

ORDINANCE NO. 14,147

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by repealing subsections (a) and (b) of Section 2-1050, Section 82-42, Section 82-136, Section 82-137, Section 82-138, subsection (20) of Section 82-212, Section 82-278, Section 82-307, Section 82-308, Section 82-336, Section 82-337, Section 82-338, Section 82-339, Section 102-320, Section 102-321, Section 102-326, paragraph (1) of subsection (a) of Section 102-328, Section 102-614 thereof, and enacting a new subsections (a) and (b) of Section 2-1050, Section 82-42, subsection (20) of Section 82-212, Section 82-278, Section 82-336, Section 82-337, Section 82-338, Section 82-339, Section 102-320, Section 102-321, Section 102-326, paragraph (1) of subsection (a) of Section 102-328, Section 102-614 to create a new Urban Design Review Board and Skywalk Committee to perform the duties formerly held by the Architectural Advisory Committee, Urban Development Board, and Skywalk Committee.

BE IT ORDAINED by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as amended by Ordinance No. 13,910 passed January 22, 2001, by Ordinance No. 14,045 passed January 28, 2002, and by Ordinance No. 14,046 passed January 28, 2002, be and is hereby amended by repealing subsections (a) and (b) of Section 2-1050, Section 82-42, Section 82-136, Section 82-137, Section 82-138, subsection (20) of Section 82-212, Section 82-278, Section 82-307, Section 82-308, Section 82-336, Section 82-337, Section 82-338, Section 82-339, Section 102-320, Section 102-321, Section 102-322, Section 102-326, paragraph (1) of subsection (a) of Section 102-328, Section 102-614 thereof, and enacting a new subsections (a) and (b) of Section 2-1050, Section 82-42, subsection (20) of Section 82-212, Section 82-278, Section 82-336, Section 82-337, Section 82-338, Section 82-339, Section 102-320, Section 102-321, Section 102-322, Section 102-326, paragraph (1) of subsection (a) of Section 102-328, Section 102-614 to create a new Urban Design Review Board and Skywalk Committee to perform the duties formerly held by the Architectural Advisory Committee, Urban Development Board, and Skywalk Committee, as follows:

**Sec. 2-1050. Meeting and attendance requirements.**

(a) Except as otherwise specifically provided, each administrative or advisory board, committee, commission or agency of the city shall establish a schedule of regular meetings of its membership, shall establish a procedure for calling such special meetings as are necessary to the performance of its assigned functions, and shall keep a record of attendance of its members at regular and special meetings. Each member of an administrative or advisory board, committee, commission or agency is expected to attend all

regularly scheduled meetings. The number of absences by any member shall not exceed 25 percent of the number of regularly scheduled meetings in a calendar year, provided if 25 percent is a number less than four, no member shall miss more than four of the regularly scheduled meetings in a calendar year, without regard to the reasons for the absences. The cancellation of a regularly scheduled meeting shall not affect the number of allowed absences.

(b) Each administrative or advisory board, committee, commission or agency shall transmit to the city council a written report containing the name of each member who has not met the attendance requirements of this section within two weeks of the meeting at which any member fails to meet the requirements for attendance established by this section. The report of the administrative or advisory board, committee, commission or agency may recommend removal or retention of any member and state reasons for removal or retention of the member. Failure to meet the attendance requirements of this section is grounds for removal of a member of any administrative board, committee, commission or agency. The first and each subsequent failure to meet the attendance requirements of this section shall be reported to the city council. The city council shall act upon each report received to either retain or remove any member of an administrative or advisory board who has not met the attendance requirements of this section. The attendance requirements of this section shall not apply to the city council, civil service commission, board of library trustees, skywalk committee, landmark review board or the zoning board of adjustment. The attendance requirements of this section shall also not apply to alternate members appointed or approved by the city council to serve at any meeting in the absence of a regular member.

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**Sec. 82-42. Approval of public improvements.**

No public building, bridge, viaduct, street fixture, public structure or appurtenance shall be located or erected or site thereof obtained, nor shall any permit be issued by any department of the municipal government for the erection or location thereof, unless and until the design and proposed location of any such improvement shall have been submitted to the plan and zoning commission and its recommendations thereon obtained. The requirement for recommendations shall not act as a stay upon action of any such improvement if the commission, after 30 days' written notice requesting such recommendations, shall have failed to file the recommendations.

**Sec. 82-212. Required information.**

Site plans which are submitted for review shall be drawn to a scale of one inch to 50 feet or larger and shall include as a minimum the following items of information, unless otherwise waived by the planning director:

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(20) If the proposed development involves the construction of a building by the city or by any other party on property leased from the city or if the proposed development involves the construction of parking facilities, landscaping or other improvements on the site of any such public building, the applicant shall submit architectural plans for the proposed building or improvement sufficient to enable the urban design review board to review, evaluate and make recommendations concerning the proposal as required by subsection 82-339(a) of this chapter. No such proposal shall receive final site plan approval from the planning director until the city council has approved the proposed design and placement of the building and/or related site improvements, after receiving the recommendations of the urban design review board and the plan and zoning commission pursuant to subsection 82-339(a) of this chapter.

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**Sec. 82-278. Qualifications and nominations.**

- (a) The strategic planning commission shall have 19 members. All nominations to the strategic planning commission are subject to confirmation by the city council.
- (b) The mayor and councilmembers shall each nominate one member to the commission.
- (c) The airport board, plan and zoning commission, park and recreation board, urban design review board and board of trustees of the library shall each nominate one of their members to be a member of the commission.
- (d) The neighborhood revitalization board shall nominate two of its members to be members of the commission. The board shall nominate one of its members who was appointed to represent the interests of the residential neighborhoods of the city, and shall nominate one of its members who was appointed to represent the interests of low and moderate income residents of the city.

(e) Downtown Partnership, Inc., may nominate one of the members of its board or staff to be a member of the commission.

(f) Des Moines Neighbors may nominate one of the members of its executive committee to be a member of the commission.

(g) Polk-Des Moines Taxpayers Association may nominate one of the members of its board or staff to be a member of the commission.

(h) The Des Moines Independent School District may nominate one of the members of its board or staff to be a member of the commission.

(i) The county board of supervisors may nominate one of the members of its board or staff to be a member of the commission. Such member is exempt from the residency requirement in section 2-1049 of this Code.

## **Division 2. Urban Design Review Board**

### **Sec. 82-336. Created; composition; appointments.**

(a) There is created in and for the city an urban design review board, which shall be an advisory board composed of eleven members. The membership of the urban design review board shall consist of: four Iowa registered architects, one of whom must have significant experience in the restoration of historic buildings; two Iowa registered landscape architects; one developer, realtor or real estate broker; and four at large citizen representatives, one of whom must have a demonstrated interest in historical renovation and restoration.

(b) Each ward councilmember may recommend candidates for appointment to two positions on the urban design review board. The mayor and the two at large council members may each recommend candidates for appointment to one position on the urban design review board.

(c) The term of each member shall be three years expiring on June 30th, except that the terms of three of the initial members shall be for one year, and the terms of four of the initial members shall be for two years.

**Sec. 82-337. Officers.**

At its first meeting each calendar year, the urban design review board shall elect a chair and vice-chair from its own members who shall serve in such capacities for a period of one year or until their successors shall be elected and qualified.

**Sec. 82-338. Duties.**

(a) The urban design review board shall advise the city council regarding:

(1) The design of public improvements pursuant to 82-42 and the exterior design of major projects pursuant to sections 82-339.

(2) Whether a proposed urban renewal project qualifies for funding from tax increment revenues under the applicable urban renewal plan.

(3) Whether the level of financial assistance funded from tax increment revenues proposed for a specific individual project are reasonable and appropriate.

(4) The selection of urban renewal sites for clearance or rehabilitation, and problems relating to acquisition, clearance or rehabilitation of property, relocation of displaced persons, and disposition of acquired property.

(5) The operation of the skywalk system pursuant to section 102-321.

(b) The board shall sit with the historic district commission as the landmarks review board pursuant to section 58-55.

(c) The board shall recommend one of its members to serve on the strategic planning commission pursuant to section 82-278.

**Sec. 82-339. Architectural review.**

(a) The urban design review board shall review, evaluate, and make recommendations to the city council concerning architectural plans and concepts of:

(1) The exterior design of major projects involving new construction or installation of buildings, parking facilities, and landscaping improvements to be owned or leased by the city and used for civic or municipal purposes. Major projects shall not include exterior repairs or maintenance where the design is not substantially altered. Major projects are defined as those for which construction costs, excluding land costs, are in excess of \$500,000.00 for projects in nonresidential areas, and \$250,000.00 for projects in residential areas as defined by the city's adopted land use plan.

(2) The interior design of all major renovation and remodeling projects for public areas owned or leased by the city which are intended to be used primarily by the general public. Those areas intended to be used primarily by city employees such as office areas, work areas, fire stations, and storage areas are not public areas. Major interior renovation and remodeling projects shall be those projects with an estimated construction cost in excess of \$250,000.00 and any interior project for a public area in city hall or main library with an estimated

construction cost in excess of  
\$100,000.00.

(b) The urban design review board shall undertake preliminary review of all major projects as defined in this section during the schematic design phase. The materials submitted for the preliminary review of a building project shall include a site plan, building plan and elevations, and a perspective, model or other three-dimensional representation sufficient to convey the project in its context. Such preliminary review shall occur at the first scheduled meeting of the urban design review board after all required review materials have been submitted to staff. The recommendation of the urban design review board shall be forwarded to the city manager and the city council. The city council shall act to approve, approve with modification, or disapprove such recommendation.

At the time of the preliminary review, the urban design review board may request that the city council authorize a final review during the construction document phase. If such final review is authorized by the city council, the materials submitted for the final review shall include working drawings, a landscaping plan, a perspective, model or other three-dimensional representation of the project in its surroundings, and materials samples to show finishes, textures and colors. The timeframes and procedures for final reviews shall be the same as those established for preliminary review.

The city manager shall be responsible for conducting a design review of all nonmajor construction, installation, remodeling, and renovation projects. However, the city manager shall notify the chair of the urban design review board of all projects where construction costs are estimated to be \$250,000.00 to \$500,000.00 for new construction/installation projects located in nonresidential areas, \$125,000.00 to \$250,000.00 for new construction/installation projects in residential areas, and \$125,000.00 to \$250,000.00 for remodeling and renovation projects. Upon receipt of such notification, the chair of the urban design review board may ask the city manager to provide the board an opportunity to review these projects. If such review is undertaken, the board shall complete its review and forward its recommendation to the city manager within one week from the date adequate review materials are provided to the board.

(c) The urban design review board shall review, evaluate and make recommendations to the city council regarding the exterior design

of buildings, site plans, and open space plans for property which the city intends to convey or lease through the urban renewal process.

All proposed urban renewal projects shall be presented by the developer or city staff to the board at a public meeting. The board shall complete its review and submit its recommendation to the city council as soon as possible, but in any event within thirty days of the initial presentation of the project to the board. The city council shall then act to approve, modify, or disapprove the recommendations regarding design of the proposed urban renewal project. The urban design review board shall complete its review of the final plans for the urban renewal project at the first scheduled meeting of the board more than three business days after materials are submitted. The stated time requirements are dependent upon complete and adequate materials having been submitted by the developer at the time of original and final submittals. Complete and adequate materials shall be defined by the specific urban renewal offering requirements for the property. The review, evaluation and recommendation shall be guided by the applicable urban renewal plan requirements and associated urban renewal documents.

(d) The city manager shall periodically review and may recommend to the city council such increases in the dollar amounts for review and notification set forth in subsection (a) of this section as may be warranted by inflation.

**Sec. 102-320. Skywalk Committee/Urban Development Board.**

(a) The powers and duties formerly held by the skywalk commission under this code have been transferred to the urban design review board created by section 82-336 and to the skywalk committee created below.

(b) The urban design review board and the skywalk committee are hereby designated as the successors to the skywalk commission. The urban design review board shall have all those advisory duties and responsibilities not constituting the exercise of some portion of the power of the city, formerly held by the skywalk commission under the various Skywalk Agreements between the city and the owners, tenants and occupants of property within the skywalk system. The skywalk committee shall have all those powers and duties constituting the exercise of some portion of the power of the city, formerly held by the skywalk commission under the various Skywalk Agreements between the city and the owners, tenants and occupants of property within the skywalk system.



(c) A five member skywalk committee is hereby created. The membership of the skywalk committee shall consist of two members of the urban design review board, one member who is an owner of an interest in property containing a skywalk corridor, one member who is an owner of an interest in a business which leases property containing a skywalk corridor, and one member who is a member of the Des Moines Skywalk Association. The mayor shall recommend candidates to fill one position on the committee. The at-large council members shall each recommend candidates to fill two positions on the committee.

(d) The term of the two members of the skywalk committee who are members of the urban design review board shall terminate concurrent with the termination of their term on the board. The term of all other members shall be three years.

**Sec. 102-321. Advisory powers of urban design review board.**

The urban design review board shall review and advise the city council on the following:

- (1) Any proposed amendment to this article;
- (2) Any proposed amendment to any other ordinance that may affect the skywalk system;
- (3) Any proposed amendment to the skywalk system plan map or the official skywalk map;
- (4) Any proposed location or change in location of a skywalk corridor or vertical access facility;
- (5) The policy and design standards for skywalk bridges;
- (6) Any request to extend the three-year period for reconstruction of a destroyed skywalk corridor; and
- (7) Such other matters as it determines should be brought to the city council's attention.

**Sec. 102-326. Application to be included in skywalk system.**

- (a) No person may construct a portion of or connection from a property interest granted the right of connection by section 102-319 or by subsection 102-329(1) of this article to the skywalk system without approval of the city.

(b) The city council shall receive and consider an application for the development of a portion of or connection to the skywalk system from an applicant who effectively represents all properties, except those owned by the city and those already traversed by a portion of the skywalk system, to be traversed by the proposed portion of or connection to the skywalk system with the power of attorney to commit such properties to the skywalk usages and restrictions provided by this article. The city council shall receive the advice of the urban design review board before acting on the application.

(c) In determining the priority of construction and location of skywalk bridges, the city council shall give favorable consideration to construction of such bridges to blocks in which all necessary property interests grant the city the right to all easements necessary to complete or extend the skywalk system to all faces of the block and necessary to permit connection to the skywalk system by those property interests within the block that are granted such right of connection by this article, which easements shall come into being at such time as the city council determines they are necessary for such purposes.

(d) The city council shall grant the application to construct a portion of the skywalk system and shall construct any necessary bridges over public rights-of-way at public expense according to specifications on file in the city clerk's office and shall grant the application to construct a connection to the skywalk system if:

(1) The applicant:

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urban design review board, which approval shall not be unreasonably withheld, and upon completion of construction of such relocated portions of the skywalk system ;

c. Signs a skywalk agreement with the city to construct all portions of or connections to the skywalk system



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(2) The city council determines that the city can finance its obligations or, in the alternative, if the applicant agrees that the city can perform its obligations or any part of them as soon as the city council determines it can finance them.

**Sec. 102-328. Obligations of private property interests.**

(a) In addition to granting the easements required by section 102-326 of this article, the owners of any private property interest traversed by the skywalk system and the skywalk-level tenants of such property (referred to in this section as "the private property interests") and their successors or assigns:

(1) May grant the city at no cost an easement for skywalk purposes for so much of a nodal area as exceeds the skywalk corridor easement. The location of these easements shall be as approved by the city council and shall be shown on the official skywalk map. The private property interests shall have the right to change the location of such nodal area easements upon notification to and approval by the city council upon the advice of the urban design review board, which approval shall not be unreasonably withheld, and upon construction of the relocated portions of the skywalk system. The private property interests shall have the right to terminate any such nodal area easement upon three weeks' written notice to the city council.

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**Sec. 102-614. Revocation of license or lease.**

(a) The city council, after notice and hearing, may revoke or refuse to renew any license or lease issued under this article for any of the following reasons:

(1) Failure to comply with the requirements of this article or any other applicable legal requirements.

(2) Fraud, deceit or misrepresentation in connection with an application for a license or lease.

(3) City council determination that the space where an encroachment is located shall be required for public use; provided, however, that the city shall not revoke a license of newsrack space in the skywalk system based on a determination that the space is required for public use unless the public use involves a change in the skywalk system or property adjacent thereto, which brings the newsrack into violation of this article or any other applicable legal requirements, and such determination shall not be made until after the city council has received the recommendations of the urban design review board.

(b) When a license or lease is revoked by the city council based on its determination that the space where the encroachment is located shall be required for public use, the grantee shall be entitled to a partial fee refund to be computed on the basis of 1/12 of the required annual fee multiplied by the number of unexpired whole months of the year remaining after the date of removal of the encroachment. In all other cases where a license or lease is revoked, no refund of any portion of the required annual fee shall be paid to the grantee.

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Roger K. Brown, Assistant City Attorney

Preston A. Daniels, Mayor

Attest:

I, Donna V. Boetel-Baker, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 02-2444), passed by the City Council of said City at a meeting held October 7, 2002 signed by the Mayor on October 7, 2002 and published as provided by law in the Business Record on February 24, 2003. Authorized by Publication Order No. 3564.

Donna V. Boetel-Baker, City Clerk