APPROVED AS TO FORM:


Assistant City Attorney

ATTEST:


City Clerk

Published: April 19, 2011

Effective Date: May 14, 2011

LEGAL NOTICE

SUMMARY OF ADOPTED ORDINANCE

CITY OF DES MOINES

ORDINANCE NO. 1509, Adopted April 14, 2011.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This ordinance relates to zoning and amends chapter 18.42 DMMC relating to regulation of signs within the City of Des Moines, repeals chapter 12.16 DMMC and sections of chapter 18.42 DMMC, and codifies new sections in chapter 18.42 DMMC.

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

Sandy Paul, CMC
City Clerk

Published: April 19, 2011