

ORDINANCE NO. 14,045

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, and amended by Ordinance No. 13,910, passed January 22, 2001, and amended by Ordinance No. 13,996, passed September 24, 2001, by repealing paragraph (b) of Section 2-1050, paragraphs (b) and (f) of Section 82-136, paragraph (c) of Section 82-138, paragraph (c) of Section 82-278, Sections 82-307, 82-308, 82-336, 82-337, 82-338, paragraph (a) of Section 82-339, Sections 102-320, 102-321, 102-322, 102-323, 102-324, 102-325, 102-326, paragraph (a) of Section 102-328, paragraphs (e) and (g) of Section 102-329, paragraphs (a), (k), (l) and (n) of Section 102-330, and paragraph (b) of Section 102-609 thereof and enacting a new paragraph (b) of Section 2-1050, paragraphs (b) and (f) of Section 82-136, paragraph (c) of Section 82-138, paragraph (c) of Section 82-278, Sections 82-307, 82-308, 82-336, 82-337, 82-338, paragraph (a) of Section 82-339, Sections 102-320, 102-321, 102-322, 102-323, 102-324, 102-325, 102-326, paragraph (a) of Section 102-328, paragraphs (e) and (g) of Section 102-329, paragraphs (a), (k), (l) and (n) of Section 102-330, and paragraph (b) of Section 102-609, regarding the renaming of the Urban Renewal Board as the Urban Development Board and establishing a Skywalk Committee within the Urban Development Board to make decisions regarding the administration of the skywalk ordinance.

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, is hereby amended by repealing paragraph (b) of Section 2-1050, paragraphs (b) and (f) of Section 82-136, paragraph (c) of Section 82-138, paragraph (c) of Section 82-278, Sections 82-307, 82-308, 82-336, 82-337, 82-338, paragraph (a) of Section 82-339, Sections 102-320, 102-321, 102-322, 102-323, 102-324, 102-325, 102-326, paragraph (a) of Section 102-328, paragraphs (e) and (g) of Section 102-329, paragraphs (a), (k), (l) and (n) of Section 102-330, and paragraph (b) of Section 102-609 thereof and enacting a new paragraph (b) of Section 2-1050, paragraphs (b) and (f) of Section 82-136, paragraph (c) of Section 82-138, paragraph (c) of Section 82-278, Sections 82-307, 82-308, 82-336, 82-337, 82-338, paragraph (a) of Section 82-339, Sections 102-320, 102-321, 102-322, 102-323, 102-324, 102-325, 102-326, paragraph (a) of Section 102-328, paragraphs (e) and (g) of Section 102-329, paragraphs (a), (k), (l) and (n) of Section

102-330, and paragraph (b) of Section 102-609, regarding the renaming of the Urban Renewal Board as the Urban Development Board and establishing a Skywalk Committee within the Urban Development Board to make decisions regarding the administration of the skywalk ordinance, as follows:

Sec. 2-1050. Meeting and attendance requirements.

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(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, urban development 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. 82-136. Created; composition; appointment; meetings.**

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(b) This committee shall be composed of seven members who, because of their civic interest or professional competence in architectural or real estate matters, are qualified to serve as a committee to advise the

city council, the plan and zoning commission and the urban development board. The committee shall advise the plan and zoning commission and city council on matters relating to the architecture and design of certain civic projects intended to be owned or leased by the city. The committee shall advise the urban development board and the city council on matters relating to the architecture and design of urban renewal proposals.

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(f) The plan and zoning commission and the urban development board may each designate one of their respective members to be an ex officio member of the architectural advisory committee. The ex officio members shall have no vote and shall not count toward a quorum of the architectural advisory committee.

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**Sec. 82-138. Duties.**

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(c) The architectural advisory committee shall review, evaluate and make recommendations to the urban development board 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, subject to the following conditions and modifications:

(1) For all proposed urban renewal projects to be located in the central business district, as defined by the city's adopted land use plan, the committee shall conduct a review as follows: The committee shall sit in joint session with the urban development board at the time of original formal submission of a proposal. Within seven days of the joint session, the committee

shall complete  
its review of  
the proposed  
project;  
however, the  
developer or  
his or her  
representative  
shall not be  
required to  
attend further  
meetings of  
the committee.  
The committee  
shall submit a  
recommendation  
to the urban  
development  
board at the  
next regularly  
scheduled  
board meeting.  
The urban  
development  
board shall  
approve,  
modify, or  
disapprove the  
recommendation  
of the  
architectural  
advisory  
committee and  
shall submit  
its  
recommendation  
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recommendation  
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architectural  
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committee to  
the city  
council as  
soon as  
possible. The  
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shall then act to approve, modify, or disapprove the recommendations regarding design of the proposed urban renewal project. The architectural advisory committee shall complete its review of the final plans for the urban renewal project at the first scheduled meeting of the architectural advisory committee after materials are submitted and shall forward the recommendation to the urban development board at the board's next scheduled meeting. The stated time requirements are dependent upon complete and adequate materials having been submitted by the developer at the time of

original and  
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submittals.  
Complete and  
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shall be  
defined by the  
specific urban  
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offering  
requirements  
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property. The  
review,  
evaluation and  
recommendation  
shall be  
guided by the  
applicable  
urban renewal  
plan  
requirements  
and associated  
urban renewal  
documents.

(2) For  
industrial and  
business park  
urban renewal  
proposals, the  
committee  
shall review  
the general  
design  
requirements  
provided for  
in the  
applicable  
urban renewal  
plan. The  
committee will  
not review  
specific  
development  
proposals on

an individual  
basis in these  
areas unless  
the urban  
development  
board requests  
committee  
review.

(3) Except for  
proposals  
identified in  
subsections  
(b)(1) and (2)  
of this  
section, those  
proposals  
which have  
estimated  
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costs in  
excess of  
\$250,000.00  
and are  
located in  
residential  
districts as  
defined by the  
city's adopted  
land use plan,  
and proposals  
having  
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costs in  
excess of  
\$500,000.00,  
located in  
nonresidential  
districts, the  
committee  
shall conduct  
the same  
review as in  
subsection  
(b)(1) of this  
section with

the exception  
that the final  
review by the  
committee  
shall be  
waived unless  
requested by  
the urban  
development  
board.

(4) For all  
other  
proposals not  
included in  
subsection  
(b) (1), (2),  
or (3) of this  
section,  
design review  
shall be  
conducted by  
the urban  
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board with  
recommendation  
from staff  
unless the  
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board requests  
committee  
review. If  
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review is  
requested,  
that review  
shall be  
completed by  
the committee  
at its first  
scheduled  
meeting after  
complete and  
adequate  
materials have  
been submitted

to staff, and  
the committee  
shall forward  
its  
recommendation  
to the urban  
development  
board at the  
board's next  
meeting.

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

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(c) The airport board,  
plan and zoning  
commission, park and  
recreation board, urban  
development board and  
board of trustees of the  
library shall each  
nominate one of their  
members to be a member  
of the commission.

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**Sec. 82-307. Staff supervision.**

The supervision of the office of economic  
development staff, including the supervision  
of economic development financing, shall be  
under the direction of the city manager and  
in no way related to the urban development  
board as described in division 2 of this  
article.

**Sec. 82-308. Staff assistance.**

The urban development board may confer with,  
advise and cooperate with the city council,  
city manager, interested federal agencies,  
citizens and citizens' organizations, and  
any other persons or parties involved or

interested in the subject of any item referred to the urban development board by the city council. Under the direction of the city manager, the administrator of the office of economic development and any technical consultants in the city's employ may provide the urban development board with such information and advice as the board may request in connection with such referral. The administrator of the office of economic development shall be responsible for keeping the minutes of meetings of the board, which shall be disseminated to the city council and city manager, and for the preparation of reports on items which have been referred to the board for study and recommendation.

## **Division 2. Urban development board**

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

(a) There is created in and for the city an urban development board, which shall be an advisory board composed of ten members of which seven shall be at large members and three shall be representative members. The seven at large members of the board shall be persons who, because of their business and professional training and experience, are qualified to advise the city council as to appropriate programs for the development or rehabilitation of blighted or deteriorating areas in the city and the operation and extension

of the skywalk system. One representative member must own an interest in property containing a skywalk corridor, one representative member must own an interest in a business which leases property containing a skywalk corridor, and one representative member must be a member of the Des Moines Skywalk Association.

(b) All appointments shall be for a term of three years. Each member of the city council may recommend a candidate for one at large position on the board. The mayor shall recommend candidates for the three representative positions.

(c) The three representative members of the urban development board and two of the at large members appointed annually by the city council shall constitute the skywalk committee. The term of any member of the skywalk committee shall immediately terminate upon their ceasing to be a member of the urban development board, and a successor shall be appointed to fill the remainder of their term on the skywalk committee.

Appointment to the skywalk committee shall not be subject to the term limits imposed by section 2-1059.

(d) The members of the former skywalk commission shall be members of the urban development board until the date their term on the skywalk commission was to have expired.

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

The urban development 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.**

The urban development board shall:

(1) Receive, investigate, assemble data and hold hearings on any complaints or suggestions concerning urban renewal matters and thereafter make reports and recommendations concerning such to the mayor, city council or city manager for appropriate action.

(2) Disseminate information to the press and public concerning urban renewal matters within general limits as outlined by the city

council and city manager in order to stimulate the interest of the entire population of the city in furtherance of urban renewal objectives.

(3) Study the selection of urban renewal sites for clearance or rehabilitation and problems relating to acquisition, clearance or rehabilitation of property, relocation of displaced persons, disposition of acquired property, redevelopment proposals and all other related urban renewal matters as contemplated by I.C. § 403.1 et seq. The board may hold public hearings with respect to such matters after published notice under the provisions of I.C. § 362.3.

(4) Adopt rules for the transaction of business, including the frequency and place of meetings, and keep a record of its activities and minutes of all meetings and forward copies of the records and minutes to the city manager and city council.

**Sec. 82-339. Advisory representatives.**

(a) A member of each of the following committees shall be appointed by his or her respective chair to attend urban development board meetings as advisor and consultant on matters which are germane to the particular committee he or she represents:

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**Sec. 102-320. Urban development board.**

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

the urban development board has been expanded to include representatives with an interest in the safe, efficient and orderly operation of the skywalk system.

(b) The urban development board and the skywalk committee thereof are hereby designated as the successors to the skywalk commission. The urban development 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 and 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.

**Sec. 102-321. Advisory powers of urban development board.**

The urban development 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. 102-322. Decision powers of skywalk committee.**

For the purpose of this article, the skywalk committee shall:

(1) Establish minimum standards for operation, maintenance and repair of the skywalk system. The term "operation" shall include heating, cooling, lighting, cleaning and providing surveillance for the skywalk system.

(2) Establish the policy and approve the design for the skywalk logo, skywalk maps and route directories, skywalk directional signs and store and building name signs and building directories.

(3) Approve erection of sculpture, plantings, or supports for public announcements or artwork or other amenities in any part of a nodal area on a public easement, the dimensions of which exceed the minimum skywalk corridor dimensions.

(4) Approve or disapprove a request by any person to change the hours of operation for any portion of the skywalk system, except vertical access facilities, provided

such change does not reduce the hours that portion of the skywalk system is open below the minimum hours provided in this article. A request to so change the hours a portion of the skywalk system is open signed by all private property interests on the portion of the skywalk system affected by the change shall be deemed granted upon notice to the skywalk committee. A request to extend the hours a portion of the skywalk system shall remain open shall be granted upon evidence that there will be substantial usage of that portion of the system during such hours, provided those persons requesting such extension of hours present the committee with an executed agreement providing for payment of all operation and repair costs on that portion of skywalk system during such hours. The skywalk committee may approve or may approve subject to such reasonable conditions as are necessary to protect the interests of other persons along the affected portion of the skywalk system or may disapprove a request to change hours of

operation, but if the skywalk committee does not approve subject to condition or disapproves a proposed change in hours within 15 days of the date such request is filed with the skywalk committee, the proposed change shall be deemed approved.

(5) Upon its own notice or upon the complaint of any person, determine whether or not a skywalk corridor constructed or otherwise provided by a private property interest conforms to the minimum design standards for skywalk corridors contained in this article. Any private property interest may submit plans for the construction or other provision of a skywalk corridor to the skywalk committee for determination as to whether or not such plans conform to such minimum design standards.

**Sec. 102-323. Variances.**

(a) The skywalk committee shall approve or approve with such reasonable conditions as the committee may determine or disapprove a request for a variance

from the requirement for minimum clearance of a skywalk corridor or a skywalk bridge over an alley, provided that the committee may grant such variance only when it is satisfied under the evidence before it that:

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(b) The applicant for such variance shall have the burden to present evidence and to prove that the conditions for granting a variance have been satisfied.

(c) The decision on an application for variance shall be made after a public hearing. Notice of such public hearing shall be given at least ten days prior to the date of the public hearing by publication once in a newspaper of general circulation in the city and by registered or certified mail addressed to the last known address of all persons with a property interest in each property abutting on such alley. The applicant shall pay the city an application fee of \$5.00 and the actual costs of notice of the public hearing.

(d) Within ten days after the date the skywalk committee renders its decision, any person aggrieved by such decision may appeal to the city council by written notice of such appeal directed to the city clerk, the skywalk committee and all persons with a property interest in each property abutting on

such alley. The city council shall consider such appeal at a public hearing held after at least ten days' notice given in the same manner as for the original hearing before the skywalk committee. The appellant shall pay the city a fee of \$5.00 and the actual costs of notice of the public hearing. The city council may grant or deny a variance on the same basis as the skywalk committee.

**Sec. 102-324. Changes of hours, conditions.**

When any portion of the skywalk system extends to serve only a single building or business, and no further, and when the building or business served is not regularly open to the public throughout the minimum hours of operation for the skywalk system provided in this article, the skywalk committee, with the written consent of all private property interests associated with the building or business, may approve a reduction in the hours of operation of that portion of the skywalk system serving only that single building or business, so that portion of the skywalk system shall be closed for public pedestrian travel during all or a portion of the hours in which the building or business is not regularly open to the public. However, in no event shall the skywalk committee approve such a reduction in the minimum hours of operation so as to close the affected portion of the skywalk system during any of the hours in

which the building or business is regularly open. Any associated private property interest at any time may revoke its consent to such a reduction in hours by filing a written notice of revocation with the skywalk committee. Upon receipt by the skywalk committee of such notice from any associated private property interest, the prior approval granted by the committee to the reduction in hours shall be deemed revoked, and the affected portion of the skywalk system shall be required to remain open in accordance with the minimum hours of operation for the skywalk system provided in this article.

**Sec. 102-325. Arbitration.**

(a) Any person aggrieved by a decision of the skywalk committee made under a decision power granted it in section 102-322 of this article may request binding arbitration by a written request filed with the secretary of the committee within ten days after receipt of the decision. Thereafter, within five days, the skywalk committee and the party requesting arbitration shall each appoint one arbitrator. Within five days of their mutual appointment, those two arbitrators shall select a third arbitrator who shall chair the arbitration panel. The arbitration panel shall schedule a public

hearing within ten days of such final selection, and the city clerk shall publish notice of the hearing and shall notify affected property owners and tenants by mail. Any interested person may present evidence or argument at the hearing. The arbitration panel shall have the power to reach the same decisions pursuant to the same standards as the skywalk committee. If the majority of the arbitration panel does not render its written decision and reasons within ten days of its hearing, the decision of the skywalk committee shall prevail. Each party shall pay for the costs of the arbitrator it appoints, and the arbitration panel shall apportion all additional costs of arbitration as justice warrants.

(b) For purposes of this section, the city manager, on behalf of the city, shall be a person who may request arbitration or appeal of a decision of the skywalk committee to the same extent that any other person can.

**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 development 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:

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**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:

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**Sec. 102-329. Development criteria.**

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(e) The skywalk system shall be maintained free of all obstructions, except that sculpture, plantings, supports for public announcements or artworks or other amenities, as approved by the skywalk

committee, may be erected in those portions of the nodal areas, skywalk corridors or skywalk bridges which exceed 14 feet in width and which have been dedicated for public skywalk purposes. Where a public utility contracts to provide public communication equipment and service in one or more such locations, the owner or lessee of such location shall be entitled to the proceeds from such contract.

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(g) The only signs that will be allowed in skywalk corridors and skywalk bridges are skywalk logos, skywalk map and route directories, skywalk directional signs and skywalk building identification signs as approved by the skywalk committee. The private property interests shall be allowed to erect store or building name signs and building directories on the sidewalls of skywalk corridors with approval by the skywalk committee and shall be allowed to erect any signs they wish on the private property adjacent to the skywalk corridors, so

long as these signs are not so similar to skywalk graphics as to cause confusion.

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**Sec. 102-330. Standards of usage.**

(a) The skywalk corridors and skywalk bridges shall be open for public pedestrian travel between the hours of 6:00 a.m. and 2:00 a.m. seven days a week, except that the skywalk corridors and skywalk bridges or portions thereof shall be open for such additional hours as the skywalk committee may approve in accordance with subsection 102-322(4) of this article and except that portions of the skywalk corridors and skywalk bridges shall be open for such reduced hours as the skywalk committee may approve in accordance with subsection 102-324 of this article. The vertical access facilities shall be open during the regular building or business hours of the building or business in which they are located, but not in excess of the hours the skywalk corridors they serve are open.

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(k) No person shall erect any advertising or signs, other than official skywalk system signs approved by the skywalk committee, in any skywalk corridor or skywalk bridge, except that store or building name signs or building directories may be permitted by the skywalk committee on the sidewalls of skywalk corridors, and except that temporary street banner signs announcing a public event or service attached to the exterior of skywalk bridges may be permitted providing that specific approval is granted under regulations established by the city council. No person shall erect any sign on property adjacent to the skywalk system that is so similar to an official skywalk sign or graphics as to cause confusion.

(l) No person shall be upon or remain upon any skywalk corridor or skywalk bridge roof without the authorization of the skywalk committee unless use of such roof is for a bona fide maintenance activity or emergency.

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(n) No person shall enter upon any portion of the skywalk system, its skywalk bridges or corridors and conduct activities thereon in disregard of signs or posted notices as promulgated or authorized by the skywalk committee.

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**Sec. 102-609. Newsracks within skywalk system.**

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(b) Enclosed newsracks within the skywalk system shall be placed only within modular shell units. Each modular shell unit shall contain space for insertion of at least two separate enclosed newsracks, with one being installed above the other, and shall be constructed with unenclosed newsracks, for the free circulation of newspapers or news periodicals, attached to the exterior of each such unit. The city shall be responsible for installing and maintaining all such modular shell units, including the attached unenclosed newsracks, and the parties leasing enclosed newsrack spaces within such units shall

be responsible for installing and maintaining their enclosed newsracks within such units. Modular shell units and newsracks shall comply with particular written specifications relating to the color, dimensions and construction thereof, which specifications shall be developed by the city engineer and approved by the skywalk committee.

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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

Preston Daniels, Mayor

Attest:

I, Donna 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. 02-259), passed by the City Council of said City at a meeting held January 28, 2002, signed by the Mayor on January 28, 2002, and published as provided by law in the Business Record on February 11, 2002. Authorized by Publication Order No. 3107.

Donna Boetel-Baker, MMC City Clerk