

ORDINANCE NO. 16,240

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 amending Section 2-201, relating to the city managers authority for executing certain real estate documents and adding the city managers authority for administrative settlements and condemnation awards.

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 heretofore amended, by amending Section 2-201, relating to the city managers authority for executing certain real estate documents and adding the city managers authority for administrative settlements and condemnation awards, as follows:

Sec. 2-201. Powers and duties.

- (a) The city manager shall be the administrative head of the municipal government and shall have and exercise all the powers and perform all the duties prescribed by I.C. § 372.1 et seq., except as otherwise provided by ordinance, resolution, or motion of the city council. Except as otherwise provided in this Code or by state law, the city manager shall have the power and duty to provide for the issuance and revocation of such licenses and permits as are authorized by law or ordinance. The manager shall supervise and administer the office of public affairs.
- (b) The city manager or his or her designee may, in his or her discretion, execute right of entry and access agreements for and on behalf of the city, granting access to specified city property to persons for various purposes, including but not limited to property surveys, soil testing, grading, filling, construction staging activities, and access to city property outside of street and alley right-of-way for purposes of conducting environmental assessment or remediation activities, all in support of public or private projects, provided that such agreements shall be subject to review and approval by the legal department. Access to city property within city street and alley right-of-way for purposes of conducting environmental assessment or remediation activities shall be granted pursuant to the requirements of division 2 of article XI of chapter 102 of this Code. The city manager shall develop a schedule of reasonable charges for the grant of access to city property, provided that such charges shall be waived when such access is sought by a governmental entity or by a contractor or consultant engaged in work on behalf of a governmental entity.
- (c) The city manager or his or her designee may, in his or her discretion, execute right of entry and access agreements for and on behalf of the city to secure access to private property or property owned by other governmental entities by city personnel or city contractors or consultants for the performance of required activities thereon in support of city projects or operations, provided that the compensation paid by the city for such access does not exceed \$100,000 and provided that such agreements shall be subject to review and approval by the legal department.

- (d) The city manager or his or her designee may, in his or her discretion, execute temporary easements for construction and demolition and temporary backslope and property adjustment easements, for and on behalf of the city, to secure access to private property or property owned by other governmental entities by city personnel or city contractors as needed in support of the construction, repair, or replacement of public improvements, provided that the compensation paid by the city for each such temporary easement does not exceed \$100,000 and provided that such temporary easements shall be subject to review and approval by the legal department.
- (e) The city manager or his or her designee may, in his or her discretion, execute the following types of real estate documents for and on behalf of the city, provided that such documents have been reviewed and approved by the legal department:
 - (1) Documents releasing tenant's interests, or involving other temporary property interests, including maintain vacancy agreements and rental agreements, in support of the construction, demolition, repair or replacement of public improvements, provided that the compensation paid by the city under such real estate documents does not exceed \$100,000.
 - (2) Documents involving initial and renewal lease agreements for terms of less than three (3) years for the lease of city-owned property that is not needed for municipal purposes during the lease term.
 - (3) Acceptance of any deed, easement, covenant, or other interest in real estate conveyed to the city, provided that the compensation paid by the city under such real estate document does not exceed \$100,000.
 - (4) Documents releasing the city's interest in promissory notes and loan agreements for loans given by the city and administered by the city's office of economic development division of the development services department or the neighborhood conservation services division of the neighborhood services department, and in mortgages, deeds of trust, and similar liens given as security for such loans, in the event that the underlying loan has been paid in full in accordance with the terms thereof. Notwithstanding the foregoing, execution of documents releasing the city's interest that involve partial or full loan forgiveness or amended loan or collateral terms require prior city council approval by resolution.
 - (5) Documents subordinating the city's interest under subordinate mortgages and liens on private property and amendments thereto, to allow the refinancing of the senior mortgages and liens on such property when the city manager determines it to be in the city's interest and without material impact on the city's security interest in the property for proper and timely performance of the property owner's obligations to the city.

- (6) Documents consenting to the assignment of all or some portion of the owner's interest in a contract with the city for economic assistance for the development or redevelopment of the owner's property, and to the assignment of all or some portion of the owner's interest in such property, when the city manager determines it to be in the city's interest and without material impact on the city's security interest in such property for proper and timely performance of the owner's obligations to the city.
 - (7) Documents representing or certifying to a third party that, except as specifically noted in the document, the city has no knowledge or record that another party to a contract, lease or other agreement with the city is in default or noncompliant with such contract, lease or agreement, when the city manager determines it to be in the city's interest to make such representation or certification.
 - (8) Documents consenting to the lessee's assignment of its interest in a lease for city property.
 - (9) Documents releasing the city's easement interest in a property, provided city staff has determined said easement interest is no longer needed and the fair market value paid to the city for the release of said easement interest does not exceed \$100,000.
- (f) The city manager or his or her designee may, in his or her discretion, make application and/or execute licenses, easements or agreements for the grant to the city of crossing rights for municipal utilities or facilities in railroad rights-of-way, as provided in section 476.27(2)(b) of the 2001 Code of Iowa and in the rules promulgated pursuant thereto, provided that the compensation paid by the city for such rights does not exceed \$100,000 and provided that such documents shall be subject to review and approval by the legal department.
- (g) The city manager or his or her designee may, in his or her discretion, approve administrative settlements prior to condemnation award and condemnation awards required for the acquisition of various property interests in support of city projects or operations, should the city manager determine the amount of the administrative settlement or condemnation award to be in the city's best interest, and provided that any such administrative settlement or condemnation award does not exceed \$100,000 above the approved fair market value of the property interests to be acquired.

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

FORM APPROVED: Kathleen Vanderpool, Deputy City Attorney

T.M. Franklin Cownie, Mayor

Attest: I, Laura Baumgartner, 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. 23-0620), passed by the City

Council of said City at the meeting held on April 24, 2023 and signed by the Mayor on April 24, 2023 and published and provided by law in the Business Record on May 12, 2023. Authorized by Publication Order No. 12303.

Laura Baumgartner, City Clerk