

ORDINANCE NO. 14,293

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 Section 134-276 thereof, and enacting a new Section 134-276, and by adding and enacting a new Division 22A to Article III of Chapter 134 creating a new zoning district to be known as the "D-R" Downtown Riverfront District.

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. 13,888 passed November 20, 2000, and by Ordinance No. 13,961 passed June 18, 2001, be and is hereby amended by repealing Section 134-276 thereof, and enacting a new Section 134-276, and by adding and enacting a new Division 22A to Article III of Chapter 134 creating a new zoning district to be known as the "D-R" Downtown Riverfront District, as follows:

Sec. 134-276. Classifications.

In order to carry out the purpose and intent of this chapter, the area of the city is divided into 29 zoning district classifications and three overlay district classifications as follows:

A-1	Agricultural district
R1-60	One-family low-density residential district
R1-70	One-family low-density residential district
R1-80	One-family residential district
R1-90	Large lot one-family residential district
R-2	One- and two-family residential district
R-2A	General residential district
R-3	Multiple-family residential district
R-4	Multiple-family residential district
R-5	Mobile home residential district
R-6	Planned residential development district
PUD	Planned unit development district

PBP	Planned business park district
R-HD	Residential historic district
C-0	Commercial-residential district
C-1	Neighborhood retail commercial district
C-1A	Neighborhood commercial reuse district
NPC	Neighborhood pedestrian commercial district
C-2	General retail and highway oriented commercial district
C-3	Central business district commercial district
C-3A	Central business district support commercial district
C-3R	Central business district mixed residential district
D-R	Downtown riverfront district
C-4	Shopping center commercial district
M-1	Light industrial district
M-2	Heavy industrial district
M-3	Limited industrial district
U-1	Floodplain district
FW	Floodway district
S-0	Study overlay district
CDO	Capitol dominance overlay district
ESO	Entertainment sign overlay district

Division 22A. **D-R Downtown Riverfront District** (NEW)

Sec. 134-1035. Statement of intent.

The D-R Downtown Riverfront District is intended to support and enhance the downtown riverfront as a safe and lively people-oriented open-space spine, connecting a series of distinct destination nodes within an urban setting of high-quality buildings. The district is aimed at supporting redevelopment that will significantly enhance the downtown riverfront, attracting visitors and residents of the metropolitan region to a waterfront resource that has been underutilized for many years.

The D-R Downtown Riverfront District is a regulatory tool that assists the implementation of the vision for the "Des Moines Riverfront Master Plan" which is a reference document to the 2020 Community Character Plan. The land use program that best meets the objectives of the "Des Moines Riverfront Master Plan" includes publicly-owned parks, medium density housing, and a combination of cultural and recreation facilities, civic uses, offices, specialty retail shops, entertainment establishments, hotels, and bed and breakfasts. This Downtown Riverfront District is intended to assure that redevelopment adjacent to the river is compatible with the plan for new mixed-use neighborhoods, commercial and residential nodes.

Redevelopment of the downtown riverfront should reinforce the concept of the "riverfront as main street." Multi-story buildings are encouraged to provide a mix of residential and commercial uses with dwellings encouraged to be located above street-level retail. Redevelopment is intended to establish the riverfront district as an interconnected pedestrian-oriented cultural and recreation destination.

Sec. 134-1036. Principal permitted uses

Only the uses of structures or land listed in this section shall be permitted in the D-R Downtown Riverfront District.

1. Multi-family Residential.
2. Specialty retail, restaurants, and hospitality establishments such as the following that are compatible with and specifically support the Downtown Riverfront District as a cultural and recreation destination.
 - a. Antique shops.
 - b. Apparel shops.
 - c. Art studios with gallery.
 - d. Bakeries with a retail sales area where all products produced on the premises are available fresh daily, provided the product preparation and storage area does not exceed 5,000 S.F. of gross floor area.
 - e. Bicycle shops.
 - f. Bookstores.
 - g. Coffee shops.
 - h. Confectionery stores including ice cream or snack bars.
 - i. Delicatessens.
 - j. Florist shops.

- k. Gift shops.
 - l. Jewelry stores.
 - m. Leather goods stores.
 - n. Music stores.
 - o. Pet stores including aquariums.
 - p. Photography stores including retail sales of photography equipment and supplies.
 - q. Recreational equipment rental.
 - r. Restaurants.
 - s. Specialty food stores.
 - t. Sporting goods stores.
 - u. Toy stores.
 - v. Bed and breakfast.
 - w. Hotels.
1. Taverns and nightclubs subject to section 134-1044.
 2. Offices.
 3. Recreational uses and facilities.
 4. Publicly owned parks, playgrounds and recreational facilities.
 5. Museums, galleries, auditoriums, libraries and similar cultural facilities.
 6. Government offices.
 7. Communication antennas mounted on and not extending more than twenty feet above an existing structure.

Sec. 134-1037. Permitted accessory uses.

The permitted accessory uses in the D-R Downtown Riverfront Zoning District shall be surface parking lots and uses of land or structures customarily incidental and subordinate to one of the principal permitted uses, except that storage of material incidental to a principal use may not exceed 40 percent (40%) of the floor area used for such use.

Sec. 134-1038. Specifically prohibited uses.

The following uses of structures or land listed in this section are specifically prohibited in the D-R downtown riverfront district.

1. Gaming facilities including the operation of a facility used for the assembly of patrons for the conduct of games of chance authorized by the State Racing and Gaming Commission.
2. Gas stations, vehicle sales (including sales lots), vehicle display, vehicle hire and rental, vehicle repair work, vehicle accessory stores, vehicle rebuilding and used parts yards, vehicle body and fender work, vehicle accessory stores, car wash facilities.
3. Pawn shops.
4. Bail bonds offices.
5. Convenience stores with fuel sales.
6. Adult entertainment business.
7. Communication towers.

Sec. 134-1039. Special limitations.

In the D-R Downtown Riverfront District the following special limitations shall apply:

1. Storage of any and all materials and equipment shall take place within completely enclosed buildings. All open areas shall be paved or landscaped, properly maintained and kept free from refuse and debris. All refuse collection containers and dumpsters shall be enclosed on all sides by the use of a permanent wall of wood, brick or masonry. The enclosure, including any gates for pedestrian and/or disposal truck access, shall be constructed to provide an opaque screen of the receptacle from any street.
2. All development on the river-side of the levies shall conform to the Flood Plain Development Regulations in chapter 50 of this Code.

Sec. 134-1040. Bulk regulations.

The following requirements shall be observed in the D-R Downtown Riverfront District, subject to the modifications contained in section 134-1296.

Building Height:

Minimum height for all uses that are not built integral to the levee as part of the riverwalk redevelopment, shall be the lesser of 36 feet or 3 stories.

Maximum height for all uses shall be 75 feet, except where lower height limits are imposed by the Capitol Dominance Overlay District.

Riverfront Setbacks:

1. Riverfront setbacks for all new construction (that is not built integral to the levee and as part of the park) are to be a minimum of 100 (horizontal) feet from the high water mark of the river.
2. Redevelopment adjacent to the riverfront park (not part of the levee reconstruction) shall front a continuous public right-of-way. This could be either a road built to an urban standard, or an alternative profile of a minimum 20' width that clearly delineates a public right-of-way between new private development and the riverfront park.

Sec. 134-1041. Design Guidelines.

New buildings within the D-R downtown riverfront district shall be pedestrian and riverfront oriented. To that end, new buildings within the D-R downtown riverfront district shall substantially comply with the following guidelines:

Lighting

All new exterior lighting upon private property should be pedestrian in scale. The use of private overhead floodlighting is discouraged.

Residential buildings

1. Building front entrances should face public rights-of-ways. Those buildings with river frontage should be oriented towards the riverfront (except when located above street level retail).
2. At least one building entrance should directly access the street when located above street-level retail.
3. Buildings should have a building frontage on the principal street of not less than 70% of the lot frontage on the principal street.
4. Buildings should have a maximum setback of 15 feet from the public right-of-way.
5. Service entrances, waste disposal areas and other similar uses should be located adjacent to service lanes and away from major streets and the public right-of-way adjacent to the river.

Commercial buildings

1. Buildings should have a building frontage on the principal street of not less than 70% of the lot frontage on the principal street.
2. A minimum of 70% of the building frontage should be set within one foot of the front lot line.
3. Building entrances on new development sites that have river frontage (and are not integral to the levy), should be oriented both towards the riverfront and the primary street.
4. Service entrances, waste disposal areas and other similar uses should be located adjacent to service lanes and away from major streets and the public right-of-way adjacent to the river.
5. Restaurants may operate outdoor cafes on public sidewalks while maintaining pedestrian circulation subject to obtaining an areaway permit.

Sec. 134-1042. Off-street loading and parking.

In the D-R Downtown Riverfront District, no off-street parking is required for any use. Any off-street parking that is provided shall comply with section 134-1377 and the site plan regulations. Spaces for off-street loading shall be provided in accordance with the provisions of section 134-1376.

Sec. 134-1043. Signs.

In the D-R Downtown Riverfront District, signs shall be in accordance with the following:

1. All building or wall signs shall project no more than seven (7) feet from the building, unless such projection is over the street right-of-way, in which case such sign shall project no more than thirty-six (36) inches. Such projecting signs shall be not less than ten (10) feet from the ground in areas in which there is only pedestrian traffic and not less than twelve (12) feet from the ground in areas in which there is vehicular traffic. Signs shall be not more than twelve (12) square feet in area per occupant and shall not extend more than four (4) feet above the roofline. Projecting signs may be anchored to the roof or building.

2. Any combination of two (2) on-premises Type A, Type B or Type C identification and/or advertising signs per occupant of a building not to exceed 1-1/2 square feet in area per lineal foot of building frontage per occupant, and not to exceed a maximum of one hundred (100) square feet per occupant, shall be permitted. If building frontage consists of twenty-five (25) percent or less of the total lot frontage, the occupant or occupants of that building shall be permitted, in lieu of the above, one (1) foot in area per lineal foot of lot frontage per lot and not to exceed a maximum of one hundred (100) square feet per occupant. Such signs shall be permitted on public or private canopies attached to and supported by a building. The following restrictions shall be met:

- a. The permitted types of free-standing signs in the D-R District are monumental and sandwich board signs. Pole signs and portable signs other than sandwich board signs are not permitted.
- b. One (1) sandwich board sign shall be permitted per building tenant. A sandwich board sign shall not exceed ten (10) square feet, and no dimension of the sign shall exceed five (5) feet. Such signs shall comply with ingress and egress requirements outlined in the city building code.
- c. One (1) monument sign shall be permitted per building facade and shall consist of no more than two (2) faces, said faces to be parallel and not to exceed sixteen (16) square feet in area per sign face. No dimension of said sign shall exceed four (4) feet.

3. One (1) non-illuminated building or wall identification sign per occupant, not to exceed two (2) square feet in area, shall be permitted on buildings where occupants have no occupant frontage, and shall be located immediately adjacent to the principal entrance to said occupant's premises.

4. Two (2) on-premises Type B attraction panel signs shall be permitted on theatre marquees. The total sign area per marquee shall not exceed one hundred sixty (160) square feet.

5. Off-premises advertising signs are not permitted in the D-R district.

Sec. 134-1044. Taverns and Nightclubs.

In the D-R Downtown Riverfront District, the following shall apply to the sale of liquor, wine and beer:

1. No business holding a liquor license or a beer or wine permit which is not operated as either,

(i) a grocery store or pharmacy at least half of whose gross income is derived from the sale of merchandise other than liquor, wine or beer, and disregarding any sales of fuel or petroleum products; or

(ii) a restaurant, at least half of whose gross income is derived from the sale of prepared food and food-related services,

may be located upon any premises, unless such business shall first have received a conditional use permit from the Board of Adjustment after public hearing. Notice of such hearing shall be provided to all owners of record of property within 250 feet of the subject property.

2. The Board shall grant a conditional use permit to a business holding a liquor license or a beer or wine permit only where the business, when operated in conformance with such reasonable conditions as may be imposed by the board, satisfies the following criteria:

a. The location and manner of operation of the business will advance the stated intent of the D-R Downtown Riverfront District.

b. The proposed location, design, construction and operation of the particular use, including any associated parking adequately safeguards the public health, safety and general welfare.

c. The business is sufficiently separated from adjoining residential uses by distance, landscaping, walls or structures to prevent any noise, vibration or

light generated by the business from having a significant detrimental impact upon the adjoining residential uses.

d. The business will not unduly increase vehicular congestion on the streets in any adjoining residential area.

e. The operation of the business will not constitute a nuisance.

3. Any conditional use permit so granted by the board shall be subject to the following general conditions, together with such additional special conditions as may be reasonably required by the board to ensure that the criteria in subsection (2) of this section are satisfied:

a. Any parking area provided for the use of customers of the business shall be illuminated at an intensity of at least one foot-candle of light on the parking surface at all times.

b. The business shall comply with article IV of chapter 42 of this Code pertaining to noise control.

c. No sale of alcoholic beverages shall be made from a drive-through window.

d. Litter and trash receptacles shall be located at convenient locations inside and outside the premises, and operators of such business shall remove all trash and debris from the premises and adjoining public areas on a daily basis.

e. The conditional use permit is subject to amendment or revocation if the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions set forth in the conditional use permit.

4. If the zoning enforcement officer determines at any time that the operation of such a business exhibits a pattern of violating the conditions set forth in the conditional use permit, the zoning enforcement officer may apply to the board to reconsider the issuance of the conditional use permit for such business. A copy of such application and notice of the hearing before the board on such

application shall be provided to the owner of such business at least 30 days in advance and shall also be provided to all owners of record of property within 250 feet of the subject property. If the board finds that the operation of such business exhibits a pattern of violating the conditions set forth in the conditional use permit, the board shall have the authority to amend or revoke the conditional use permit.

Sec. 134-1045 -- 134-1050 Reserved.

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 Daniels, Mayor

Attest:

I, Diane Rauh, 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. 03-2768), passed by the City Council of said City at a meeting held December 8, 2003 signed by the Mayor on December 8, 2003 and published as provided by law in the Business Record on December 22, 2003 Authorized by Publication Order No.4003.

Diane Rauh, City Clerk