

**ORDINANCE NO. 1626**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON,** amending DMMC 18.115.060 and DMMC 18.115.080, and adding an "Area 2" on "Figure 2 Downtown Commercial Height Bonus Areas" in the Marina District Neighborhood, providing for up to two properties fronting on the west side of Marine View Drive South, between South 219th Street and South 227th Street, to qualify for a 10 foot building height bonus from 35 feet up to a maximum of 45 feet.

**WHEREAS,** approximately 53 acres of land area exists in the City's Marina District adjacent to Marine View Drive, 7th Avenue South, and within the City's Marina that is zoned D-C, Downtown Commercial, and

**WHEREAS,** the Marina District neighborhood serves as the City's downtown core providing for multi-family residential, commercial and mixed use development, and

**WHEREAS,** for the past 20 years, economic investment in the Marina District Neighborhood has been on the decline, and

**WHEREAS,** the City Council finds that land in the Marina District is highly underutilized and that growth and vitality in the neighborhood is linked to providing for, accommodating, and encouraging property owners to develop to the highest and best use for, and

**WHEREAS,** the City Council finds that amending the DMMC to include an Area 2 on Figure 2 which would include property located on the west side of Marine View Drive South, between South 219th Street and South 227th Street, would help to spur economic investment within the Marina District Neighborhood, and

**WHEREAS,** Comprehensive Plan Land Use Policies LU 2.1 and LU 2.2 stress the importance of enhancing and improving the City's business districts through redevelopment, rehabilitation and other available means to provide long-term economic vitality that will enhance the waterfront and serve as a destination for local residents and visitors, and

**WHEREAS,** the Comprehensive Plan Marina District Element vision and goals are aimed at creating a revitalized neighborhood

that is inviting to new businesses, development shoppers and residents, and

**WHEREAS**, Marina District Element Policy MD 2.2 states that "building height should not adversely impact the adjacent street environment or nearby land uses," and

**WHEREAS**, the intent of Marina District Element implementation strategy MD 2.3.1 is to ensure that new development or redevelopment in the Marina District exhibits design excellence by paying particular attention to site design, building form, architecture and public space as described in the *Marina District Design Guidelines* (2010), and

**WHEREAS**, the building heights for the subject properties were modeled during the 2009 and 2010 timeframe to demonstrate that adverse impacts to adjacent street environment or nearby land uses are not anticipated, and

**WHEREAS**, the zoning map amendment proposed by this Ordinance has been processed in accordance with the requirements of SEPA, and

**WHEREAS**, the zoning map amendment proposed in this Ordinance were provided to the Department of Commerce as required by RCW 36.70A.106, and

**WHEREAS**, pursuant to DMMC 18.20.080 amendment of the Zoning Code (Title 18 DMMC) is a legislative (Type VI) land use decision and amendments are made pursuant to Chapter 18.30 DMMC, and

**WHEREAS**, pursuant to DMMC 18.20.210 amendments to the Zoning Code (Title 18 DMMC) require the City Council to conduct a public hearing to receive public comment regarding this proposal, and

**WHEREAS**, DMMC 18.30.100(3) requires that the date of the public hearing to consider amendments to Title 18 DMMC be set by motion of the City Council, and

**WHEREAS**, the City Council set the date for the public hearing by Draft Resolution No. 15-127, fixing the public hearing for August 20, 2015, and

**WHEREAS**, notice of the public hearing was issued on July 24, 2015 in accordance with the DMMC, and

**WHEREAS**, a public hearing was held on August 20, 2015 and all persons wishing to be heard were heard, and

**WHEREAS**, the City Council finds that the amendments contained in this Ordinance are appropriate and necessary for the benefit and welfare of the public; now therefore,

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

**Sec. 1.** DMMC 18.115.060 and section 278 of Ordinance No. 1591 are amended as follows:

(1) Maximum Building Height.

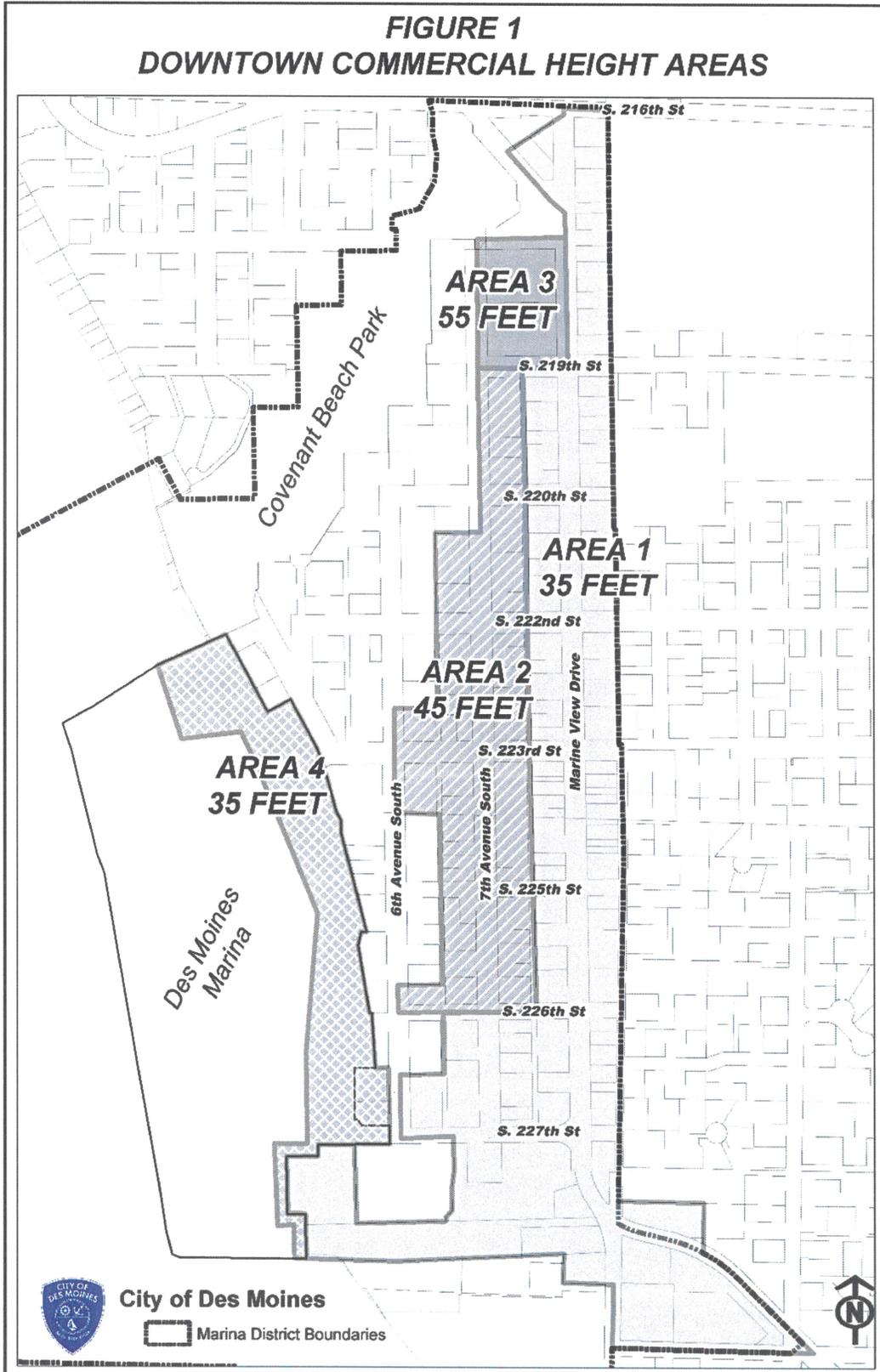
(a) Area 1 on Figure 1. The maximum building height is 35 feet as measured from the highest sidewalk grade of the north-south roadway adjacent to the property; provided, that building heights shall not be measured from 8th Avenue South or the alleys.

(b) Area 2 on Figure 1. The maximum building height is 45 feet as measured from the highest sidewalk grade of the north-south roadway adjacent to the property line; provided, that building heights shall not be measured from the alleys.

(c) Area 3 on Figure 1. The maximum building height is 55 feet as measured from the highest sidewalk grade of 7th Avenue South adjacent to the property line.

(d) Area 4 (the Des Moines Marina) on Figure 1. The maximum building height is 35 feet as measured from the Des Moines Marina floor.

**FIGURE 1**  
**DOWNTOWN COMMERCIAL HEIGHT AREAS**



(2) Building Height Bonus. In the D-C Zone, the City Manager or the City Manager's designee may authorize additional building heights as provided in this subsection:

(a) Area 1 on Figure 2. The maximum building height is 55 feet as measured from the highest sidewalk grade of the north-south roadway adjacent to the property line; provided, that building heights shall not be measured from the alleys.

(i) The maximum number of buildings within the Area 1 that can be authorized to utilize the height bonus by the City Manager or the City Manager's designee under this section is three buildings.

(ii) The total floor area of the building does not exceed the total allowable floor area ratio as determined by DMMC 18.115.080(3).

(iii) The minimum building site area is 20,000 square feet.

(iv) Pedestrian-oriented spaces as defined in the Marina District Guidelines shall be provided.

(v) The property owner shall enter into a no protest agreement regarding the formation of a Parking Business Improvement Area as regulated in chapter 35.87A RCW.

(b) Area 2 on Figure 2. The maximum building height is 45 feet as measured from the highest sidewalk grade of Marine View Drive, subject to the following conditions:

(i) The maximum number of buildings within Area 2 that can be authorized to utilize the height bonus by the City Manager or the

City Manager's designee under this section is two buildings.

(ii) The property must be located at least 300 feet from other properties that are granted a height bonus within Area 2.

(iii) The total floor area of the building shall not exceed the total allowable floor area ratio as determined by DMMC [18.115.080](#)(3).

(iv) The minimum building site area shall be 15,000 square feet.

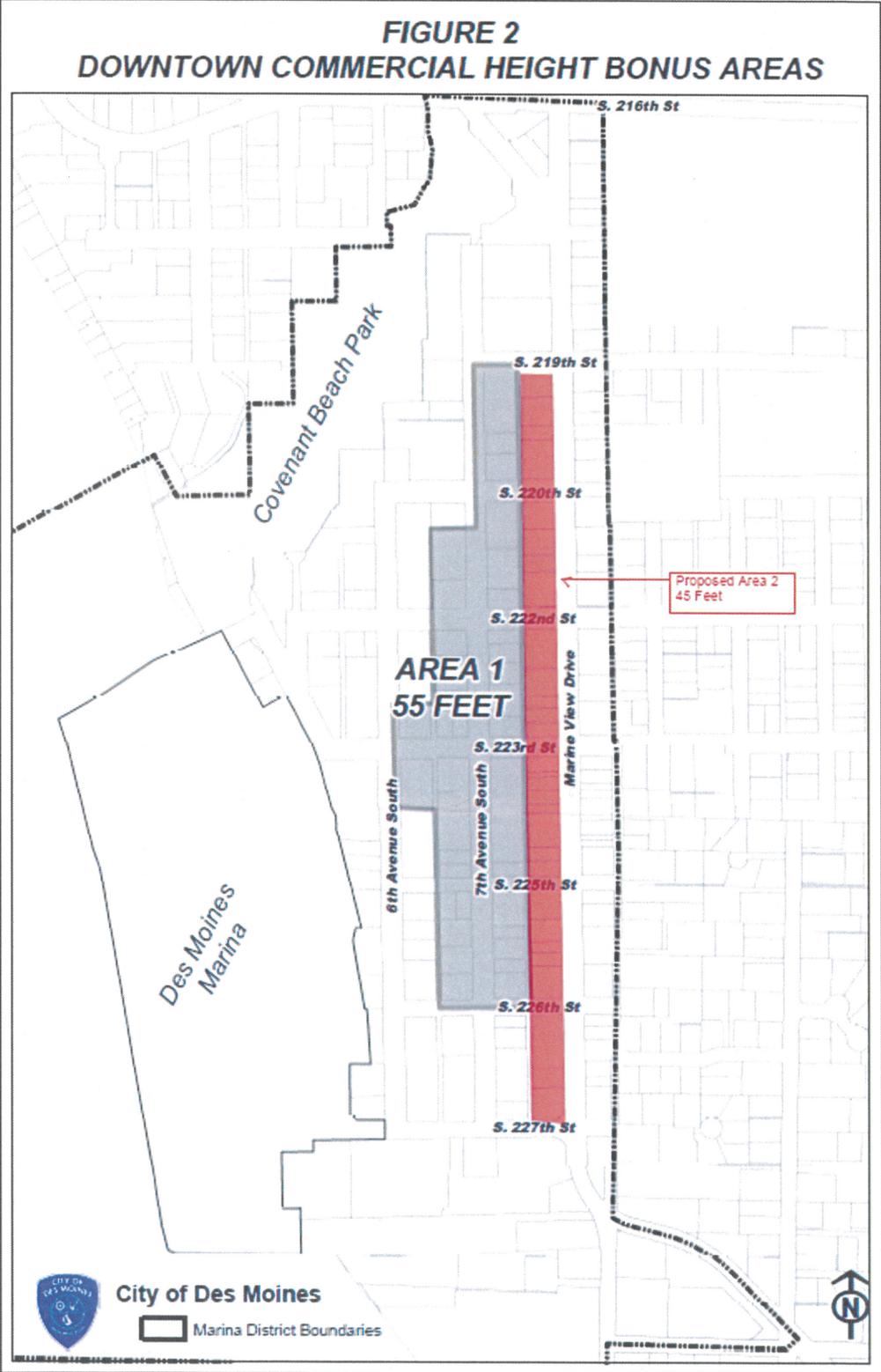
(v) Pedestrian-oriented spaces as defined in the Marina District Guidelines shall be provided.

(vi) The property owner shall enter into a no protest agreement regarding the formation of a Parking Business Improvement Area as regulated in chapter [35.87A](#) RCW.

(vii) To be eligible for the height bonus, a notice of complete land use application must be issued by June 30, 2016.

(viii) And further, to be eligible for the height bonus, a building permit must be issued for the project by December 31, 2017.

**FIGURE 2**  
**DOWNTOWN COMMERCIAL HEIGHT BONUS AREAS**



**Sec. 2.** DMMC 18.115.080 and section 280 of Ordinance No. 1591 are amended as follows:

Development within the D-C Zone shall conform to the following building design requirements:

(1) Structural encroachments into the right-of-way, such as cornices, signs, eaves, sills, awnings, bay windows, balconies, facade treatment, marquees, etc. shall conform to the provisions set forth by Titles 12 and 14 DMMC, and the following provisions:

(a) Structural encroachments into the right-of-way shall be capable of being removed without impact upon the structural integrity of the primary building;

(b) Structural encroachments into the right-of-way shall not result in additional building floor area than would otherwise be allowed;

(c) Except for awnings, signs, and marquees, the maximum horizontal encroachment into the right-of-way shall be two feet;

(d) The maximum horizontal encroachment in the right-of-way by signs shall be four feet;

(e) The maximum horizontal encroachment in the right-of-way by awnings and marquees shall be six feet;

(f) The minimum horizontal distance between the structural encroachment and the curblines shall be two feet;

(g) Except for awnings over the public sidewalk which may be continuous, the maximum length of each balcony, bay window, or similar feature that encroaches the right-of-way shall be 12 feet;

(h) The applicant shall demonstrate proof of public liability insurance and consent to a public place indemnity agreement;

(i) Owners of structural encroachments into the right-of-way must clear the public right-of-way when ordered to do so by City authorities for reasons of public health or safety; and

(j) In reviewing a proposed structural encroachment into the public right-of-way, the City Manager or the City Manager's designee may include conditions as may be reasonably needed to ensure that the structure is consistent with the purpose of the D-C Zone, and to minimize the likelihood of adverse impacts. The City Manager or the City Manager's designee shall deny the request if it is determined that adverse impacts cannot be mitigated satisfactorily.

(2) Pedestrian entrances at street level shall conform to all applicable provisions of chapter 51-10 WAC, Barrier-Free Facilities, as presently constituted or as may be subsequently amended.

(3) Maximum Gross Floor Area.

(a) Area 1 and Area 4, Figure 1. The maximum gross floor area allowed on a site is determined by multiplying the lot area of the site by 2.5.

(b) Area 2, Figure 1. The maximum gross floor area allowed on a site is determined by multiplying the lot area of the site by 3.2.

(c) Area 3, Figure 1. The maximum gross floor area allowed on a site is determined by multiplying the lot area of the site by 3.5.

(d) Using the public benefit incentive system in subsection (4) of this section, the maximum gross floor area allowed is:

(i) Area 1, Figure 2, the maximum gross floor area allowed is determined by multiplying the lot area of the site by 3.5.

(ii) Area 2, Figure 2, the maximum gross floor area allowed is determined by multiplying the lot area of the site by 3.2.

(e) For the purposes of this section, gross floor area does not include any underground areas designed and used for parking.

(f) For the purpose of this section, when more than one building is located on a single property the sum of all gross floor areas of all the buildings shall not exceed the total gross floor area allowed for the property.

(4) Public Benefit Incentive System. The City Manager or the City Manager's designee may approve additional building square footage based on the ratios in Table 18.115.080 subject to the following:

(a) The gross floor area and/or building height limits cannot exceed the limits allowed in subsection (3) of this section and DMMC 18.115.060(2), as provided in Table 18.115.080 and the requirements of this section.

(b) The City Manager or the City Manager's designee may approve a public benefit feature not listed in Table 18.115.080 if a public benefit is located within the Marina District, and a public benefit will be derived from the proposed feature that is roughly equivalent to the benefit derived from a feature in Table 18.115.080.

**Table 18.115.080 Public Benefit  
Incentive System Ratios**

| PUBLIC BENEFIT FEATURE   | BONUS FLOOR AREA<br>PER UNIT OF PUBLIC<br>BENEFIT FEATURE |
|--|---|
| <b>1. Streetscape</b>  |   |
| Each \$1,000 spent on additional roadway improvements above what is required by chapter <u>12.20</u> DMMC  | 100 square feet   |
| <b>2. Design Elements</b>  |   |
| 1 sq. ft. of underground parking   | 5 square feet   |
| 1 sq. ft. of below-ground public parking structure   | 2.5 square feet   |
| 1 sq. ft. of shared parking (for other sites)  | 0.5 square feet   |
| 1 sq. ft. of rooftop garden  | 2 square feet   |
| 1 sq. ft. of rooftop beautification  | 2 square feet   |
| Each additional design element aimed at reducing building bulk and mass (e.g., overhead awning for weather protection, distinctive entry features, building modulation, varied roofline) | 100 square feet   |
| <b>3. Civic Contributions</b>  |   |
| 1 sq. ft. of public parking area   | 0.5 square feet   |
| 1 sq. ft. of public meeting/conference facilities  | 1 square foot   |
| Each \$1,000 spent on public art or water features   | 100 square feet   |

**Table 18.115.080 Public Benefit  
Incentive System Ratios**

| PUBLIC BENEFIT FEATURE  | BONUS FLOOR AREA<br>PER UNIT OF PUBLIC<br>BENEFIT FEATURE |
|---|---|
| Each \$1,000 spent to improve connections to the Des Moines Marina to include signage, way finding, and improved pedestrian connections | 100 square feet   |
| Each \$1,000 spent to improve Covenant Beach Park National Historic District  | 100 square feet   |
| <b>4. Uses</b>  |   |
| 1 sq. ft. restaurant (not fast-food or take-out)  | 1 square foot   |
| 1 sq. ft. rooftop or top floor restaurant (not fast-food or take-out)   | 4 square feet   |
|   |   |
| 1 sq. ft. of public restroom  | 4 square feet   |
| 1 sq. ft. of public open space  | 4 square feet   |
| 1 sq. ft. of additional retail use on ground floor, above that required by DMMC 18.115.050(9)   | 2 square feet   |
| 1 sq. ft. of theater or performing arts venue   | 5 square feet   |

**Sec. 3. Severability - Construction.**

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional

or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

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

**Sec. 4. Effective date.** This Ordinance shall take effect and be in full force thirty (30) days after its final passage by the Des Moines City Council.

**PASSED BY** the City Council of the City of Des Moines this 20th day of August, 2015 and signed in authentication thereof this 20th day of August, 2015.

  
MAYOR

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

ATTEST:

  
\_\_\_\_\_  
City Clerk

Published: August 25, 2015

Effective Date: September 19, 2015

LEGAL NOTICE  
SUMMARY OF ADOPTED ORDINANCE  
CITY OF DES MOINES

ORDINANCE NO. 1626, Adopted August 20, 2015.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This Ordinance amends DMMC 18.115.060 and DMMC 18.115.080, and adds an "Area 2" on "Figure 2 Downtown Commercial Height Bonus Areas" in the Marina District Neighborhood, provides for up to two properties fronting on the west side of Marine View Drive South, between South 219th Street and South 227th Street, to qualify for a 10 foot building height bonus from 35 feet up to a maximum of 45 feet.

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

Bonnie Wilkins  
City Clerk

Published: August 25, 2015