

ORDINANCE NO. 14,326

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 and replacing Section 134-1037, Section 134-1040, Section 134-1041, subsection (b) of Section 82-206, Section 82-207, subsection (a) of Section 82-208, subsection (a) of Section 82-209, subsections (15) and (17) of Section 82-212, Section 82-213, subsection (a) of Section 82-214, Section 82-214.01, Section 82-214.03, Section 82-214.05 and subsection (a) of Section 82-215 thereof, and by adding and enacting a new subsection (10) to Section 134-1036 and Section 82-214.07 regarding the regulation of development in the "D-R" Downtown Riverfront District, when a site plan is required for any new development or redevelopment, and the requirements for site plan approval.

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. 14,293 passed December 8, 2003, Ordinance No. 14,231 passed May 5, 2003, Ordinance No. 14,171 passed December 16, 2002, Ordinance No. 14,147 passed October 7, 2002, Ordinance No. 14,081 passed May 6, 2002, Ordinance No. 14,018 passed November 19, 2001, Ordinance No. 13,881 passed November 6, 2000, and Ordinance No. 13,878 passed November 6, 2000, be and is hereby amended by repealing and replacing Section 134-1037, Section 134-1040, Section 134-1041, subsection (b) of Section 82-206, Section 82-207, subsection (a) of Section 82-208, subsection (a) of Section 82-209, subsections

(15) and (17) of Section 82-212, Section 82-213, subsection (a) of Section 82-214, Section 82-214.01, Section 82-214.03, Section 82-214.05 and subsection (a) of Section 82-215 thereof, and by adding and enacting a new subsection (10) to Section 134-1036 and Section 82-214.07 regarding the regulation of development in the "D-R" Downtown Riverfront District, when a site plan is required for any new development or redevelopment, and the requirements for site plan approval, as follows:

**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.

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- 10. Warehouses and warehousing, which were conforming uses on December 31, 2003, and replacements thereof, provided the construction of such replacement is commenced within six months and diligently pursued to completion.

**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 other than warehousing may not exceed 40 percent (40%) of the floor area used for such use.

**Sec. 134-1040. Bulk regulations.**

In lieu of specific bulk regulations, new construction and remodeling within the D-R Downtown Riverfront District are subject to the design guidelines in the site plan regulations.

**Sec. 134-1041. Not used.**

**Sec. 82-206. Purpose.**

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(b) The site planning review requirements of this article are designed to ensure the orderly and harmonious development of such property in a manner that shall:

(1) Promote the most beneficial relation between present and proposed future uses of land and the present and proposed future circulation of traffic throughout the city;

(2) Permit present development of property commensurate with fair and orderly planning for future development of other properties in the various areas of the city with respect to the availability and capacity, present and foreseeable, of public facilities and services. The factors to be considered in arriving at a conclusion concerning proposed present development of property shall include the following:

a. The maximum population density for the proposed development, the proposed density of use, and consideration of the effect the proposal will have on the capacity of existing water and sanitary sewer lines to the end that existing systems will not become overloaded or capacity so substantially decreased that site use will inhibit or preclude planned future development;

b. Zoning restrictions at the time of the proposal;

c. The city's comprehensive plan;

d. The city's plans for future construction and provision for public facilities and services; and

e. The facilities and services already available to the area which will be affected by the proposed site use;

(3) Encourage adequate provision for surface and subsurface drainage, in order to ensure that future development and other properties in

various areas of the city will not be adversely affected;

- (4) Provide suitable screening of parking, truck loading, refuse disposal, and outdoor storage areas from adjacent residential districts; and
- (5) Preserve the character of the commercial corridor within NPC neighborhood pedestrian commercial districts.

**Sec. 82-207. Application.**

- (a) *Preapplication conference.* Whenever any person proposes to develop any tract or parcel of land within any zoning district classification, except R-5 mobile home residential district, R-6 planned residential development district, PUD planned unit development district or C-4 shopping center commercial district, he or she shall submit to the community development department a request for a preapplication conference for any use except the following:
  - (1) One- or two-family attached and detached dwellings not within an NPC neighborhood pedestrian commercial district.
  - (2) Nonresidential building or paving projects provided: i) the property is not within an NPC neighborhood pedestrian commercial district or D-R downtown riverfront district; ii) the project does not involve the extension of parking under the authority of section 134-1377(f)(8) into a zoning district where such parking would be otherwise prohibited; and, iii) the project has a total site area of 10,000 square feet or less.
  - (3) Fire stations owned and operated by the city.
  - (4) Publicly owned parks, playgrounds, golf courses, recreation areas.
  - (5) Agriculture uses, including nurseries and truck gardens, provided that no retail sale shall be permitted on the premises.
  - (6) Uses of land or structures not within an NPC neighborhood pedestrian commercial district customarily incidental to and subordinate to those uses set forth in subsections (a)(1) through (5) of this section.

- (7) Development within the NPC neighborhood pedestrian commercial district or D-R downtown riverfront district with a total site area of 2,500 square feet or less and which is determined by the planning director to not increase the nonconformance of such development with the applicable design guidelines in this article.

The conference shall include the applicant or his or her representative, community development department staff and other city staff. The purpose of the conference shall be to acquaint the city staff with the proposed development and to acquaint the applicant or his or her representative with the procedures and with any special problems that might relate to the development. The applicant shall furnish a legal description of the property to be developed at the time of requesting a preapplication conference, and the conference shall be held within 15 days of such request.

(b) *Construction of terms.*

- (1) For the purposes of this article, development is defined to be the placement of buildings and other structures, paved areas, drainage and utility improvements, lighting and other appurtenances related to any uses except one- and two-family dwellings in the districts listed in subsection (a) of this section.
- (2) Parking accessory to and for use by a use in the NPC district which is located in an adjoining residential district shall be considered to be located in the NPC district for the purposes of this article.
- (3) In this article, guidelines are intended to be applied collectively. The officer or body charged with determining whether a set of guidelines have been satisfied shall make that determination based upon the level of compliance with the set of guidelines as a whole, and any deficiency in satisfying one or more individual guidelines may be offset by an elevated level of compliance with the guidelines overall, if it is consistent with the purpose of the guidelines and this article.

- (4) In this article, regulations are intended to be applied individually. The officer or body charged with determining whether a set of regulations have been satisfied shall make that determination upon satisfaction of each and every applicable regulation. Compliance with any individual regulation is intended to be determined independently of the determination of compliance with any other applicable regulation. A set of regulations may include a requirement for compliance with a subset of guidelines.
- (c) *Site plan review.* A site plan shall be submitted and reviewed in accordance with the following:
- (1) After completion of the preapplication conference as required by subsection (a) of this section, and if the applicant wishes to proceed with the development of the property as discussed at such conference, he or she shall cause to be prepared a site plan of such development and submit four copies of the site plan to the community development department. The site plan shall contain all the information required by section 82-212 of this article unless otherwise waived by the planning director. The site plan shall be accompanied by a covering letter requesting review and approval of such plan and by payment of the fee in the amount set in the Schedule of Fees adopted by the city council by resolution. In addition to the fees, the owner shall pay the costs for any required notification to property owners as established by the community development department.
  - (2) The community development department shall promptly convey one copy to the engineering department, and one copy to the fire department for their review and comments. The remaining copy shall be retained by the community development department for review. Such departments shall review the plan for conformance of the design to the regulations set forth in section 82-213 and any applicable design guidelines set forth in this article and shall forward their recommendations concerning the plan to the community development department within ten days

after the date of submission of such plan to the community development department.

- (3) Persons developing property wholly owned by the federal government may submit a site plan for approval without paying the fees described in this section.

**Sec. 82-208. Determination for property subject to administrative approval.**

(a) *Generally.* Application for site plan approval shall be considered and determined in accordance with the procedures in this section, except for the following types of improvements which shall instead be subject to section 82-209:

- (1) Improvements to property in the NPC neighborhood pedestrian commercial district.
- (2) Improvements which include an extension of parking into an adjoining residential district under the authority of section 134-1377(f)(8).
- (3) Improvements to property used as a vehicle display lot in a commercial zoning district.
- (4) Improvements to property used for multiple family, boardinghouse or roominghouse use.
- (5) Improvements to property in the D-R downtown riverfront district.

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**Sec. 82-209. Determination for property not subject to administrative approval.**

(a) Applications for site plan approval shall be considered and determined in accordance with the procedures in this section for the following types of improvements:

- (1) Improvements to property in the NPC neighborhood pedestrian commercial district. .
- (2) Improvements which include an extension of parking into an adjoining residential district under the authority of section 134-1377(f)(8).
- (3) Improvements to property used as a vehicle display lot in a commercial zoning district.
- (4) Improvements to property used for multiple family, boardinghouse or roominghouse use.

- (5) Improvements to property in the D-R downtown riverfront district.

**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:

- (15) Location, amount and type of any proposed landscaping, fences, walls, or other screening as required by chapter 134 of this Code and by the design regulations set forth in section 82-213 of this article.

- (17) Soils tests and similar information if deemed necessary by the planning director to determine the feasibility of the proposed development in relation to the design regulations set forth in section 82-213 of this article.

**Sec. 82-213. Design regulations.**

The design regulations provided in this section are necessary to ensure the orderly and harmonious development of property in such manner as will safeguard the public's health, safety and general welfare and to ensure that the future development of property in the city will not be foreclosed by such development. The decision to approve, approve subject to conditions or disapprove a proposed site plan shall be based upon the conformance of the site plan with the following design regulations:

- (1) The design of the proposed development shall make adequate provisions for surface and subsurface drainage, for connections to water and sanitary sewer lines, each so designed as to neither overload nor to substantially decrease the capacity of existing public utility lines in a fashion that will serve to inhibit or preclude the planned future development of other property within the city and so as not to increase the danger of erosion, flooding, landslide, or other endangerment of adjoining or surrounding property. The city's comprehensive plan shall be the principal guide in determining the prospective use and population

density of other properties. However, the factors to be considered in arriving at conclusions on standards of design shall include those set forth in subsection 82-206(b)(2) of this article.

- (2) The proposed development shall be designed and located within the property in such manner as not to unduly diminish or impair the use and enjoyment of adjoining property and to this end shall minimize the adverse effects on such adjoining properties from automobile headlights, illumination of required perimeter yards, refuse containers, and impairment of light and air. For purposes of this subsection, the term "use and enjoyment of adjoining property" shall mean the use and enjoyment presently being made of such adjoining property, unless such property is vacant. If vacant, the term "use and enjoyment of adjoining property" shall mean those uses permitted under the zoning district in which such adjoining property is located.
- (3) The proposed development shall have such entrances and exits upon adjacent streets and such internal traffic circulation patterns as will not unduly increase congestion on adjacent or surrounding public streets and in a manner which will conform to the proposed future circulation of traffic throughout the city and provide for adequate fire protection access.
- (4) To such end as may be necessary and proper to accomplish the standards in subsections (1), (2), and (3) of this section, the proposed development shall provide water, sewer, stormwater, street, erosion control or other improvements.
- (5) All electrical, telephone, and cable television transmission systems shall be placed underground whenever reasonably practicable.
- (6) The proposed development shall conform to all applicable provisions of state law and all applicable sections of this Code.
- (7) If the private property is connected to the existing skywalk system, as shown on the official skywalk map, or the applicant intends to connect to the planned skywalk system, as shown on the skywalk system plan map, the proposed development shall have such connections to the existing and planned skywalk system and such internal skywalk system pattern as will best permit the optimal expansion of the skywalk system to

serve the greatest number of properties possible and best provide for the expected skywalk system traffic through the property. If the private property is not connected to the existing skywalk system, as shown on the official skywalk map, and the applicant does not intend to connect to the planned skywalk system, as shown on the skywalk system plan map, this design standard shall not apply to the proposed site plan.

- (8) The proposed development shall provide landscaping, including plantings fences and screening in accordance with the landscape standards in the adopted site plan policies.

**Sec. 82-214. Design guidelines within NPC districts.**

(a) In acting upon any site plan application for property located within an NPC neighborhood pedestrian commercial district, the plan and zoning commission shall apply the design regulations in section 82-213 of this article and the design guidelines in this section developed for the purpose of preserving the community character of the commercial corridor within the district. The design guidelines express the predominant character giving features along the commercial corridor. The commission may approve a site plan that does not comply with the design guidelines if it finds the overall development is in harmony with the commercial corridor, that the failure to comply with the design guidelines does not negatively impact the character of surrounding properties, and that the failure to comply with the design guidelines is due to the following:

- (1) An unusual lot shape, size, topography or double frontage. A lot over one acre in size shall always be considered to be of unusual size;
- (2) A need to facilitate a smooth transition between existing developments in the vicinity;
- (3) A need to accommodate existing development;
- (4) A need to preserve an existing building; or
- (5) A use with unique design requirements.

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**Sec. 82-214.01 Design guidelines for extension of parking.**

(a) In acting upon any site plan application which includes an extension of parking under the authority of section 134-1377(f)(8) into a residential district where it would otherwise be prohibited, the plan and zoning commission shall apply the design regulations in section 82-213. Further, the proposed site plan shall be denied unless it is shown to that such extension of parking meets such regulations and the following design guidelines:

- 1) The construction and use of this parking lot will have no significant detrimental impact on the use and enjoyment of adjoining properties.
- 2) No parking should be permitted in the required front yard of the "R" district unless compatible with the adjoining land use.
- 3) Adequate setbacks shall be provided to protect adjacent residentially zoned property. A minimum ten (10) foot setback from adjacent "R" district property lines should be observed.
- 4) Appropriate screening shall be provided to shield adjacent residential uses from the impacts of the parking lot.
- 5) Adequate landscaping shall be provided and maintained to buffer and beautify the parking area. Both interior and peripheral landscaping should be considered.
- 6) Where feasible, the entrance to the parking area should be from an adjoining alley or the less restrictive district.

**Sec. 82-214.03 Design guidelines for vehicle display lots.**

Any site plan application which includes improvements to property used for display, hire, rental or sales of motor vehicles in a commercial zoning district shall be denied by the plan and zoning commission unless the commission determines that the construction and use of the site will have no significant detrimental impact on the use and enjoyment of adjoining residential uses, and that the proposed site plan conforms with the design regulations in section 82-213 and the following additional design guidelines:

- 1) The proposed development shall satisfy the open space and bufferyard requirements for development in the "C-2" district set forth in the Landscape Standards in the adopted site plan policies.
- 2) Any portion of the property to be used for outside storage, display or parking of vehicles shall:
  - a) contain at least one-half acre of land.
  - b) conform with the parking lot/display lot requirements for development in the "C-2" district set forth in the landscape standards in the adopted site plan policies.
  - c) be surfaced with an asphaltic or Portland cement binder pavement as shall be approved by the city engineer, so as to provide a durable and dustless surface and shall be so graded and drained as to dispose of all surface water accumulation within the area.
  - d) incorporate curbs or other substantial permanent barriers to prevent encroachment of the vehicles into the required setback and landscape areas. Precast wheel stops and other barriers which can be readily moved are not acceptable.
- 3) There shall be no elevated display of motor vehicles in any required front yard.
- 4) The employee and customer parking area shall be clearly designated and shall not be used for the parking, storage or display of motor vehicles for sale, rental or hire.
- 5) All portions of the property used for the outside parking, display or storage of motor vehicles for sale, rental or hire shall be identified on the site plan and the perimeter shall be striped or otherwise conspicuously marked on the parking surface.

**Sec. 82-214.05 Design guidelines for multiple family dwellings, boardinghouses and roominghouses.**

In acting upon any site plan application which includes a multiple family dwelling, boardinghouse or roominghouse, the plan and zoning commission shall apply the design regulations in section 82-213 and the additional design guidelines set forth below. The decision to approve, approve subject to conditions or disapprove a proposed site

plan shall be based upon the conformance of the site plan with such design regulations and the following guidelines.

- 1) *Architectural character.* New developments and alterations to existing development in or adjacent to existing developed areas shall be compatible with the existing architectural character of such areas by using a compatible design. Compatibility may be achieved through techniques such as the repetition of roof lines, the use of similar proportions in building mass and outdoor spaces, similar relationships to the street, similar window and door patterns, and/or the use of building materials that have color shades and textures similar to those existing in the immediate area of the proposed development. Brick and stone masonry shall be considered compatible with wood framing and other materials.
- 2) *Building height and mass.* Buildings shall be either similar in size and height, or if larger, shall be articulated, setback or subdivided into massing that is proportional to the mass and scale of other structures on the same block and adjoining blocks. Articulation may be achieved through variation of roof lines, setbacks, patterns of door and window placement, and the use of characteristic entry features. To the maximum extent feasible, the height, setback and width of new buildings and alterations to existing buildings should be similar to those of existing buildings on the same block. Taller buildings or portions of buildings should be located interior to the site. Buildings at the ends of blocks should be of similar height to buildings on the adjoining blocks.
- 3) *Building orientation.* To the maximum extent feasible, primary facades and entries shall face the adjacent public street. A main entrance should face a connecting walkway with a direct pedestrian connection to the public street without requiring all pedestrians to walk through parking lots or across driveways.
- 4) *Garage access/location.* If the prominent character of garage access and/or location is located to the rear of the properties in the surrounding neighborhood, then new construction should be compatible with such character.

- 5) *Rooftop/second story additions.* A rooftop or second floor addition, including but not limited to stairs and emergency egress, should not overhand the front or side walls of the existing building.
- 6) *Emergency egress.* All stairs and means of emergency egress extending more than 15 feet above grade and visible from the adjoining street should be completely enclosed with materials compatible in color and texture with the balance of the building.
- 7) *Parking.* Parking lots containing more than eight parking spaces should comply with the adopted landscape standards applicable to commercial development in the C-1 district.

**Sec. 82-214.07. Design guidelines within D-R district.**

- (a) The design guidelines within the D-R downtown riverfront district are 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 a 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. These guidelines are intended to work with the D-R downtown riverfront district regulations in chapter 134 to assure that redevelopment adjacent to the river is pedestrian oriented and compatible with the new mixed-use neighborhoods, commercial and residential nodes planned for the area as further described in section 134-1035.
- (b) In acting upon any site plan application for property located within the D-R downtown riverfront district, the plan and zoning commission shall apply the design regulations in section 82-213 of this article and the design guidelines in this section. The decision to approve, approve subject to conditions or disapprove a proposed site plan shall be based upon the conformance of the site plan with such design regulations and the following guidelines. These guidelines shall be applied to the entire site when a new building is

constructed or an existing building is expanded by more than 50% of its gross floor area as of the time it became part of the D-R downtown riverfront district. If a building is expanded by less than 50% of its gross floor area as of the time it became part of the D-R downtown riverfront district, then these guidelines shall apply only to the expansion of the building.

- 1) *Riverfront setbacks:* Riverfront setbacks for all new construction (that is not built integral to the levee and as part of the park) should be a minimum of 100 (horizontal) feet from the high water mark of the river. Redevelopment adjacent to the riverfront park (not part of the levee reconstruction) should 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.
- 2) *Lighting:* All new exterior lighting upon private property should be pedestrian in scale. The use of private overhead floodlighting is discouraged.
- 3) *Residential building standards:* New residential buildings should also comply with the following guidelines:
  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.

- 4) *Commercial building standards:* New commercial buildings should also comply with the following guidelines:
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. 82-215. Application and effectuation.**

- (a) No building permit shall be issued for any development within any zoning district classification except R-5 mobile home residential districts, R-6 planned residential development districts, PUD planned unit development districts or C-4 shopping center commercial districts involving any use until a site plan has been submitted and approved for such development in accordance with this article, except for the following:
- (1) One- or two-family attached and detached dwellings not within an NPC neighborhood pedestrian commercial district.
  - (2) Nonresidential building or paving projects provided: i) the property is not within an NPC

neighborhood pedestrian commercial district or D-R downtown riverfront district; ii) the project does not involve the extension of parking under the authority of section 134-1377(f)(8) into a zoning district where such parking would be otherwise prohibited; and iii) the project has a total site area of 10,000 square feet or less.

- (3) Fire stations owned and operated by the city.
- (4) Publicly owned parks, playgrounds, golf courses, recreation areas.
- (5) Agriculture uses, including nurseries and truck gardens, provided that no retail sale shall be permitted on the premises.
- (6) Uses of land or structures not within an NPC neighborhood pedestrian commercial district customarily incidental to and subordinate to those uses set forth in subsections (a)(1) through (5) of this section.
- (7) Development within the NPC neighborhood pedestrian commercial district or D-R downtown riverfront district with a total site area of 2,500 square feet or less and which is determined by the planning director to not increase the nonconformance of such development with the applicable design guidelines in this article.

Additionally, no certification of occupancy shall be issued for such development until all terms and conditions of the approved site plan have been satisfactorily completed or provided for.

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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

T. M. Franklin Cownie, 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. 04- 632), passed by the City Council of said City at a meeting held March 22, 2004 signed by the Mayor on March 22, 2004 and published as provided by law in the Business Record on April 5, 2004 Authorized by Publication Order No. 4034.

Diane Rauh, City Clerk