

ORDINANCE NO. 1454

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON, amending DMMC 18.44.080 to allow ground leases in addition to covenants or easements as options to secure off-site parking.

WHEREAS, the City Council supports the redevelopment of the Downtown Neighborhood, and

WHEREAS, the City of Des Moines Comprehensive Plan (hereinafter "the Plan") provides policy guidance regarding land use and related matters including policies and strategies to achieve the goals established by each element of the Plan, and

WHEREAS, the Plan should guide the decisions of elected officials, appointed officials, City staff, property owners, and consultants, and

WHEREAS, Policy 2-03-05 of the Land Use Element of the Plan states that the City should "promote a land use pattern, scale, and density that supports public transportation services and encourages people to walk and bicycle, as well as provide convenient and safe automobile usage," and

WHEREAS, Strategy 2-04-08 of Land Use Element of the Plan states that the City should "[E]ncourage improvement of the .. Downtown Neighborhood by working with the business community and other representative organizations to achieve the goals of the City of Des Moines Comprehensive Plan" and

WHEREAS, Policy 10-03-08 of the Downtown Neighborhood Element of the Plan states that the City should "[E]ncourage use of alternative modes of transportation, including walking, bicycling, carpooling, and use of mass transit," and

WHEREAS, Policy 10-03-09 of the Downtown Neighborhood Element of the Plan states that the City should "[E]nsure that off-street parking regulations reflect anticipated future demand. Continue to allow shared and off-site parking when no adverse parking impacts will result. Ensure that off-site parking is available at the time new uses are authorized", and

WHEREAS, in June 2008, staff completed a land use inventory in the Downtown Neighborhood to gain an understanding of the range of businesses and services currently operating in the Downtown Neighborhood and the requirement of parking to support those businesses, and

WHEREAS, the June 2008 inventory indicated that there are 182 business operating in the Downtown Neighborhood in six primary groups: grocery, restaurant, retail, general services, health services, and public/quasi-public, and

WHEREAS, the City's current easement or deed requirements (hereinafter "current requirements") for off-site parking discourages the use of joint parking agreements since the property providing the off-site parking area is required to encumber the property in perpetuity, and

WHEREAS, the current requirements place the burden on the property owner providing the parking not the business requesting the off-site parking area, and

WHEREAS, the current requirements do not allow the property owner of the off-site parking area to renegotiate the agreement or discontinue the agreement if the off-site parking area creates a negative impact on the off-site owner's property or business, and

WHEREAS, the current requirements would not allow the owner of the off-site parking area to discontinue the agreement if the building or business on the other property is sold or there is a change in the nature of business within the building, and

WHEREAS, the current requirements are connected to the life of the building regardless of the uses within the building, and

WHEREAS, the current requirements are inconsistent with Policy 10-03-08 of the Downtown Neighborhood Element of the Plan which states the off-site agreement should be linked to the uses within the building, and

WHEREAS, a ground lease option would allow the off-site agreement to change as the uses within the building change over time, and

WHEREAS, the textual code amendment proposed is categorically exempt from review under the State Environmental Policy Act (SEPA) pursuant to WAC 197-11-800(19), and

WHEREAS, the textual code amendments proposed in this ordinance were provided to the Department of Community, Trade and Economic Development as required by RCW 36.70A.130, and

WHEREAS, notice of the public hearing before the City Council was given to the public in accordance with law and a public hearing was held on the 8th day of January, 2009 and all persons wishing to be heard were heard, and

WHEREAS, the City Council finds that this ordinance is appropriate and necessary; now therefore,

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

Sec. 1. DMMC 18.44.040 and section 8 of Ordinance No. 695 amended by section 32 of Ordinance No. 1197 amended by section 4 of Ordinance No. 1237 are each amended to read as follows:

Off-site parking.

(1) Use Agreement. Off-site parking areas shall be provided through:

(a) Deed, Easement, or Covenant: The term of such legal agreement shall be at least as long as the reasonable life of the premises served thereby. Evidence shall be provided of such covenant, deed, or other agreement prior to parking plan approval. The document shall be filed with the King County Director of Records

and Elections, providing that the area used for parking shall not be diverted or converted to any other use as long as the principal building or use to which the parking is accessory continues to exist; or,

(b) Ground Lease: The ground lease shall include a legal description of the area being leased, the purpose of the lease and the terms of the lease and signatures of all parties with an interest in the lease. Evidence of the ground lease must be submitted prior to approval of the parking plan. A copy of the ground lease shall accompany the application for a City business license and all subsequent yearly renewals. If the ground lease expires or is not provided then the City shall deny the business license application or yearly renewal. In order to obtain a new business license after a denial the applicant shall demonstrate that sufficient parking is provided based on the parking requirements effective at the time of the new application either on-site or off-site through a new easement, deed, covenant, or ground lease.

(2) Off-Site Parking Permitted. The City Manager or designee shall have the authority to approve an off-street parking facility; provided, adherence to the following:

(a) Compliance with sub-section 1.

(b) The location of the parking facility off the subject property will conform to the intent and purpose of this chapter, and safe vehicular and pedestrian connections between the parking facility and the principal use exists. Where a distance is specified, such distance shall be the walking distance measured from the nearest point of the parking facilities to the nearest point of the building that such facility is required to serve.

(i) For single-family, duplex, and medium-density multiple dwellings, parking facilities shall be located on the same lot or building site as the building they are required to serve. For townhouse dwellings, parking shall be located not more than 200 feet from the townhouse dwelling they are required to serve, with connecting permanent pedestrian access;

(ii) For high-density and maximum-density multiple dwellings, the parking facilities shall be located on the same site as the dwellings they are required to serve;

(iii) For churches located in a single-family residential, RA-3,600 or RM-2,400 zone, parking facilities shall be located on site; for

churches located in any other zone, parking facilities shall be located not farther than 150 feet and not in a single-family residential zone;

(iv) For hospitals, sanitariums, homes for the aged, children's institutions, homes for the retired, nursing and convalescent homes, dormitories, boarding, rooming, and lodging houses, community clubs, and fraternity, sorority, and group student houses, not more than 400 feet from the building they are required to serve; and

(v) For uses other than those specified, parking facilities shall be located not over 600 feet from the building served.

(c) Any parking facility not on the same lot with the principal use to which it is accessory shall be considered for bulk regulation purposes, a principal use on the lot on which located.

Sec. 2. 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. 3. Effective date. This ordinance shall be in full force and effect five (5) days after its passage and approval in accordance with law.

PASSED BY the City Council of the City of Des Moines this 8th day of January, 2009 and signed in authentication thereof this 8th day of January, 2009.


M A Y O R

APPROVED AS TO FORM:


City Attorney

ATTEST:


City Clerk

Published: January 16, 2009

LEGAL NOTICE
SUMMARY OF ADOPTED ORDINANCE
CITY OF DES MOINES

ORDINANCE NO. 1454, Adopted January 8, 2009.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This ordinance amends DMMC 18.44.080 to allow ground leases in addition to covenants or easements as options to secure off-site parking.

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

Denis Staab
City Clerk

Published: January 16, 2009