

ORDINANCE NO. 1571

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to the dissolution of the City's Planning Agency, repealing chapter 4.28 DMMC, DMMC 17.16.080, and 18.64.060, and all underlying ordinances effective January 1, 2014; and amending DMMC 17.16.100, 18.56.180, 18.56.200, 18.60.030, 18.60.120, 18.64.010, 18.64.040, 18.84.040, 18.84.060, and 18.84.080.

WHEREAS, Ordinance No. 611 established the Planning Agency on November 15, 1984, and

WHEREAS, at the April 6, 2013, City Council Retreat, the City Council considered the dissolution of the City's Planning Agency, and

WHEREAS, pursuant to DMMC 18.56.080, amendments of the Subdivision Code (Title 17 DMMC) and Zoning Code (Title 18 DMMC) are a legislative (Type VI) land use decision, and

WHEREAS, pursuant to DMMC 18.56.200, amendments to the Zoning Code (Title 18 DMMC) require the City Council to conduct a public hearing to receive public comment regarding this proposal, and

WHEREAS, DMMC 18.60.120(3) requires that the date of the public hearing to consider amendments to Title 18 DMMC be set by motion of the City Council, and

WHEREAS, The City Council set the public hearing and date by resolution which was, in this case, established by Resolution No. 1226, fixing the public hearing for August 8, 2013, and

WHEREAS, the textual code amendments proposed in this Ordinance were provided to the Department of Commerce as required by RCW 36.70A.106, and

WHEREAS, the changes proposed by this Ordinance have been processed in accordance with the requirements of the State Environmental Policy Act (SEPA), and the responsible official has determined that this Ordinance relates solely to governmental procedures and contains no substantive standards

respecting use or modification of the environment, and is accordingly exempt from threshold determination and EIS requirements under WAC 197-11-800, and

WHEREAS, notice of the public hearing was issued on July 18, 2013 in accordance with the DMMC, and

WHEREAS, a public hearing was held on August 8, 2013, and all persons wishing to be heard were heard, and

WHEREAS, the City Council finds that the amendments contained in this Ordinance are appropriate and necessary, and

WHEREAS, the City Council hereby dissolves the Planning Agency, effective January 1, 2014; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. Chapter 4.28 DMMC, *Planning Agency*, and all underlying ordinances, are each repealed, effective January 1, 2014.

Sec. 2. DMMC 17.16.080 and section 22 of Ordinance No. 931 as amended by section 40 of Ordinance No. 1174 as amended by section 9 of Ordinance No. 1287 are each repealed, effective January 1, 2014.

Sec. 3. DMMC 17.16.100 and section 24 of Ordinance No. 931 as amended by section 11 of Ordinance No. 1287 as amended by section 6 of Ordinance No. 1341 are each amended to read as follows:

City Council review.

(1) General. As specified by chapter 18.56 DMMC, the City Council shall hold a public hearing on each proposed Type IV land use action. No later than the first regular public meeting after receiving the recommendation of the Planning, Building and Public Works Director on the preliminary subdivision, the City Council shall set by motion the date of the hearing.

(2) Notice. The Planning, Building and Public Works Director shall prepare and distribute public notice of the hearing as set forth in DMMC 17.40.070.

(3) Electronic sound recording. The City Council shall make a complete electronic sound recording of each public meeting involving the review of a Type IV land use action.

Sec. 4. DMMC 18.56.180 and section 18 of Ordinance No. 1174 are each amended to read as follows:

Review process for Type IV land use action.

(1) Upon conclusion of the 15-day comment period and any applicable SEPA appeal period, the City Council may approve, approve with conditions, or deny a Type IV land use action upon compliance with the procedural requirements of chapter 18.94 DMMC (Hearing Examiner Code).

(2) The City Council's decision regarding a Type IV land use action is appealable to the Superior Court of Washington for King County as specified by DMMC 18.94.300 (Appeal from decision of the City Council).

Sec. 5. DMMC 18.56.200 and section 20 of Ordinance No. 1174 as amended by section 5 of Ordinance No. 1193 are each amended to read as follows:

Review process for Type VI land use action.

(1) For textual code amendments, the Planning, Building and Public Works Director may schedule a public hearing before the City Council as provided in DMMC 18.60.120.

(2) Upon conclusion of the 15-day comment period, the City Council may approve, approve with conditions, or deny a Type VI land use action upon

compliance with the procedural requirements of chapter 18.60 DMMC (Amendments, Unclassified Use Permits, Planned Unit Developments, and Appeals).

(3) Except for matters subject to review by the Central Puget Sound Growth Management Hearings Board as provided by RCW 36.70A.280 as presently constituted or as may be subsequently amended, the City Council's decision regarding a Type VI land use action is appealable the Superior Court of Washington for King County as specified by DMMC 18.94.300 (Appeal from decision of the City Council).

Sec. 6. DMMC 18.60.030 and section 1(24.60.030) of Ordinance No. 175 as amended by section 1 of Ordinance No. 553 as amended by section 67 of Ordinance 770 are each amended to read as follows:

Initiation of amendment. Amendments to this Title and the zoning map of the City are initiated as follows:

(1) Amendments to the zoning map of the City may be initiated by:

(a) The verified application of one or more owners of property which is proposed to be reclassified or rezoned;

(b) Adoption of a motion by the City Council directing the Planning, Building and Public Works Department to initiate the amendment;

(c) The Planning, Building and Public Works Department with the approval of the City Manager.

(2) In the case of textual changes to the Zoning Code, in the manner provided in DMMC 18.60.120.

Sec. 7. DMMC 18.60.120 and section 2 of Ordinance No. 553 as amended by section 68 of Ordinance No. 770 as amended by section 1 of Ordinance No. 1062 as amended by section 65 of Ordinance No. 1174 as amended by section 3 of Ordinance No. 1237 are each amended to read as follows:

Textual changes to zoning code. Amendments to this Title that constitute a textual change are made in the following manner:

(1) As used in this section, unless the context or subject matter clearly requires otherwise, "textual change" means a change or amendment to this Title except:

(a) Amendments changing the zone of a particular parcel of property (commonly known as a rezone); or

(b) Actions relating to adoption or amendment to the comprehensive plan.

(2) No textual change is made without at least one public hearing before the City Council.

(3) The City Council shall set a date for the public hearing by motion. Notice of the public hearing shall generally conform with DMMC 17.44.030 (Notice). Continued hearings may be held at the discretion of the City Council but no additional notice is required.

Sec. 8. DMMC 18.64.010 and section 1(24.62.010) of Ordinance No. 175 as amended by section 70 of Ordinance No. 770 are each amended to read as follows:

Establishment of rules for conduct of hearings. The Hearing Examiner shall conduct public hearings in accordance with the provisions of the Hearing Examiner Code.

Sec. 9. DMMC 18.64.040 and section 1(24.62.040) of Ordinance No. 175 are amended to read as follows:

Records. The City shall cause to be kept a brief minute record of the proceeding. Such record, applications filed pursuant to this title, the written order or motion showing the action and the reasons therefore and the evidence of notice, and other material shall become a part of the records of the City to which application is made. Provisions for custody of such additional records or minutes may be adopted by the City.

Sec. 10. DMMC 18.64.060 and section 1(24.62.060) of Ordinance No. 175 as amended by section 67 of Ordinance No. 1174 are repealed.

Sec. 11. DMMC 18.84.040 and section 89 of Ordinance No. 1174 as amended by section 4 of Ordinance No. 1376 are each amended to read as follows:

Initiation of amendment. Amendments to the City of Des Moines Comprehensive Plan may be initiated as follows:

(1) Application by the owner(s) of property proposed for redesignation;

(2) Adoption of a motion by the City Council directing the Planning, Building and Public Works Department to initiate the amendment; or

(3) The Planning, Building and Public Works Department with the approval of the City Manager.

Sec. 12. DMMC 18.84.060 and section 1 of Ordinance No. 1193 as amended by section 6 of Ordinance No. 1376 are amended to read as follows:

(1) Applications for amendment of the City of Des Moines Comprehensive Plan may be submitted to the Planning, Building and Public Works Department

between January 1st and June 30th of each calendar year.

(2) Applications for amendment of the City of Des Moines Comprehensive Plan that do not require an environmental impact statement as determined by the Planning, Building and Public Works Director shall be acted upon by the City Council between September 1st and December 31st of the calendar year of application. In the event the City Council cannot act upon the applications for amendment by December 31st of the calendar year, the City Council may extend its review to the following calendar year.

(3) Applications for amendment of the City of Des Moines Comprehensive Plan that require an environmental impact statement as determined by the Planning, Building and Public Works Director may be acted upon by the City Council between September 1st and December 31st of the year following completion of the environmental impact statement.

(4) By resolution, the City Council may adopt an alternative review schedule from the schedule specified by this section for a particular calendar year.

Sec. 13. DMMC 18.84.080 and section 3 of Ordinance No. 1193 as amended by section 3 of Ordinance No. 1237 as amended by section 8 of Ordinance No. 1376 are amended to read as follows:

Decision criteria.

(1) Amendment of the City of Des Moines Comprehensive Plan is a legislative action (Type VI land use action) and the City Council shall be afforded the broadest possible discretion during review of amendment requests. The City Council may approve, approve with modifications, or deny any application for amendment.

(2) The City Council may approve or approve with modifications an amendment to the City of Des Moines Comprehensive Plan when:

(a) The amendment would correct a technical error; or

(b) The amendment addresses changing circumstances or the needs of the City as a whole, and will benefit the City as a whole; and

(c) All of the following conditions are satisfied:

(i) The amendment is consistent with the Growth Management Act.

(ii) The amendment is not inconsistent with other elements or policies of the City of Des Moines Comprehensive Plan.

(iii) The amendment will not adversely impact community facilities and bears a reasonable relationship to public health, safety, and welfare.

(iv) For amendments relating to a specific property:

(A) The amendment is compatible with adjacent land use and the surrounding development pattern as existing or as specified by the City of Des Moines Comprehensive Plan; and

(B) The subject property is suitable for development as allowed by the development regulations of the potential zone.

(3) During the review of a proposed amendment to the City of Des Moines Comprehensive Plan, factors that may be considered by the Planning, Building and Public Works Director and the City

Council include, but are not limited to, the following:

(a) The effect upon the physical environment.

(b) The effect upon the economic environment.

(c) The effect upon the social environment.

(d) The effect upon open space, surface waters, and environmentally critical areas.

(e) The effect upon parks of local significance.

(f) The effect upon historic and archaeological resources of local significance.

(g) The compatibility with an impact upon adjacent land uses and surrounding neighborhoods.

(h) The adequacy of and impact upon capital facilities, utilities, and public services.

(i) The quantity and location of land planned for the proposed land use type and density.

(j) The current and forecasted population in the area or City.

(k) The effect upon other aspects of the City or the City of Des Moines Comprehensive Plan.

Sec. 14. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent

jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

(2) If the provisions of this Ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this Ordinance is deemed to control.

Sec. 15. Savings clause. Chapter 4.28 DMMC, DMMC 17.16.080, and DMMC 18.64.060 which are repealed and replaced by this Ordinance, shall remain in force and effect until the effective date of this Ordinance.

Sec. 16. Effective date. This Ordinance shall be in full force and effect on January 1, 2014.

PASSED BY the City Council of the City of Des Moines this 8th day of August, 2013 and signed in authentication thereof this 8th day of August, 2013.



M A Y O R

APPROVED AS TO FORM:



Assistant City Attorney

ATTEST:



City Clerk

Published: August 13, 2013

Effective Date: January 1, 2014

LEGAL NOTICE
SUMMARY OF ADOPTED ORDINANCE
CITY OF DES MOINES

ORDINANCE NO. 1571, Adopted August 8, 2013.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This Ordinance relates to the dissolution of the City's Planning Agency, repeals chapter 4.28 DMMC, DMMC 17.16.080, and 18.64.060, and all underlying Ordinances effective January 1, 2014; and amends DMMC 17.16.100, 18.56.180, 18.56.200, 18.60.030, 18.60.120, 18.64.010, 18.64.040, 18.84.040, 18.84.060, and 18.84.080.

The full text of the Ordinance will be mailed without cost upon request.

Bonnie Wilkins
City Clerk

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