

ORDINANCE NO. 14,455

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 subsection (a) of Section 82-207, subsection (a) of Section 82-208, subsection (a) of Section 82-209, Section 82-214.3, Section 82-214.7, subsection (a) of Section 82-215, and Section 82-218 thereof, and enacting a new subsection (a) of Section 82-207, subsection (a) of Section 82-208, subsection (a) of Section 82-209, Section 82-214.3, Section 82-214.7, subsection (a) of Section 82-215, and Section 82-218, adopting design guidelines applicable within the C-3B Central Business Mixed Use District, and requiring site plans for vehicle display lots in all districts to be subject to review and approval by the Plan and Zoning Commission.

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. 13,878 passed November 6, 2000, by Ordinance No. 14,018 passed November 19, 2001, by Ordinance No. 14,081 passed May 6, 2002, by Ordinance No. 14,171 passed December 16, 2002, and by Ordinance No. 14,326 passed March 22, 2004, be and is hereby amended by repealing subsection (a) of Section 82-207, subsection (a) of Section 82-208, subsection (a) of Section 82-209, Section 82-214.3, Section 82-214.7, subsection (a) of Section 82-215, and Section 82-218 thereof, and enacting a new subsection (a) of Section 82-207, subsection (a) of Section 82-208, subsection (a) of Section 82-209, Section 82-214.3, Section 82-214.7, subsection (a) of Section 82-215, and Section 82-218, adopting design guidelines applicable within the C-3B Central Business Mixed Use District, and requiring site plans for vehicle display lots in all districts to be subject to review and approval by the Plan and Zoning Commission, as follows:

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, D-R downtown riverfront district; or C-3B central business mixed use 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, D-R downtown riverfront district or C3-B central business mixed use 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.

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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.
 - (4) Improvements to property used for multiple family, boardinghouse or roominghouse use.

- (5) Improvements to property in the D-R downtown riverfront district or C-3B central business mixed use 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.
 - (4) Improvements to property used for multiple family, boardinghouse or roominghouse use.
 - (5) Improvements to property in the D-R downtown riverfront district or C-3B central business mixed use district.
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Sec. 82-214.3. 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 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. 82-214.7. Design guidelines within D-R and C-3B districts.

- (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.

The design guidelines within the C-3B central business mixed-use district are intended to establish a lively pedestrian-scaled, urban setting. These guidelines are intended to work with the C-3B central business mixed-used district regulations in chapter 134 to assure that redevelopment is pedestrian-oriented and compatible with the new mixed-use neighborhoods.

- (b) In acting upon any site plan application for property located within the D-R downtown riverfront district or C-3B central business mixed-use 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 percent of its gross floor area as of the time it became part of the D-R downtown riverfront district or C-3B central business mixed-use district. If a building is expanded by less than 50 percent of its gross floor area as of the time it became part of the D-R downtown riverfront district or C-3B central business mixed-use district, then these guidelines shall apply only to the expansion of the building.

- (1) *Building Heights.* Minimum height for all uses that are not built integral to the levee as part of the riverwalk redevelopment, should be the lesser of 36-feet or 3-stories.
- (2) *Riverfront setbacks.* Riverfront setbacks for all new construction (that is not built integral to the levee and as part of a riverfront park) should be a minimum of 100 (horizontal) feet from the high water mark of the river. Redevelopment adjacent to a 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.
- (3) *Lighting.* All new exterior lighting upon private property should be pedestrian in scale. The use of private overhead floodlighting is discouraged.
- (4) *Residential building standards.* New residential buildings should also comply with the following guidelines:

- a. 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).
 - b. At least one building entrance for the residential uses should directly access the street when located above street-level retail.
 - c. Buildings should have a building frontage on the principal street of not less than 70 percent of the lot frontage on the principal street.
 - d. Buildings should have a maximum setback of 15 feet from the public right-of-way.
 - e. 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) *Commercial building standards.* New commercial buildings should also comply with the following guidelines:
- a. Buildings should have a building frontage on the principal street of not less than 70 percent of the lot frontage on the principal street.
 - b. A minimum of 70 percent of the building frontage should be set within one foot of the front lot line.
 - c. 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.
 - d. 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.
 - e. Restaurants may operate outdoor cafes on public sidewalks while maintaining pedestrian circulation subject to obtaining an areaway permit.
- (6) Storage of any and all materials and equipment should take place within completely enclosed buildings. All open areas should be paved or landscaped, properly maintained and kept free from refuse and debris. All refuse collection containers and dumpsters should 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, should be constructed to provide at least a 75% opaque screen of the receptacle from any street.
- (7) All open areas not used for off-street loading or parking should be landscaped in accordance with the Des Moines Landscape Standards. (See Site Plan Landscape Policies)
- (8) Access doors for any warehouse use and any loading docks should not front on any public street. That portion of a building fronting on a public street should be used in an office or other commercial use.

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, D-R downtown riverfront district or C-3B central business mixed use 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, D-R downtown riverfront district or C-3B central business mixed use 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. 82-218. Applicability to existing development.

The requirements of this article shall not apply to existing developments or to developments for which building permits have been issued as of the effective date of the ordinance from which this article derives, provided that if such building permit shall expire, a new building permit shall not be issued until the requirements of this article have been met.

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, Jody Witmer, Chief Deputy 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. 05-1333), passed by the City Council of said City at a meeting held May 23, 2005 signed by the Mayor on May 23, 2005 and was published as provided by law in the Business Record on June 13, 2005 Authorized by Publication Order No.4813.

Jody Witmer, Chief Deputy City Clerk