

AGENDA

REGULAR MEETING DES MOINES CITY COUNCIL 21630 11th Avenue South, Des Moines, City Council Chambers

April 11, 2013 - 7:00 p.m.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CORRESPONDENCE

COMMENTS FROM THE PUBLIC

BOARD & COMMITTEE REPORTS/COUNCILMEMBER COMMENTS

PRESIDING OFFICER'S REPORT

ADMINISTRATION REPORTS

CONSENT CALENDAR

Page 1 Item 1: APPROVAL OF MINUTES

Motion is to approve the minutes of the March 14 and March 28, 2013 City Council Meetings.

Page 9 Item 2: APPROVAL OF VOUCHERS

Motion is to approve for payment vouchers and payroll transfers included in the above list and further described as follows:

Claim checks: \$846,333.61

Payroll fund transfers: \$417,364.49

Total certified Wire Transfers, Voids, A/P & Payroll vouchers:
\$1,263,698.10

Page 11 Item 3: PROCLAMATION HONORING RIC & DIANNE JACOBSON

Motion is to approve the proclamation honoring Ric and Dianne Jacobson, owners of CorkyCellars, for their many contributions to the Des Moines community and proclaiming April 12, 2013 as "Ric and Dianne Jacobson Day".

Page 13 Item 4: 2013 SUMMER EVENTS – AGREEMENT WITH DESTINATION
DES MOINES

Motion is to approve Draft Resolution No. 13-052 authorizing Destination Des Moines to conduct five summer events and setting the conditions for the Fireworks Over Des Moines, the Waterland Community Barbeque, the Des Moines Classic Car & Boat Show, the Waterland Parade and the Italian Car Show.

AND

Motion is to authorize the City Manager to sign the Agreement with Destination Des Moines for summer events specifying the responsibilities assumed by Destination Des Moines and identifying the in-kind services that will be provided by the City up to a value of \$14,000, substantially in the form as attached.

PUBLIC HEARING

Page 27 1. SIGN CODE AMENDMENTS – PUBLIC READERBOARDS, CHAPTER
18.42 DMMC
Staff Presentation: Development Services Manager Robert Ruth

NEW BUSINESS

Page 37 1. SHORT SUBDIVISION FRONTAGE IMPROVEMENTS POLICY
DISCUSSION
Staff Presentation: Acting Director of Community Development
Denise Lathrop

NEXT MEETING DATE

April 25, 2013 Regular City Council Meeting

ADJOURNMENT

1
MINUTES

**REGULAR MEETING
DES MOINES CITY COUNCIL
21630 11th Avenue South, Des Moines, City Council Chambers**

March 14, 2013 - 7:00 p.m.

CALL TO ORDER

Mayor Kaplan called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

The flag salute was led by Mayor Kaplan.

ROLL CALL

Present were Mayor Kaplan; Mayor Pro Tem Pina; Councilmembers Melissa Musser, Jeanette Burrage, Bob Sheckler, and Carmen Scott.

Councilmember Caldwell was absent.

Mayor Pro Tem Pina moved to excuse Councilmember Caldwell, seconded by Councilmember Burrage.

The motion passed 6-0.

Staffs present were City Manager Tony Piasecki; City Attorney Pat Bosmans; Acting Director of Public Works Dan Brewer; City Clerk Bonnie Wilkins.

CORRESPONDENCE

There was no correspondence.

COMMENTS FROM THE PUBLIC

Quinton Thompson shared with council an e-mail he received from Brandon Carver regarding the sidewalk issue on 216th.

BOARD & COMMITTEE REPORTS/COUNCILMEMBER COMMENTS

Councilmember Scott:

- Arts Commission
 - “Des Moines Got Talent” Auditions will be held April 24, 26 & 27th. Contact 206-870-6527 for details or to schedule an audition.
 - Fundraiser for Sculpture Project.
 - Possible “Squid Festival” in the fall.
 - Breeder’s Theater will put on a performance in the Beach Park; the last week of October, first week of November, for 3 nights.
- Ken Gressett, from Vashon Island, generously presented the Historical Society with a family scrapbook with period pictures and information from the early 1900’s.

Councilmember Sheckler:

- Impressed with turnout of Pacific Middle School students who represented the school at the Washington State Future City Regional Competition.

Councilmember Burrage:

- Also thanked Pacific Middle School for coming this evening.

Mayor Pro Tem Pina:

- Transportation Benefit District Board:
 - 2012 Annual Budget
- As a past alumni of Pacific Middle School, also is impressed with the turnout at tonight's council meeting.

Councilmember Musser:

- Wedding Show, March 16, at the Des Moines Auditorium.
- Sports Night Fundraiser, March 23, at the Des Moines Field House.
- Thanked Pacific Middle School for allowing her to speak at the school before they went to the Future City Competition.

PRESIDING OFFICER'S REPORT

Washington State Future City Regional Competition Presentation - Pacific Middle School

Direction/Action

Motion made by Councilmember Sheckler to approve the Proclamation recognizing the achievements of the Pacific Middle School students in the Washington State Future City Regional Competition, seconded by Mayor Pro Tem Pina.

Mayor Kaplan read the Proclamation recognizing all the Pacific Middle School students who placed in the Washington State Future City Regional Competition into the record.
The motion passed 6-0.

ADMINISTRATION REPORTS

Announced to Council that the King County Landmarks Commission recognized the Des Moines Auditorium as the Best Restoration Project of 2012.

CONSENT CALENDAR

Item 1: APPROVAL OF MINUTES

Motion is to approve the minutes of the February 28, 2013 City Council Meeting.

Item 2: DRAFT RESOLUTION 13-011 SETTING A PUBLIC HEARING; SIGN CODE AMENDMENTS – PUBLIC READERBOARDS, CHAPTER 18.42 DMMC

Motion is to adopt Draft Resolution No. 13-011 setting a public hearing on April 11, 2013 to consider Draft Ordinance 13-011 amending the Sign Code codified as Chapter 18.42 DMMC.

Item 3: DRAFT RESOLUTION 13-033 PLACING MUNICIPAL COURT JUDGE POSITION ON BALLOT

Motion is to approve Draft Resolution 13-033 providing for the submission of the position of Des Moines Municipal Court Judge to the qualified voters of the City of Des Moines for the 2013 primary and general elections, and every four years thereafter.

Direction/Action

Motion made by Councilmember Mayor Pro Tem Pina to approve the consent agenda, seconded by Councilmember Musser.

The motion passed 6-0.

NEW BUSINESS

1. DRAFT ORDINANCE 12-191, FRANCHISE AGREEMENT FOR THE ZAYO GROUP

Staff Presentation: Acting Director of Public Works Dan Brewer

Motion made by Mayor Pro Tem Pina to approve first reading of Draft Ordinance 12-191, granting a non-exclusive franchise with the ZAYO Group to construct, install, operate, maintain and repair telecommunication facilities within the public right-of-way of the City of Des Moines and move it to second reading on a date to be determined by the Mayor, seconded by Councilmember Musser.

The motion passed 6-0.

Mayor Kaplan read Draft Ordinance No. 12-191 into the record.

ADJOURNMENT

Motion made by Mayor Pro Tem Pina to adjourn; seconded by Councilmember Musser.
The motion passed 6-0.

The meeting was adjourned at 7:42 p.m.

NEXT MEETING DATE

March 28, 2013 Regular City Council Meeting

Respectfully submitted,

Bonnie Wilkins
City Clerk

MINUTES**REGULAR MEETING
DES MOINES CITY COUNCIL
City Council Chambers
21630 11th Avenue South, Des Moines****March 28, 2013 - 7:00 p.m.****CALL TO ORDER**

Mayor Kaplan called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

The flag salute was led by Councilmember Scott.

ROLL CALL

Present were Mayor Kaplan; Mayor Pro Tem Pina; Councilmembers Melissa Musser, Jeanette Burrage, Bob Sheckler, and Carmen Scott.

Councilmember Caldwell was absent.

Mayor Pro Tem Pina moved to excuse Councilmember Caldwell; seconded by Councilmember Burrage.

The motion passed 6-0.

Staffs present were City Manager Tony Piasecki; City Attorney Pat Bosmans; Acting Director of Community Development Denise Lathrop; Management Consultant Grant Fredricks; City Clerk Bonnie Wilkins.

CORRESPONDENCE

There was no correspondence.

COMMENTS FROM THE PUBLIC

Kim Richmond, Sonju Community Orchard and Garden Steward, 1644 S 260th Street, Des Moines; wanted to thank Council for their continued support.

Staff acknowledged Ms. Richmond on her hard work and dedication towards the Garden.

Matthew Higgins, 2630 S 226th Street, Des Moines also spoke in support of the Community Garden.

John Jackson, 22027 6th Avenue, Des Moines wanted to acknowledge Kim Richmond's drive, zeal and vision and appreciates the Council and City's support of the Garden.

BOARD & COMMITTEE REPORTS/COUNCILMEMBER COMMENTS

Councilmember Scott:

- Sonju Garden still has 3 raised plots available for seniors.
- Attended Sports Night at the Des Moines Field House.
- Egg Hunt to be held at the Des Moines Beach Park on Saturday, March 30, 9:00 a.m.

Councilmember Sheckler:

- Highline Forum
 - Part 150 Study
 - Official comment period starts on April 15, 2013, contact seapart150comments@landrum-brown.com.
 - State Route 509

Mayor Pro Tem Pina:

- Attended the soft opening of Prima Margherita on March 25th.
- Finance and Economic Development Committee held on March 26th
 - Recap current projects
 - Potential Rezoning of Pacific Ridge

Councilmember Musser:

- Municipal Facilities Committee met March 28th
 - King County Park Director Kevin Brown gave a presentation on the Proposed 2014-2019 Parks Levy to be on the August 6, 2013 Election Ballot
- Preliminary draft of the Marina Development RFQ (Request For Developer Qualifications) on the Marina and Beach Park Development

No report from Councilmember Burrage.

PRESIDING OFFICER'S REPORT

Councilmember Sheckler moved to re-instate Council's Hearts and Flowers Fund with a \$5 monthly donation per Councilmember; seconded by Mayor Pro Tem Pina. The motion passed 6-0.

ADMINISTRATION REPORTS

- Notice is out for Proposition 1 for the Pro/Con Committee, deadline is April 12, 2013.

CONSENT CALENDAR

Item 1: APPROVAL OF MINUTES

Motion is to approve the minutes of the March 7, 2013 City Council Meeting.

Item 2: APPROVAL OF VOUCHERS

Motion is to approve for payment vouchers and payroll transfers included in the above list and further described as follows:

Claim checks \$851,183.02

Payroll fund transfers in the total amount of \$815,120.36

Total certified Wire Transfers, Voids, A/P & Payroll vouchers are \$1,666,303.38

Item 3: MEMORANDUM OF UNDERSTANDING WITH THE NATIONAL RECREATION AND PARK ASSOCIATION (NRPA) TO ACCEPT GRANT FUNDS

Motion is to approve the Memorandum of Understanding (MOU) between the City of Des Moines and the National Recreation and Park Association to accept \$6,264 funds for the Grow Your Park Program and to authorize the City Manager to sign the MOU substantially in the form as attached.

Item 4: APPOINTMENT OF CLAIMS FOR DAMAGES ACCEPTANCE AGENTS
Motion is to adopt Draft Resolution No. 13-059 appointing Acceptance Agents for Claims for Damages filed against the City pursuant to chapter 4.96 RCW.

Item 5: MAYORAL APPOINTMENT OF CARRI LITOWITZ TO LIBRARY BOARD

Motion is to confirm the Mayoral appointment of Carri Litowitz to the Des Moines Library Board effective immediately, to fill one vacant three year term, which will expire on December 31, 2015.

Direction/Action

Motion made by Mayor Pro Tem Pina to approve the consent agenda; seconded by Councilmember Musser.

The motion passed 6-0.

OLD BUSINESS

1. DRAFT ORDINANCE NO. 13-002 INSTITUTIONAL CAMPUS ZONING RECLASSIFICATION

Staff Presentation: Acting Director of Community Development
Denise Lathrop

Direction/Action

Motion made by Mayor Kaplan to enact Substitute Draft Ordinance No. 13-002 amending DMMC 18.80.010 modifying the official zoning map of the City of Des Moines, substantially in the form as attached; seconded by Councilmember Sheckler.

The motion passed 6-0.

Mayor Kaplan read Ordinance No. 13-002 into the record.

NEW BUSINESS

1. LINK LIGHT RAIL ALTERNATIVES ANALYSIS UPDATE

Staff Presentation: Management Consultant Grant Fredricks

Councilmember Sheckler left the meeting at 7:26 p.m.

Direction/Action

By mutual consent, Council accepted a framework of prioritized goals and principles which will guide decision making on light rail extension and station locations as presented by staff.

ADJOURNMENT

Motion made by Mayor Pro Tem Pina to adjourn, seconded by Councilmember Musser.

The motion passed 6-0.

The meeting was adjourned at 8:05 p.m.

NEXT MEETING DATE

April 4, 2013 City Council Study Session

Respectfully submitted,

Bonnie Wilkins
City Clerk

CITY OF DES MOINES
Voucher Certification Approval

11-Apr-13

Auditing Officer Certification

Vouchers and Payroll transfers audited and certified by the auditing officer as required by RCW 42.24.080, and those expense reimbursement claims certified as required by RCW 42.24.090, have been recorded on a listing, which has been made available to the City Council.

As of April 11, 2013 the Des Moines City Council, by unanimous vote, does approve for payment those vouchers and payroll transfers included in the attached list and further described as follows:

The vouchers below have been reviewed and certified by individual departments and the City of Des Moines Auditing Officer.

Claims Vouchers:	Numbers				Amounts
Total A/P Checks/Vouchers	135473	-	135602	130	819,014.82
Electronic Wire Transfers	3		DEPT OF REV, BANK OF AMER VISA		28,208.79
Subtotal for this Council Packet					847,223.61
Voided Claim Checks this check run:					0.00
Voided Claim Checks from previous check runs	135384, 135469			2	(890.00)
Total Claims/Wire Transfers/Voids					846,333.61

Payroll Vouchers:	DISBURSED 04/05/13				Amounts
Payroll Checks	18132	-	18147	= 16	17,093.12
Direct Deposit	140001	-	140136	= 136	260,611.96
Payroll Taxes					54,454.07
Wage/Garnishments					744.07
Voids			0		0.00
Electronic Wire Transfers					84,461.27
ICMA 401 Forfeitures					0.00
Total Claims					417,364.49
Total certified Wire Transfers, Voids, A/P & Payroll vouchers for April 11, 2013					1,263,698.10

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT:

Proclamation honoring Ric and Dianne
Jacobson

ATTACHMENTS:

1. Proclamation

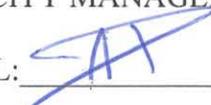
FOR AGENDA OF: April 11, 2013

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: April 5, 2013

CLEARANCES:

APPROVED BY CITY MANAGER

FOR SUBMITTAL:  _____

Purpose and Recommendation

The purpose of this agenda item is to present for City Council approval a proclamation honoring Ric and Dianne Jacobson, owners of CorkyCellars and strong contributors to the overall quality of life in the City of Des Moines.

Suggested Motion

I move to approve the proclamation honoring Ric and Dianne Jacobson, owners of CorkyCellars, for their many contributions to the Des Moines community and proclaiming April 12, 2013 as "Ric and Dianne Jacobson Day".



City of Des Moines

ADMINISTRATION
21630 11TH AVENUE SOUTH, SUITE A
DES MOINES, WASHINGTON 98198-6398
(206) 878-4595 T.D.D.; (206) 824-6024 FAX:(206) 870-6540



Proclamation

WHEREAS, Ric and Dianne Jacobson opened CorkyCellars on November 1, 1999, becoming the first specialty wine shop in the city of Des Moines, and

WHEREAS, Ric and Dianne immediately assimilated themselves into our community by becoming involved in business and community service organizations, and

WHEREAS, Ric and Dianne quickly developed into leaders in the business community and were instrumental in the creation of the Des Moines Business Boosters and several community events, most notably the Corky Crush, the Halloween Trick or Treat Path, and the Holiday Tree Lighting, and

WHEREAS, Ric joined the Des Moines Rotary Club in January 2001, served as Club President in 2004-2005, and was the driving force in the creation of the Club's signature, and highly successful, fund raising event: The Poverty Bay Wine Festival;

WHEREAS, Des Moines has been and continues to be enriched by the creativity, commitment, and hard work of Ric and Dianne by the operation of their business and their personal service to the community, and

WHEREAS, at the end of April 2013, Ric and Dianne are closing CorkyCellars after over a decade of success and beginning a much deserved retirement, and

WHEREAS, it is fitting and proper for the City to honor and pay tribute to Ric and Dianne for all they have given to residents and business owners in Des Moines; now therefore;

THE DES MOINES CITY COUNCIL HEREBY PROCLAIMS APRIL 12, 2013, TO BE:

“RIC AND DIANNE JACOBSON DAY”

and encourages all residents and business owners in Des Moines to thank Ric and Dianne for all of their contributions to our community and to congratulate them and wish them well in their retirement.

SIGNED this 11th day of April, 2013.

Dave Kaplan
Mayor, City of Des Moines

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: 2013 Summer Events – Agreement
With Destination Des Moines

FOR AGENDA OF: April 11, 2013

ATTACHMENTS:

1. Draft Resolution 13-052
2. Draft Agreement Between the City of Des Moines and Destination Des Moines

DEPT. OF ORIGIN: Marina

DATE SUBMITTED: April 3, 2013

CLEARANCES:

Legal TG

Finance N/A

Marina [Signature]

Parks, Rec. & Senior Services PT (ae)

Planning, Bldg. & Public Works DEL

Police [Signature]

Courts N/A

APPROVED BY CITY MANAGER

FOR SUBMITTAL: [Signature]

Purpose and Recommendation

Last year Destination Des Moines assumed the leadership role in planning and staging the Waterland Parade and the Fireworks Over Des Moines events. This year, in addition to the Parade and Fireworks, Destination Des Moines will be taking the leadership role in three other established events; the Des Moines Classic Car and Boat Show, the Waterland Community Barbeque, and the Italian Car Show. The purpose of this agenda item is to ask for the Council's approval of Draft Resolution 13-052 which allows Destination Des Moines to conduct the events on City property, subject to conditions. The staff is also asking the Council to grant the City Manager the authority to sign the agreement between the City and Destination Des Moines which specifies the responsibilities assumed by Destination Des Moines and identifies the in-kind services that will be provided by the City to support the events.

Suggested Motions

Motion 1: "I move to approve Draft Resolution No. 13-052 authorizing Destination Des Moines to conduct five summer events and setting the conditions for the Fireworks Over Des Moines, the Waterland Community Barbeque, the Des Moines Classic Car & Boat Show, the Waterland Parade and the Italian Car Show."

AND

Motion 2: "I move to authorize the City Manager to sign the Agreement with Destination Des Moines for summer events specifying the responsibilities assumed by Destination Des Moines and identifying the in-kind services that will be provided by the City up to a value of \$14,000, substantially in the form as attached."

Background

Destination Des Moines (DDM) is a non-profit community based organization that was founded about four years ago to promote and support community events. Their first order of business was to resurrect the Waterland Parade, a community event with a long history. The last two years DDM took over the Fireworks Over Des Moines show which had previously been run by the Des Moines Rotary Club. Last year they took the lead role in two other events, the Des Moines Classic Car & Boat Show and the Classic Community Barbeque. These two events were started about five years ago by Marina staff.

Discussion

The goal of the new Destination Des Moines is to organize, support and promote community events. At this point DDM is looking for events that produce net revenues that can support the operations of the organization and that will serve as fund raisers for the community events that do not generate revenue, like the 4th of July Fireworks show and the Waterland Parade. The Classic Car & Boat Show and the Community Barbeque are both established events that have become large enough to generate extra revenues and the leadership of DDM is confident that the events will become important fund raisers for the organization. By assuming these two events, DDM has most of the major summer events in the City under their umbrella.

Following are brief descriptions of the events that DDM proposes to produce this summer:

Community Barbeque – July 3. This event started as an appreciation dinner for the people who entered their vintage wooden boats in the Classic Car and Boat Show. Over the years it was expanded to include exhibitors and sponsors of the event as well. Recently it has become a ticketed event that was open to all of the participants in the Classic Car and Boat Show and the general public. This year the event will take place July 3, 2013, the night before Fireworks Over Des Moines as a dedicated fundraiser for the 4th of July fireworks show. It will be catered and will feature live entertainment. The event will be in the Beach Park Auditorium and will start at 6:30 pm and conclude at 10:00 pm.

Fireworks over Des Moines – July 4. This event has become a community tradition and this year will include food vendors, musicians and a beer & wine garden. The fireworks show will again be provided by Western Fireworks. Activities will all be in the Marina and will start at 5:00 pm with the fireworks show starting at 10:15 pm.

The Des Moines Classic Car & Wooden Boat Show – July 20. This event was started by the Marina staff in 2006 and has been held every year since then with the exception of 2010 when the north Marina was being remodeled. Participation in the Classic Car show has increased every year and this year DDM plans to have more vendors and more entertainment to go along with the vintage cars and boats.

The Waterland Parade – July 20. The parade is a traditional community event that started in the 1950's. The Parade will be a SeaFair sanctioned event and will use the same route as last year starting with the Children's Parade.

Italian Car Show - DDM is working with the promoters of the Italian Concourse to bring back the Italian Car Show. In the past this show has always been held over Labor Day weekend. This year the show would be held on a Sunday however the date and time have not been set.

Alternatives

- The Council may reject the staff recommendation.
- The Council may direct the staff to make specified changes to Draft Resolution 13-052 and/or the draft agreement with Destination Des Moines.
- The Council may accept the staff recommendation and adopt Draft Resolution 13-052 and authorize the City Manager to sign the Draft Agreement with Destination Des Moines.

Financial Impact

In the past, the Fireworks Over Des Moines and the Waterland Parade have had the greatest impact on City resources. The Fireworks event takes place in the Marina and Beach Park, but the large crowd, (all leaving at one time), makes it necessary to have Police Officers to monitor the crowd and to provide traffic control after the event. Likewise, the Waterland Parade requires City services. The Public Works staff needs to secure the permits to close Marine View Drive and stage the barricades and signage needed and the Police Department needs to provide crowd monitoring and traffic control. Last year the City provided the needed services as an in-kind contribution to each event up to a maximum value of \$7,000 each or \$14,000 for both events.

The Marina and Parks & Recreation department have provided Destination Des Moines with a standard quote for renting the facilities for each event located on the Marina floor and in the Beach Park. Destination Des Moines is requesting that the City waive the rental fees for the Marina facility for the Fireworks Over Des Moines event, the Des Moines Classic Car & Wooden Boat Show and the Classic Community Barbeque because at least 60% of the proceeds from these events will be used to fund future community events or will be donated to a local charity.

In total, Destination Des Moines is requesting that the City provide in-kind services for all four described events up to a value of \$14,000, which may include, without limitation, services by the Police, Public Works, Parks, and Marina departments for the purpose of logistics coordination, downtown and Marina area traffic control, road closures and pedestrian safety and the reduction/elimination of rental rates for the use of City property.

Recommendation or Conclusion

The staff recommends that the Council adopt Resolution No. 13-052 which allows Destination Des Moines to conduct the "Summer Events" on City property, subject to conditions and to grant the City Manager the authority to sign the agreement between the City and Destination Des Moines which specifies the responsibilities assumed by Destination Des Moines and identifies the in-kind services that will be provided by the City to support the events.

Concurrence

The City Attorney's office, The Finance Department, the Parks and Recreation Department, the Police Department and the Building, Planning and Public Works Department concur with this recommendation.

CITY ATTORNEY'S FIRST DRAFT 04/03/2013

DRAFT RESOLUTION NO. 13-052

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, authorizing Destination Des Moines ("Destination Des Moines") to conduct the following community events (hereinafter referred to as "Summer Events"): the Classic Community Barbeque on July 3, 2013 at the Marina; Fireworks Over Des Moines on July 4, 2013 at the Marina; the Des Moines Classic Car & Wooden Boat Show on July 20, 2013 at the Marina; the Waterland Parade on July 20, 2013 on Marine View Drive from Kent-Des Moines Road to South 216th; and the Italian Car Show on a date to be determined; and listing conditions under which such permission is granted.

WHEREAS, the City Council finds that community events enhance the quality of life for residents of the City of Des Moines, and

WHEREAS, Destination Des Moines wishes to sponsor and conduct five Summer Events in Des Moines during the summer of 2013, and

WHEREAS, the City of Des Moines wishes to permit the Summer Events and, at the same time, be held harmless from any liability arising from such activity; now therefore,

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

Sec. 1. Permission to conduct the 2013 Calendar of Summer Events is granted to Destination Des Moines, subject to the following conditions:

(1) Destination Des Moines shall defend and hold the City of Des Moines harmless from liability.

(2) Destination Des Moines, the co-sponsors and promoters of the Summer Events, will provide financial support for the Events and will pay for event expenses such as portable toilets, garbage collection, paid advertising and/or promotional banners associated with the Events.

Resolution No. _____
Page 2 of 3

(3) The prime leadership of all Event activities shall be non-City personnel and it shall be clearly understood that assistance by City personnel is advisory to Destination Des Moines.

(4) Destination Des Moines will secure all permits and shall provide liability insurance in the amount of two million dollars (\$2,000,000) for each Summer Event. The City of Des Moines shall be named as an additional insured. Proof of such insurance must be delivered to the City thirty (30) days prior to each Summer Event.

(5) As promoters of the Summer Events, Destination Des Moines will be permitted to erect such special signage as is appropriate in the thirty (30) days prior to and during each event. All such signage shall be removed within ten (10) days after each Summer Event.

(6) Normal fees for conduct of the Summer Events on City property shall be waived where possible. Fees required by other governmental agencies shall be the responsibility of Destination Des Moines.

(7) An authorized official of Destination Des Moines shall execute a written agreement, on behalf of Destination Des Moines, acknowledging its responsibilities for the conduct of the Summer Events and accepting such limitations as are contained in this resolution in addition to such limitations as may be imposed by the City Council or City Manager, including, but not limited to:

(a) Destination Des Moines agrees to take whatever measures are necessary to prevent damage to City property and to be responsible for any damage that may occur as a result of the Summer Events; and

(b) A Des Moines Police Department Command Officer and/or the Fire Marshall of South King Fire and Rescue will have the authority to close any of the Summer Events down at any time should it be necessary, following assessment of any security issue.

Sec. 2. Upon execution of a written agreement incorporating all the terms and conditions of this Resolution,

Resolution No. _____
Page 3 of 3

the City Manager is authorized, at his discretion, to grant permission to Destination Des Moines to use and occupy, for the purpose of the Summer Events, City streets, rights-of-way, and City property.

Sec. 3. The City Manager is authorized, at his discretion, to grant permission to utilize City promotional tools such as the *City Currents*, Parks, Recreation and Senior Services Brochure, City Web Page, and Channel 21 to inform and educate the public about the Summer Events. Destination Des Moines understands that fees to cover City expenses may be charged for this use.

Sec. 4. The City Manager is authorized, at his discretion, to provide City assistance to the Summer Events up to a total value of \$14,000 which may include, without limitation, services by the Police, Public Works, Parks, and Marina Departments for the purpose of logistics coordination, downtown and Marina area traffic control, road closures, parking lot management, and boater and pedestrian safety and rental fees for the use of City property. The City Manager shall provide a report to the City Council on services provided and costs thereof.

Sec. 5. A Waterland Parade Event Operational Plan will be created and approved in writing by the City Manager and Destination Des Moines' promoters prior to the Parade.

ADOPTED BY the City Council of the City of Des Moines, Washington this ____ day of _____, 2013 and signed in authentication thereof this ____ day of _____, 2013.

M A Y O R

APPROVED AS TO FORM:

Assistant City Attorney

ATTEST:

City Clerk

AGREEMENT
Between
THE CITY OF DES MOINES
And
DESTINATION DES MOINES
for the
2013 SUMMER EVENTS

THIS AGREEMENT is entered into by and between the CITY OF DES MOINES, WASHINGTON (hereinafter "City"), a municipal corporation of the State of Washington, and DESTINATION DES MOINES (hereinafter "Destination Des Moines") regarding the 2013 calendar of community events (hereinafter "Summer Events").

WHEREAS, the City finds that community events enhance the quality of life for residents of the City of Des Moines, and

WHEREAS, Destination Des Moines has become the primary sponsor of the 2013 Summer Events, and

WHEREAS, the City of Des Moines wishes to permit the Summer Events and to have Destination Des Moines plan and sponsor all the Summer Events pursuant to certain terms and conditions; now therefore,

IN CONSIDERATION of the mutual benefits and conditions listed below, the parties agree as follows:

(1) Destination Des Moines agrees as follows:

Destination Des Moines shall conduct the 2013 Summer Events, which consist of the five individual events:

- The Classic Community Barbeque on July 3, 2013
- Fireworks Over Des Moines on July 4, 2013
- The Des Moines Classic Car & Wooden Boat Show on July 20, 2013
- The Waterland Parade on July 20, 2013
- Italian Car Show, TBD

in compliance with the conditions outlined in City of Des Moines Resolution No. 13-052, a copy of which is attached hereto and incorporated by this reference, and will comply with all federal, state, and local statutes, ordinances, and regulations. Destination Des Moines further agrees as follows:

(a) Destination Des Moines shall defend, indemnify and hold the City of Des Moines, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the conduct of the Summer Events or its associated activities, except for injuries and damages caused by the sole negligence or intentional conduct of the City its officers, agents and

employees. In the event that any suit based upon such claim, injury, damage, or loss is brought against the City, Destination Des Moines shall defend the same at its sole cost and expense; provided, that the City retains the right to participate in said suit if any principal of governmental or public law is involved; and if final judgment be rendered against the City and its officers, agents, employees, or any of them, or jointly against the City and Destination Des Moines and their respective officers, agents, and employees, or any of them, Destination Des Moines shall satisfy the same.

(b) Destination Des Moines and/or other promoters of the Summer Events will provide financial support for the Summer Events and will pay for Event-related expenses for portable sanitary facilities, garbage collection, paid advertising and/or promotional banners associated with the Summer Events.

(c) Destination Des Moines and/or other promoters of the Summer Events will contract with other companies to provide services to all listed events.

(d) Destination Des Moines and/or other promoters of the Summer Events will secure all permits.

(e) Destination Des Moines and/or other promoters of the Summer Events shall provide general liability insurance in the minimum amount of two million dollars (\$2,000,000) to cover each Summer Event. The City of Des Moines shall be named as additional insured. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII. The City shall be furnished with original certificates evidencing the Summer Events insurance requirements thirty (30) days prior to each Summer Event.

(f) Destination Des Moines and/or other promoters of the Summer Events will be permitted to erect such special signage as is appropriate in the thirty (30) days prior to and during the events. All such signage shall be removed within ten (10) days after each Summer Event.

(g) Destination Des Moines and/or other promoters of the Summer Events will be allowed to have associated retail sales of food or merchandise and will be exempt from the requirements of the City's Mobile and Itinerant Vendor Code, chapter 5.57 DMMC.

(h) Destination Des Moines and/or other promoters of the events will be allowed to solicit donations for all Summer Events. Destination Des Moines and/or other promoters shall bear responsibility for all collection, accounting, and reporting of any funds collected. The City grants this privilege based upon the promoter's agreement that any funds collected in amounts greater than the cost of the event will be held in a special event fund for each individual event account to help pay for the following year's event.

(i) Destination Des Moines agrees to take whatever reasonable measures are necessary to prevent damage to the Marina District facilities and to be responsible for any damage that may occur as a result of the any Summer Events.

(j) A Des Moines Police Department Command Officer and/or the Fire Marshall of South King Fire and Rescue will have the authority to close any of the Summer Events down at any time should it be necessary, following assessment of any safety and security issues.

(l) A Waterland Parade Event Operational Plan will be created by Destination Des Moines and approved in writing by the City Manager prior to the Parade.

(2) The City agrees as follows:

(a) Upon execution of this Agreement, the City Manager is authorized to grant permission to Destination Des Moines to use and occupy, for the purpose of the Summer Events, City facilities, property, streets, roads, and rights-of-way.

(b) Normal City fees shall be waived where possible. Fees required by other governmental agencies shall be the responsibility of Destination Des Moines.

(c) The City Manager is authorized, at his discretion, to grant permission to Destination Des Moines to utilize City promotional tools such as the *City Currents*, Parks, Recreation and Senior Services Brochure, City Web Page and Channel 21 to inform and educate the public about the events. Destination Des Moines understands that fees to cover City expenses may be charged for this use.

(d) The City Manager is authorized to provide, at his discretion up to a total value of \$14,000, City assistance to the Summer Events, which may include, without limitation, services by the Police, Public Works, Parks, and Marina departments for the purpose of logistics coordination, downtown and Marina area traffic control, road closures and pedestrian safety and the reduction/elimination of rental rates for the use of City property.

(3) Duration of Agreement. This Agreement will commence upon date of execution and ends upon successful completion of the terms of this Contract, execution of a new Contract, City's written termination of the Contract as described in Section 4 of this Agreement, or Destination Des Moines' decision not to have the Summer Event(s), whichever is sooner, provided, however, all indemnification and hold harmless provisions of this Agreement shall survive the termination of this Agreement.

(4) Termination. This Agreement may be terminated by the City for good cause upon thirty (30) days' written notice to Destination Des Moines of the City's intention to terminate the same. Good cause is defined as either:

(a) Failure of Destination Des Moines to perform any requirement of this contract within ten (10) days after the City makes written demand for such performance; or

(b) Termination required for purposes of public health, safety, welfare or the public interest, as determined by a majority of the Des Moines City Council in open public meeting.

(5) Discrimination Prohibited. Destination Des Moines shall not discriminate against any employee, applicant, vendor, or any person seeking to participate in the "Summer Events" on the basis of race, color, religion, creed, sex, national origin, marital status, sexual orientation, or presence of any sensory, mental, or physical handicap.

(6) Entire Agreement. This Agreement contains the entire agreement between the parties and no other agreements, oral or otherwise, regarding the subject matter of this Agreement, shall be deemed to exist or bind any of the parties. Either party may request changes in the Agreement. Proposed changes mutually agreed upon will be incorporated by written amendments to this Agreement.

(7) Governing Law. The existence, validity, construction, and enforcement of this Agreement shall be governed in all respects by the laws of the State of Washington.

(8) Mediation/ Arbitration Clause. If a dispute arises from or relates to this Agreement or the breach thereof and if the dispute cannot be resolved through direct discussions, the parties agree to endeavor first to settle the dispute in an amicable manner by mediation administered by a mediator under the American Arbitration Association's Rules before resorting to arbitration. The mediator may be selected by agreement of the parties or through the American Arbitration Association. Following mediation, any unresolved controversy or claim arising from or relating to this Agreement or breach thereof shall be settled through arbitration which shall be conducted under the American Arbitration Association's Arbitration Rules. The arbitrator may be selected by agreement of the parties or through the American Arbitration Association. All fees and expenses for mediation or arbitration shall be borne by the parties equally. However, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of evidence.

(9) Amendments/ Authorization for Additional Services. This Agreement may be modified or amended and additional conditions may be authorized during the term of this Agreement upon the mutual written consent of the parties.

(10) Severability. If any provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated as a result of such decision.

(11) Waiver. The waiver by either party of any breach of any term, condition, or provision of the Agreement shall not be deemed a waiver of such term, condition, or provision or any subsequent breach of the same or any condition or provision of this Agreement.

(12) Captions. The captions used herein are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions hereof.

(13) Time of Essence. Time is of the essence for each and all of the terms, covenants, and conditions of this Agreement.

(14) Concurrent Originals. This Agreement may be signed in counterpart originals.

(15) Ratification and Confirmation. Any acts consistent with the authority and prior to the effective date of this Agreement are hereby ratified and confirmed.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the dates written below.

CITY OF DES MOINES

DESTINATION DES MOINES

Anthony A. Piasecki
It's City Manager
At the direction of the Des Moines City
Council by Adoption of Resolution No. ____
In Open Public Meeting on _____

Date _____

By _____
It's President

Date _____

APPROVED AS TO FORM:

Assistant City Attorney

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Sign Code Amendments –Public
Readerboards, Chapter 18.42 DMMC

ATTACHMENTS:

1. Draft Ordinance 13-011
2. Dept. of Commerce 60 day letter

FOR AGENDA OF: April 11, 2013

DEPT. OF ORIGIN: Planning, Building and
Public Works

DATE SUBMITTED: April 3, 2013

CLEARANCES:

- Legal LG
- Finance N/A
- Marina N/A
- Parks, Recreation & Senior Services N/A
- Planning, Building & Public Works DL
- Police N/A
- Courts N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL: SA

Purpose and Recommendation

The purpose of this agenda item is to review elements of Draft Ordinance 13-011 which amend the Sign Code codified as Chapter 18.42 DMMC. Staff recommends the City Council adopt Draft Ordinance No. 13-011. The following motions would enable Council to adopt Draft Ordinance No. 13-011 upon conclusion of the public hearing on April 11, 2013 on first reading:

Suggested Motions

Motion 1: “I move to suspend Council Rule 26 (a) allowing Council to take action on Draft Ordinance No. 13-011 on first reading.”

Motion 2: “I move to adopt Draft Ordinance No. 13-011 amending the Sign Code relating to the placement of publicly owned signs under Chapter 18.42 DMMC.”

Background

The City is exploring a variety of means to communicate with the public about events or issues of city-wide importance. In addition to banners, public kiosks, and wayfinding improvements, the use of

electronic readerboard devices provide an opportunity to effectively provide information, notice, and direction to the public. The City's Sign Code does not clearly address that these types of signs are allowed as off premise signs. Most off premise advertising is not allowed within the City. Allowing publicly owned signs to function as an off premise sign would enable the City to display content about events and activities as well as sponsorship information that may be located in areas other than where the sign is physically located. Generally, signs are only allowed to advertise business or functions located on the site where the sign is located only. Staff believes that reader board devices and the ability to advertise for a broader public purpose is in the public interest. They will serve to notify the public and promote events that enhance the sense of community as well as provide a tool to help mobilize and direct efforts in a time of emergency or crisis.

Discussion

Draft Ordinance No. 13-011 amends a portion of Title 18 of the DMMC. Changes to Title 18 are processed as a Type VI land use action and as such requires a public hearing to provide an opportunity for the public to comment. Additionally, the date of the public hearing to consider Draft Ordinance 13-011 is required to be set by motion of the City Council pursuant to DMMC 18.60.120(3). Council approved setting the public hearing date on March 14, 2013.

There are two additional considerations in Council's review of proposed Draft Ordinance No. 13-011. First, the regulations within the proposed amendments are classified as development regulations under the Growth Management Act as defined in RCW 36.70A.030(7); therefore, the Ordinance must be reviewed and made available for comment for a period of 60 days by the Department of Commerce before action can be taken. This process has been completed. The other consideration Council must be aware of, is the need for two readings of an ordinance before action is taken, unless a motion is made to alter or suspend the rule of two readings in advance. City staff is recommending that the Council dispense with the second reading requirement and has provided a motion to enable the Council to pass Draft Ordinance No. 13-011 on first reading if it so chooses to do so.

Alternatives

The City Council may:

1. Adopt Draft Ordinance No. 13-011 on first reading as recommended.
2. Adopt Draft Ordinance No. 13-011 on first reading, but with amendments deemed necessary by the City Council.
3. Pass Draft Ordinance No. 13-011 to a second reading for future Council action.
4. Decline to adopt Draft Ordinance No. 13-011. Council inaction on Draft Ordinance No. 13-011 will cause City staff to forego a program to use readerboards signs for civic purposes and any funding received for this purpose will be returned to donors.

Financial Impact

The allowances afforded under Draft Ordinance 13-011 for the city to pursue off premise signs will allow the City to more efficiently advertise events that the City supports. The proposed cost to acquire and install the first off premise sign (electronic reader board) can be in the range of \$20,000-\$30,000 depending on the unit's capabilities. While this cost is not directly attributed to the proposed ordinance, it will be a capital cost that the City will pursue annual sponsorship to fund these types of signs until the City Council determines that adequate sign coverage of key "traffic" areas of the city is achieved.

CITY ATTORNEY'S FIRST DRAFT 03/06/2013

DRAFT ORDINANCE NO. 13-011

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON, relating to the Sign Code and the placement and regulation of the placement of signs owned and operated by a public entity, amending DMMC 18.42.270.

WHEREAS, the City desires to install public reader boards at strategic locations throughout the City that are capable of displaying electronic messages notifying the public of community events and activities of civic importance, and

WHEREAS, the City is relying on significant sponsorship from private corporations and entities to fund the costs associated with the purchase, installation and operation of electronic reader boards, and

WHEREAS, reader board signs can be operated in a manner that classifies them either as an on premise or off premise sign depending on the desired function and nature of a business or entity utilizing this type of sign, and

WHEREAS, off premise signs, with a few exceptions, are prohibited under the City's sign code, and

WHEREAS, use of reader board signs in an off premise capacity will enable the City and other public entities to inform the public of area-wide activities and events and assist in providing city-wide emergency information, and

WHEREAS, communications for matters deemed appropriate by City leaders and administration including, but not limited to major events, are distinct and different from typical advertising mediums designed to promote a specific product, service, or corporate entity, and

WHEREAS, the City is interested in locating reader board signs that provide public services in a manner that best offers exposure to the general public for the purpose intended, and

WHEREAS, it is necessary to provide clarifying language to the City's Sign Code that enables public reader boards not to be construed as prohibited off premise signs, and

Draft Ordinance No. 13-011
Page 2 of 4

WHEREAS, revisions to the City's Sign Code as proposed will provide opportunities for other semipublic entities such as schools, community clubs, and special purpose districts to erect reader board signs as may be needed, and

WHEREAS, pursuant to DMMC 18.56.080, amendment of the Sign Code (Title 18 DMMC) is a legislative (Type VI) decision, and

WHEREAS, the textual code amendments proposed by this Ordinance are exempt from the requirements of SEPA pursuant to WAC 197-11-800(19), 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 City Council conducted a public hearing on April 11, 2013 to review this matter and consider public comments, and

WHEREAS, the City Council finds that the amendments contained in this ordinance are appropriate and necessary; now therefore,

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

Sec. 1. DMMC 18.42.270 and sections 4(N) of Ordinance No. 584 as amended by section 16 of Ordinance No. 1509 are each amended to read as follows:

18.42.270 Placement

All signs, except real estate directional signs, political signs, signs owned and operated by a public entity, portable signs expressly allowed under DMMC 18.42.050, and off-premises signs approved under DMMC 18.42.090, must be located on the premises of the business or events or activities that they identify or advertise. All other aAdvertising signs located on premises other than the premises of the business or events or activities they identify or advertise are ~~forbidden~~ prohibited, notwithstanding single ownership of

Draft Ordinance No. 13-011

Page 3 of 4

more than one premises, except where the premises are contiguous. For the purposes of this section "contiguous" means that such buildings or properties are joined and/or interior access is provided from one to the other.

Sec. 2. 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. 3. Effective date. This ordinance shall take effect and be in full force five (5) days after its passage, approval, and publication in accordance with law.

PASSED BY the City Council of the City of Des Moines this ____ day of _____, 2013 and signed in authentication thereof this ____ day of _____, 2013.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Draft Ordinance No. 13-011
Page 4 of 4

Published: _____



STATE OF WASHINGTON

DEPARTMENT OF COMMERCE

1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

January 24, 2013

Robert Ruth
Development Services Manager
City of Des Moines
21650 - 11th Avenue South Suite D
Des Moines, Washington 98198

Dear Mr. Ruth:

Thank you for sending the Washington State Department of Commerce (Commerce) the following materials as required under RCW 36.70A.106. Please keep this letter as documentation that you have met this procedural requirement.

City of Des Moines - Proposed amendment to the city's sign code establishing a definition and regulation requirements for public readerboard devices that provide civic information and content only. These materials were received on January 23, 2013 and processed with the material ID # 18883. Expedited Review is requested under RCW 36.70A.106(3)(b).

If this submitted material is an adopted amendment, then please keep this letter as documentation that you have met the procedural requirement under RCW 36.70A.106.

If you have submitted this material as a draft amendment requesting expedited review, then we have forwarded a copy of this notice to other state agencies for expedited review and comment. If one or more state agencies indicate that they will be commenting, then Commerce will deny expedited review and the standard 60-day review period (from date received) will apply. Commerce will notify you by e-mail regarding of approval or denial of your expedited review request. If approved for expedited review, then final adoption may occur no earlier than fifteen calendar days after the original date of receipt by Commerce. Please remember to submit the final adopted amendment to Commerce within ten days of adoption.

If you have any questions, please contact Growth Management Services at reviewteam@commerce.wa.gov, or call Dave Andersen (509) 434-4491 or Paul Johnson (360) 725-3048.

Sincerely,

Review Team
Growth Management Services

family residence. At the meeting, he was informed of the requirements for frontage improvements along both frontages of his corner lot. Stating a lack of similar improvements in the surrounding area and the time and costs associated with installing such improvements, the resident requested that the City Council consider modifying the code to include language that allows for deferments or modifications for circumstances such as his.

A motion was made and seconded that staff look into the issue and bring back to Council a list of recommendations for the Council's consideration regarding this matter.

Discussion:

Staff has researched several surrounding cities and found a variety of approaches to the issue. While some cities do not provide processes for deviating from the street improvement requirements, others provide for some discretion in granting modifications, deferments, and/or waivers. An example of each of these approaches follows:

1. Modification: A modification to the nature or extent of required improvements due to circumstances such as surrounding improvements or topographic/physical conditions.
2. Deferment: Defer installation of required improvements to a later time such as in cases in which the improvement is part of a larger project already scheduled as part of the City's transportation improvement plan. A concomitant agreement to install or reimburse the City at a later date; or collection of funds may be required as part of a deferment.
3. Waiver: Waive requirements for one or all required improvements due to circumstances such as significant adverse environmental impacts, or if it is unlikely that surrounding properties would have improvements installed in the foreseeable future.

Examples of circumstances in which installation of frontage improvements would be advisable are properties which abut priority pedestrian or routes in the Comprehensive Transportation Plan (Attachment 1) or those facing streets classified as arterials and/or collector streets (Attachment 2).

Staff has included some recommended language in the form of a redlined code section (Attachment 3) as to how this issue might be addressed in the Subdivision Code (Title 17 DMMC). Excerpts from development codes from the Cities of Bellevue, Federal Way, and Fife (Attachments 4-6) are also included as examples of increasingly detailed approaches. In these examples, the approving authority lies with the department director or review engineer.

If so directed, staff will begin drafting the ordinance effecting changes the Council is willing to consider in conjunction with the required public hearing with the City Council pursuant to DMMC 18.56.200. As required by DMMC 18.60.120, the public hearing is required to be set by resolution. The proposed amendments will modify the City development regulations; therefore amendments are required to be forwarded to the Department of Commerce for review and comment by the Department and other State Agencies. Pursuant to RCW 36.70A.106, this review period is a minimum of 60 days; during which a local jurisdiction cannot adopt proposed amendments to its development regulations.

Alternatives:

The City Council has three alternatives:

1. Decline to consider amendments to the subdivision code at this time (No action). Under this alternative, applications would continue to be required to improve rights-of-way within and abutting the subdivisions.
2. Further study these policy changes for possible future action.
3. Direct staff to incorporate one, some or all of the possible changes into an ordinance for public hearing later this spring.

Financial Impact:

Providing a modification section could potentially shift the cost of some future frontage improvements on certain streets to the City. Modifying some of the required frontage improvements may lower some of the costs associated with residential in-fill developments and be seen as an incentive to subdivide lots that are large enough to qualify.

Recommendation/Conclusion:

Administration recommends that the City Council provide policy direction on which changes, if any, to include in an ordinance and/or remand certain policies back to the PS&T Committee for further study. This recommendation was discussed with the Public Safety & Transportation Committee on April 4, 2013 at the time this packet was finalized. A summary of that discussion and recommendations will be included in the presentation.

Concurrence:

The Community Development, Public Works and the Legal Departments concur.

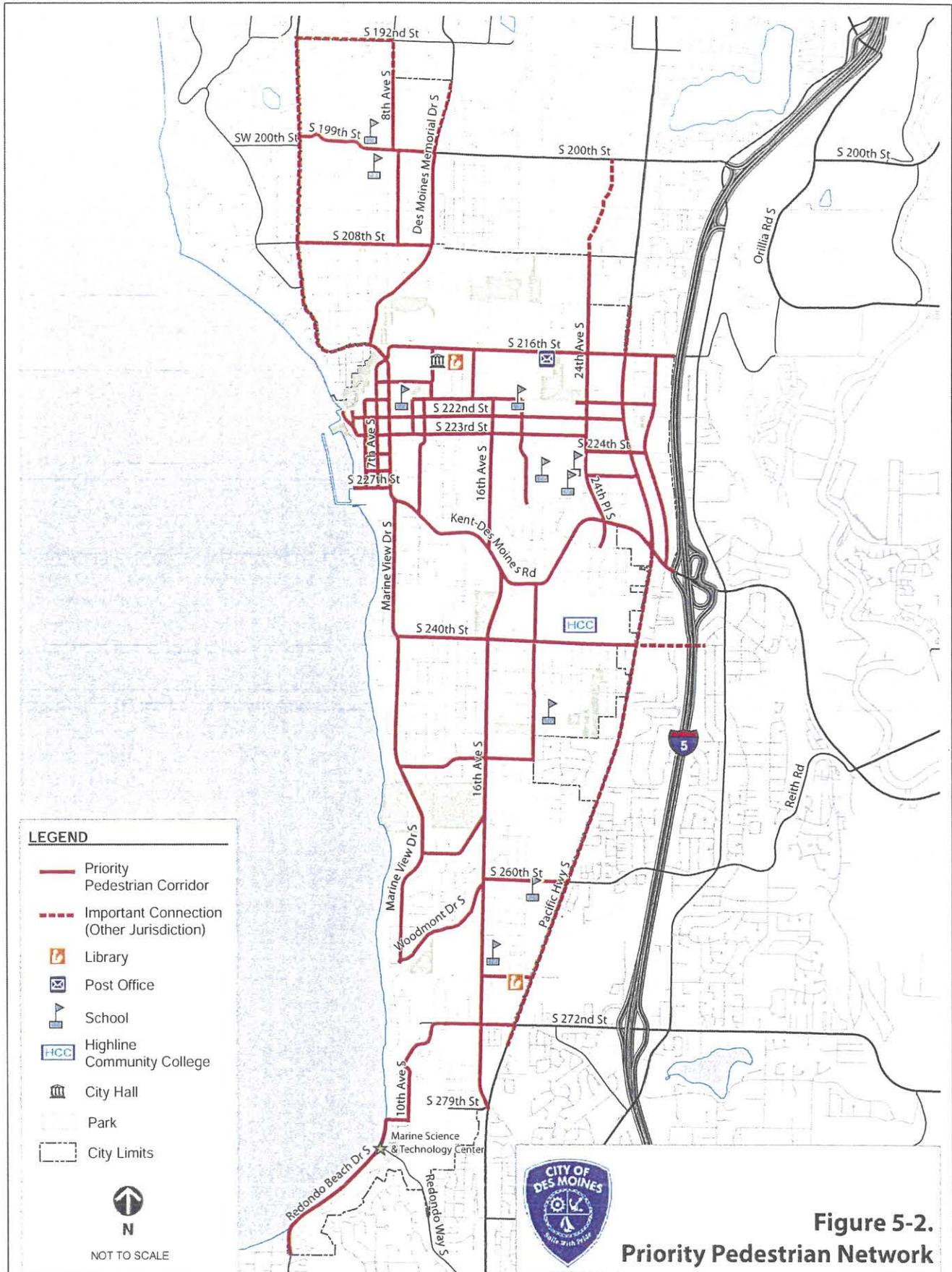
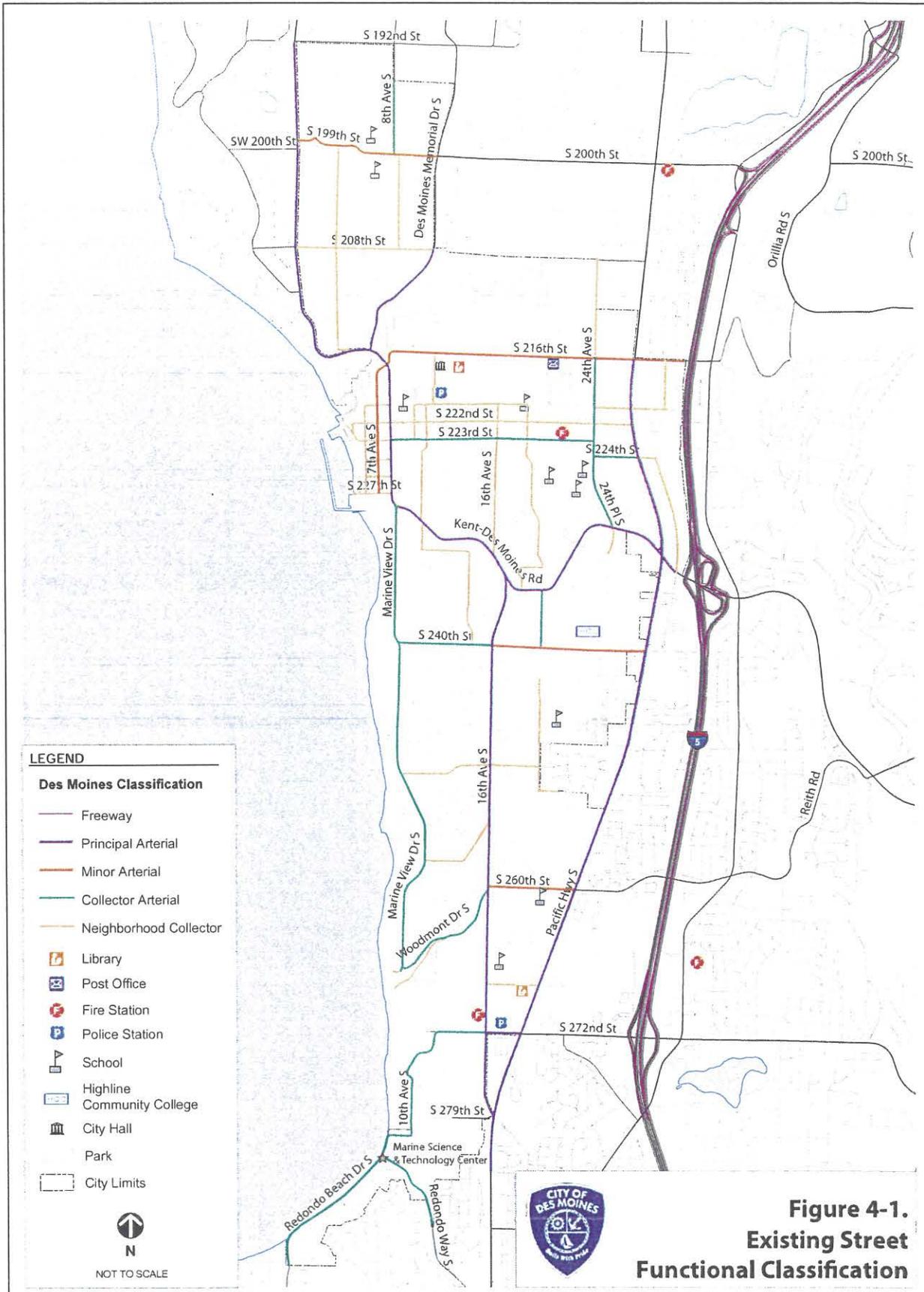


Figure 5-2. Priority Pedestrian Network

Street System and Parking



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Chapter 17.36
LAYOUT AND DESIGN OF SUBDIVISIONS AND SIMILAR REQUIREMENTS

Sections

- 17.36.010 Applicability.
- 17.36.020 Lot standards.
- 17.36.030 General layout.
- 17.36.040 Access – General.
- 17.36.050 Access – Rights-of-way.
- 17.36.060 Access – Private streets within vehicular access tracts.
- 17.36.070 Access – Pedestrian ways.
- 17.36.080 Utilities and related improvements – General.
- 17.36.090 Utilities and related improvements – Water system.
- 17.36.100 Utilities and related improvements – Surface water.
- 17.36.110 Utilities and related improvements – Sanitary sewer.
- 17.36.120 Utilities and related improvements – Undergrounding.
- 17.36.130 Utilities and related improvements – Easements.
- 17.36.140 Provision for public and semipublic lands.
- 17.36.150 Parks.
- 17.36.160 Natural features – General.
- 17.36.170 Natural features – Land adjacent to Puget Sound.
- 17.36.180 Natural features – Significant vegetation.
- 17.36.190 Subdivision names.

17.36.010 Applicability.

The provisions of this chapter apply to each subdivision, short subdivision, subdivision alteration, subdivision vacation and, to the extent possible, each binding site plan, modified subdivision, and modified short subdivision within the city. For the purposes of this chapter, the term “subdivision” also includes “short subdivision,” “subdivision alteration,” “subdivision vacation,” “binding site plan,” and “modified subdivision.” The provisions of this chapter shall also apply to any subdivisions approved in conjunction with a planned unit development (PUD) pursuant to Title 18 DMMC, unless the provisions are specifically varied by the PUD. [Ord. 931 § 53, 1992.]

17.36.020 Lot standards.

(1) General. All lots within a subdivision shall meet the minimum size and dimension requirements of Title 18 DMMC for the zone classification assigned to the property proposed to be subdivided.

(2) Configuration. Lots shall be shaped so that reasonable use and development is possible. Where topography, natural features, and the existing development pattern permit, the depth of lots less than 15,000 square feet in area shall be at least equal to, but not more than twice the width of the lot.

(3) Orientation. Where topography, natural features, and the existing development pattern permit, side lot lines generally shall be at right angles to the street upon which the lot faces, except that on curved streets they shall be at a right angle to the tangent of the curve.

(4) Frontage. Every lot shall have a minimum of 20 feet of frontage on a street that is fully improved and approved by the city.

(5) Corner Lots. All corner lots shall be five feet wider than the minimum lot width required by the underlying zone.

(6) Odd Lots. Subdivisions having lots with an irregular shape and unable to be classified under Title 18 DMMC shall show setback lines for such lots and provide covenants requiring such setbacks with recording of the final plat. [Ord. 931 § 54, 1992.]

17.36.030 General layout.

(1) General. The subdivision shall be designed to allow for reasonable subdivision and use of adjoining properties, including, but not limited to considerations related to surface water management, all utilities, and pedestrian and vehicular access. While the subdivision should generally conform to the city's grid pattern and street plan, innovative layouts will be considered based on the general requirements of this chapter.

(2) Maximum Length. Where topography, natural features, and the existing development pattern permit, blocks shall not exceed 500 feet in length. Blocks that are more than 750 feet in length should allow for midblock pedestrian ways pursuant to DMMC 17.36.070.

(3) Project Integration. All proposed subdivisions shall be designed to provide pedestrian and vehicular connections to adjoining developed or vacant properties when such connections will result in improved access or planned access and be in the public interest. [Ord. 931 § 55, 1992.]

17.36.040 Access – General.

(1) All lots shall have direct legal access to either a right-of-way or a private street within a vehicular access tract meeting the requirements of this chapter. Access shall be to a right-of-way unless extension of a right-of-way to a lot is constrained by topography, or the existing development pattern. The city shall determine whether access will be by right-of-way or vehicular access tract on a case-by-case basis; provided, that in no instance shall a vehicular access tract serve more than four lots.

(2) An owned vehicular access having a minimum width of 20 feet shall be permitted to serve one lot only (e.g., panhandle or flag lot). The area of the vehicular access strip shall not be included in the computation of lot area.

(3) No lot shall have an easement across another lot for vehicular access.

(4) Access to lots which abut two or more rights-of-way or vehicular access tracts shall be established on a case-by-case basis. Generally, lots shall obtain access from the right-of-way having the least amount of through traffic. [Ord. 931 § 56, 1992.]

17.36.050 Access – Rights-of-way.

(1) General. All rights-of-way within and abutting the subdivision shall be improved in accordance with the standards set forth in chapter 12.28 DMMC.

(2) Designation of Rights-of-Way. If a new right-of-way is proposed within a subdivision, the public works director shall classify the right-of-way based on the projections for that right-of-way using the right-of-way definitions established in “City of Des Moines Street Development Standards” as adopted by chapter 12.28 DMMC.

(3) Dedication. The city may require the dedication of rights-of-way to serve adjacent properties in order to provide a safe and efficient circulation system within the city.

(4) Construction of Street System Improvements on Rights-of-Way Abutting the Subdivision and Off-Site from the Subdivision. Such street system improvements as are defined in chapter 12.44 shall be constructed on rights-of-way abutting the subdivision and off-site from the subdivision as directed by the city council in the course of discretionary review of the subdivision. The subdivision applicant required to construct off-site street system improvements are entitled to reimbursement as provided in chapter 12.44 DMMC. [Ord. 1003 § 1, 1993; Ord. 931 § 57, 1992.]

(5) Modifications. The applicant may request and the Public Works Director may grant a modification of the right-of-way improvements defined in the current Street Development Standards for subdivisions that do not yield more than two lots based upon the following criteria:

1. The subdivision does not front on a street designated in the current Comprehensive Transportation Plan as a principle arterial, a minor arterial, a collector arterial, a neighborhood collector; or a street identified in the Priority Pedestrian Network.
2. If the improvement as required would not match the existing improvements.
3. If unusual topographic or physical conditions preclude the construction of the improvements as required.
4. If other unusual circumstances preclude the construction of the improvements as required.

17.36.060 Access – Private streets within vehicular access tracts.

(1) General. If vehicular access within the subdivision will be provided by means other than rights-of-way, the subdivision shall establish tracts which provide the legal right of access to each of the lots served and establish joint maintenance responsibilities. The city may require that the legal right of access be granted to other adjoining properties in order to provide a safe and efficient circulation system within the city. The ownership of vehicular access tracts is shared by owners of all lots having the right to access through the tracts.

(2) Private Streets. All private streets within the subdivision shall be improved in accordance with the standards set forth in chapter 12.28 DMMC.

(3) Other Improvements. The city may require additional or other requirements for private streets within vehicular access tracts, if necessary to address unusual circumstances.

(4) Lot Area. The area of vehicular access tracts shall not be included in the computation of lot area for any lot. [Ord. 1003 § 2, 1993; Ord. 931 § 58, 1992.]

17.36.070 Access – Pedestrian ways.

The city may require the installation of pedestrian ways within dedicated rights-of-way or tracts in any of the following circumstances:

(1) If a pedestrian way is indicated as appropriate in the comprehensive plan.

(2) If the pedestrian way is reasonably necessary to provide efficient pedestrian access to a school, park, business district, or transit stop or to integrate pedestrian travel throughout the neighborhood.

(3) To provide a midblock connection between parallel streets where the total length of a block is 750 feet or more. [Ord. 931 § 59, 1992.]

17.36.080 Utilities and related improvements – General.

All utility system improvements shall be designed and installed in accordance with all standards of the applicable serving utility. [Ord. 931 § 60, 1992.]

17.36.090 Utilities and related improvements – Water system.

The subdivision shall be served by a system which provides potable water service to each lot created. The system shall provide adequate fire flow, as specified by the fire marshal, and all firefighting infrastructure and appurtenances required by city codes. [Ord. 931 § 61, 1992.]

17.36.100 Utilities and related improvements – Surface water.

(1) General. The subdivision shall be served by a permanent surface water control system designed to accommodate runoff from all land within the subdivision and convey any runoff which passes through the subdivision in accordance with the surface water management program requirements of Titles 11 and 18 DMMC.

(2) Tracts Required. All surface water detention and above-ground conveyance improvements shall be located in separate tracts which provide for surface water functions. The area dedicated under this section shall become the property of the city, which shall thereafter assume all maintenance and other ownership responsibilities.

(3) Lot Area. The area of surface water tracts shall not be included in the compilation of lot area for any lot. [Ord. 931 § 62, 1992.]

17.36.110 Utilities and related improvements – Sanitary sewer.

The subdivision shall have a sanitary sewer system to serve each lot. [Ord. 931 § 63, 1992.]

17.36.120 Utilities and related improvements – Undergrounding.

(1) Underground Installation Required. All electrical and communication systems shall be installed underground in all subdivisions. Existing above-ground electrical and communication systems located in all rights-of-way adjoining the proposed subdivision and extending from the subdivision to the nearest utility pole also shall be undergrounded unless:

(a) The systems are located within the one-half of the right-of-way which does not abut the subdivision; or

(b) The existing above-ground system cannot be undergrounded without either adding a new utility pole or undergrounding systems on private property not within the subdivision. When existing above-ground utility systems are not required to be undergrounded, conduit shall be installed within the abutting right-of-way in accordance with utility standards, as necessary to preclude excavation within the right-of-way at such time as undergrounding is feasible.

(2) Exceptions. The following electrical and communication systems shall not be required to be installed underground:

(a) Electrical utility substations, pad-mounted transformers and switching facilities not located on the public right-of-way and where site screening is or will be provided in accordance with design review standards;

(b) Electrical transmission systems of a voltage of 110 kilovolts or more;

(c) Street lighting standards;

(d) Telephone pedestals, cross-connect terminals, repeaters, and cable warning signs;

(e) Municipal equipment, including but not limited to, traffic control equipment and police and fire sirens;

(f) Temporary services for construction.

(3) Costs. The cost of undergrounding all electrical and communication systems in excess of any costs paid by the serving utility shall be the sole responsibility of the applicant. [Ord. 931 § 64, 1992.]

17.36.130 Utilities and related improvements – Easements.

Utility lines not located within rights-of-way or vehicular access tracts shall be within easements. All easements shall meet the standards of the serving utilities; provided, that easements for sewer, surface water, and water lines shall have a width of at least 20 feet. [Ord. 931 § 65, 1992.]

17.36.140 Provision for public and semipublic lands.

The city may require dedication of land, for school sites, parks and open space, utilities infrastructure, or other similar public or semipublic uses of land if such dedication is reasonably necessary as a result of the subdivision. [Ord. 931 § 66, 1992.]

17.36.150 Parks.

(1) General Obligation. Proposed residential subdivisions shall either provide a minimum of 778 square feet of park area per lot consistent with the requirements of subsections (2) through (4) of this section or make an in-lieu fee payment consistent with the requirements of subsection (5) of this section in order to comply with the level of service standard of six and one-half acres of park land per 1,000 population established in the City of Des Moines 2010 Parks, Recreation and Senior Services Master Plan, Section 2.3.

(2) Criteria for City Acceptance of a Mini-Park. Applicants proposing to develop a mini-park in order to fulfill the general obligation to provide appropriate provisions for parks and playgrounds as established in subsection (1) of this section shall comply with the following criteria:

(a) Use/Description. The proposed mini-park shall be designed and improved as play space for toddlers and young children to serve the basic needs of the neighborhood.

(b) The amenities within the mini-park shall include sand play areas, play apparatus, play equipment, picnic area, sports courts, and sanitation accommodations.

(c) Size. The proposed mini-park shall be a minimum of one-half acre.

(3) Tracts Required. Recreational areas shall be located in a separate tract which shall be deeded to the city.

(4) Lot Area. The area of the mini-park tract shall not be included in the compilation of lot area for any lot.

(5) Payment in Lieu of Mini-Park Development. If the land proposed to be developed as a mini-park does not meet the criteria established in subsection (2) of this section, then the applicant shall make an in-lieu cash payment to the city which shall be deposited into the city's MCI fund. The in-lieu amount shall be based on the following formula:

Total number of existing residential units equals (=) W

Total number of lots within the subdivision equals (=) X

Total site area of the proposed subdivision equals (=) Y

Total appraised value of all property within the proposed subdivision as determined by the King County assessor's website at the time of approval of the final plat documents equals (=) Z

In-lieu fee equals (=) Z multiplied by (((X-W) multiplied by 778 square feet) divided by Y). [Ord. 1536 § 2, 2012; Ord. 931 § 67, 1992.]

17.36.160 Natural features – General.

(1) General. The proposed subdivision shall demonstrate sensitivity to the natural features of the property including, but not limited to, topography, streams, lakes, wetlands, habitat, geologic features, and vegetation. Any division of land shall be designed to preserve and enhance as many of these valuable features as possible. In addition to the specific provisions of this chapter, the subdivision shall comply with all applicable provisions of Title 18 DMMC and other specific requirements regarding development restrictions due to natural features.

(2) Tracts Required. All wetlands, streams, and required buffers, pursuant to Title 18 DMMC, shall be located in separate tracts which limit development activity. The area dedicated under this section shall become the property of the city, which shall thereafter assume all maintenance and other ownership responsibilities.

(3) Lot Area. The area of the open space tracts shall not be included in the computation of lot area for any lot area. [Ord. 931 § 68, 1992.]

17.36.170 Natural features – Land adjacent to Puget Sound.

Subdivisions adjacent to Puget Sound shall comply with the provisions of the Des Moines shoreline master program (chapter 18.90 DMMC) regarding open space and public access. [Ord. 931 § 69, 1992.]

17.36.180 Natural features – Significant vegetation.

(1) Buffers. Significant trees or other natural vegetation located along the boundary of a subdivision shall be retained if the city determines that retention will provide beneficial buffering for or from abutting properties or rights-of-way. Vegetation which is retained shall be protected by establishing open space easements or tracts.

(2) Rights-of-Way and Tracts. Following preliminary subdivision approval, the applicant shall be allowed, pursuant to the provisions of Title 14 DMMC, to clear all vegetation which the community development director determines is necessary to install required improvements within rights-of-way and access or utility tracts shown on the approved preliminary subdivision.

(3) Lots. Removal of vegetation in the remainder of the subdivision shall occur on a lot-by-lot basis. No vegetation removal shall occur on any lot until and unless a complete building permit application has been submitted and a land grading, clearing, and filling permit has been issued for that lot in compliance with chapter 14.60 DMMC. On each lot, all significant trees as defined in chapter 17.04 DMMC, shall be retained except:

- (a) Those trees which are located in areas where structures or improvements are proposed or areas which, in the judgment of the planning official, must be cleared to allow construction of proposed structures or improvements; and

(b) Those trees which, in the judgment of the planning official would constitute a danger to public safety; and

(c) No more than one tree for each 2,400 square feet of lot area shall be required to be preserved on any lot. On lots which contain more than three significant trees, the planning official shall indicate which of the trees shall be retained. In making this decision, the planning official shall give preference to retaining large healthy trees or trees which are of an unusual species.

(4) Replacement. Any tree identified to be retained that is destroyed or damaged during construction shall be replaced by the applicant with five trees on the subject property or within a street planting strip near the subject property. Replacement trees shall be a minimum size of eight feet in height for evergreen trees and two inches in caliper for deciduous and shall be approved by the planning official. These street trees shall be provided in addition to any street trees required under chapter 12.28 DMMC. The exact location for and type of street trees shall be determined by the planning official. [Ord. 931 § 70, 1992.]

17.36.190 Subdivision names.

(1) No subdivision shall be approved which bears a name which is the same as, similar to, or pronounced the same as a name of any other subdivision in the county unless the land so divided is contiguous to the subdivision bearing the same or similar name. All such subdivisions shall continue the block or lot numbers of the subdivision of the same name last filed. This section shall not be construed to limit the use of such descriptive words such as "town," "city," "place," "court," "addition," "acres," "heights," "villa," or words of a similar nature.

(2) No subdivision shall be approved which bears the name of a geographic feature or place unless the spelling of such name conforms to that adopted by either the United States or Washington State Board on Geographic Names.

(3) No subdivision shall be approved which bears a name that either attempts to change a name in local usage or name an unnamed geographic feature.

(4) The name of a subdivision shown on a final plat shall be the same name under which approval was granted; provided, that the community development director shall be authorized to change the plat name appearing on the final plat documents to meet the requirements of this section. [Ord. 931 § 71, 1992.]

14.60.100 Easements and tracts.

A. Easements for all public streets and utilities needed to serve the proposed development consistent with the provisions of the comprehensive plan and other adopted city plans shall be granted by the property owner. Easements may be for private streets, sidewalks, street lighting, traffic control devices and temporary construction. Design features of a street may necessitate the granting of slope, wall, and drainage easements.

B. Nonmotorized easements may be required where necessary to facilitate pedestrian circulation between neighborhoods, schools, shopping centers and other activity centers even if the facility is not specifically shown on the city's nonmotorized circulation plan.

C. Nonmotorized easements and tracts shall be wide enough to include the trail width and a minimum clear distance of two feet on each side of the trail. Easement width may vary according to site-specific design issues such as topography, buffering, and landscaping.

D. Easements shall be designated "city of Bellevue nonmotorized public easement" and easement documents shall specify the maintenance responsibility.

E. The city may accept dedications of sensitive areas which have been identified and are required to be protected as a condition of development. Dedication of such areas to the city will be considered when:

1. The dedicated area would contribute to the city's overall open space and greenway system;
2. The dedicated area would provide passive recreation opportunities and nonmotorized linkages;
3. The dedicated area would preserve and protect ecologically sensitive natural areas, wildlife habitat and wildlife corridors;
4. The dedicated area is of low hazard/liability potential; and
5. The dedicated area can be adequately managed and maintained. (Ord. 4822 § 1, 1995.)

14.60.110 Street frontage improvements.

A. The installation of street frontage improvements is required prior to issuance of a certificate of occupancy for new construction other than single-family homes, or prior to final approval for subdivisions, short subdivisions and PUDs. For additions and remodels to existing buildings see Section 20.20.560 of the Land Use Code.

B. Complete street frontage improvements shall be installed along the entire street frontage of the property at the sole cost of the permittee as directed by the review engineer. Street frontage improvements may include curb, gutter, sidewalk, storm drainage, street lighting, traffic signal equipment, utility installation or relocation, landscaping strip, street trees and landscaping, irrigation, street widening, and channelization. Beyond the property frontage, the permittee shall provide ramps from the new sidewalk or walkway to the existing shoulder, and pavement and channelization tapering back to the existing pavement and channelization as needed for safety.

C. When (due to site topography, city plans for improvement projects, or other similar reasons) the review engineer determines that street frontage improvements cannot or should not be constructed at the time of building construction, the property owner shall, prior to issuance of the building permit, at the direction of the review engineer:

1. Pay to the city an amount equal to the property owner's cost of installing the required improvements prior to issuance of a building permit. The property owner shall provide documentation satisfactory to the city of materials costs, quantities, and labor costs; or
2. Record an agreement which provides for these improvements to be installed by the property owner by a date acceptable to the city; or
3. Record an agreement to not protest a local improvement district to improve the street frontage.

D. If, at a time subsequent to the issuance of a building permit, a local improvement district is established which includes the property for which the building permit was issued, and if such condition or agreement as prescribed in this section has been performed by the developer, the condition or agreement may be considered in the compilation of the local improvement district assessment roll as a pre-existing contract with the city, for which the property owner may be credited against the assessment with the appropriate amount of costs of construction expended by the developer.

E. The requirement for installation of frontage improvements may be waived by the review engineer under either of the following conditions:

1. Adjacent street frontage improvements are unlikely to be installed in the foreseeable future; or
 2. The installation of the required improvement would cause significant adverse environmental impacts. (Ord. 4822 § 1, 1995.)
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19.135.040 Required public and private improvements.

(1) *Generally.* The development standards portion of FWRC 19.135.200 through 19.135.250 establish the improvements that must be installed, based on the classification of the various rights-of-way within the city. The applicant shall, consistent with the provisions of this chapter, install all improvements established in FWRC 19.135.200 through 19.135.250 along the frontage of each right-of-way that abuts and traverses the subject property, commensurate with the impacts of the development. At a minimum, improvements shall be required on the abutting side of the right-of-way and a 10-foot lane on the side of the right-of-way opposite the frontage.

(2) The public works director shall have the authority to adopt and modify standards for ingress/egress and utilities easements or alleys which may be determined subject to the conditions and standards established in the city of Federal Way public works development standards.

(3) *Additional dimensions and improvements.* The applicant may increase the dimensions of any required improvement or install additional improvements within the right-of-way with the written consent of the public works director.

(4) *Authority to require dedication.* If a right-of-way abutting the subject property has inadequate width based on the requirements in FWRC

19.135.200 through 19.135.250, the applicant shall dedicate a portion of the subject property parallel to the right-of-way and equal in width to the difference between the present right-of-way width and the width required by FWRC 19.135.200 through 19.135.250 for that right-of-way. The public works director may waive additional dedication or may permit dedication of a lesser amount of the subject property for additional right-of-way width if:

(a) It is likely to anticipate that, within the near future, the private property across the right-of-way will be required to dedicate property for public right-of-way; or

(b) The reduction in the required right-of-way width will nonetheless provide adequate room for all improvements, infrastructure and functions within the right-of-way. For the purpose of determining the rough proportionality of right-of-way dedication to the development's impacts, the city may require up to 300 square feet of right-of-way dedication per average daily trip generated by the development. All dedications under this subsection shall be by conveyance through a statutory warranty deed.

(5) *Partial right-of-way improvements.* Where a right-of-way abutting the subject property does not, even after dedications required under subsection (4) of this section, contain adequate width to install all of the improvements required within that right-of-way under this chapter, the applicant shall install improvements within the right-of-way which will provide a safe and efficient right-of-way and which will facilitate completion of all right-of-way improvements required in this chapter at a later date. The specific extent and nature of improvements, where full right-of-way width is not available, will be determined by the public works director on a case-by-case basis.

(6) *Easements.* The public works director may require the applicant to grant such easements over, under and across the subject property as are reasonably necessary or appropriate under the circumstances, including but not limited to easements for the following:

(a) Pedestrian access and sidewalks.

(b) Street lighting.

(c) Traffic control devices.

(Ord. No. 07-554, § 5(Exh. A(12)), 5-15-07; Ord. No. 02-417, § 1, 3-19-02; Ord. No. 02-414, § 3, 2-19-02; Ord. No. 98-330, § 3, 12-15-98; Ord. No. 90-43, § 2(110.25), 2-27-90. Code 2001 § 22-1474.)

19.135.050 Additional improvements.

The city may require the applicant to pave or install additional improvements within rights-of-way, either abutting or not abutting the subject property. This may include traffic signals, channelizations, turn lanes, and other improvements necessary or appropriate to improve traffic circulation and safety, the need for which is directly attributable to development of the subject property. Where appropriate, the public works director may permit the applicant to fulfill the applicant's obligation under this section by paying to the city the pro rata share of the costs of the required improvements attributable to development of the subject property, as determined by the public works director. The city may also require the applicant to provide traffic studies and other data describing the traffic impacts of the proposed development, the need for improvements under this section, and the reasonable pro rata share of the costs of these improvements to be borne by the applicant.

(Ord. No. 07-554, § 5(Exh. A(12)), 5-15-07; Ord. No. 02-417, § 1, 3-19-02; Ord. No. 02-414, § 3, 2-19-02; Ord. No. 98-330, § 3, 12-15-98; Ord. No. 90-43, § 2(110.30), 2-27-90. Code 2001 § 22-1475.)

19.135.060 Traffic control devices and signing.

All traffic control devices and pavement markings shall conform to the Manual on Uniform Traffic Control Devices (M.U.T.C.D.) as adopted, from time to time, by the State Department of Transportation.

(Ord. No. 07-554, § 5(Exh. A(12)), 5-15-07; Ord. No. 02-417, § 1, 3-19-02; Ord. No. 02-414, § 3, 2-19-02; Ord. No. 98-330, § 3, 12-15-98; Ord. No. 90-43, § 2(110.55), 2-27-90. Code 2001 § 22-1476.)

19.135.070 Modifications, deferments and waivers.

The public works director may modify, defer or waive the requirements of this chapter only after consideration of a written request for the following reasons:

(1) The improvement as required would not be harmonious with existing street improvements, would not function properly or safely or would not be advantageous to the neighborhood or city as a whole.

(2) Unusual topographic or physical conditions preclude the construction of the improvements as required.

(3) Proper vertical or horizontal alignments cannot be determined because the existing streets do not have correct alignments.

(4) The required improvement is part of a larger project that has been scheduled for construction in the city's adopted six-year transportation improvement program.

(Ord. No. 07-554, § 5(Exh. A(12)), 5-15-07; Ord. No. 02-417, § 1, 3-19-02; Ord. No. 02-414, § 3, 2-19-02; Ord. No. 98-330, § 3, 12-15-98; Ord. No. 90-43, § 2(110.60), 2-27-90. Code 2001 § 22-1477.)

12.20.110 Modifications, deferments and waivers.

Provisions of this section establish under what circumstances the requirements of this chapter may be modified, deferred or waived.

A. Authority to Grant and Duration. If the proposed development of the subject property requires approval through short plat or subdivision approval described in the subdivision ordinance, a request for modification, deferment or waiver will be considered as a part of that process under the provision of this section. The community development director shall not grant any modification, deferment or waiver for any standard required as a result of a short plat or subdivision within five years from the date of approval of the short plat or subdivision, nor shall the director of community development grant any modification, deferment or waiver of any standard to any note on the face of the plat regarding improvements. If the above process does not apply, the community development director may grant a modification, deferment and waiver from the requirements in this chapter.

B. Process. The applicant shall submit the request for a modification, deferment or waiver in writing, together with two sets of street plans showing both the required improvements and the proposed improvements for which the modification, deferment or waiver is being requested. The community development director shall consider the request, a written recommendation from the public works director and issue a decision, with findings, in writing. The decision shall be final unless appealed under the provisions of FMC 19.80.030¹ (within 20 days from the date of the action being appealed).

C. Modifications. The community development director may require or grant a modification to the nature or extent of any required improvement for any of the following reasons:

1. If the improvement as required would not match the existing improvements.
2. If unusual topographic or physical conditions preclude the construction of the improvements as required.
3. If other unusual circumstances preclude the construction of the improvements as required.

The community development director shall take into consideration the designation and location of the street, the zoning and land use in the immediate area, the projected land use, provision of utilities to serve the area and on-site provisions for parking and maneuvering.

D. Deferment. The community development director may require or permit that the required improvements be installed at a later time:

1. If the required improvement is part of a larger project that has been scheduled for implementation in the city's capital facility plan – streets; or
2. If the subject proposal is for a single detached dwelling unit and the installation of the improvement would not complete the lesser of a full block face or 300 feet of frontage (alleys are not included for purposes of calculating frontage); or
3. If installation of the required improvement would require substantial off-site roadway modifications; or

4. If the community development department determines that installation of the required improvement would result in a safety hazard.

The community development director shall take into consideration the designation and location of the street, the zoning and land use in the immediate area, the projected land use, the provision of utilities to serve the area and on-site provisions for parking and maneuvering.

E. Deferment Requirements. If the community development director approves a deferment:

1. The applicant and the city must sign a concomitant agreement to run with the property, in a form acceptable to the city attorney, specifying that the applicant will install or reimburse the city for construction of the deferred improvements as directed by the city. The applicant must file this agreement with the Pierce County auditor's office.
2. The applicant must grade the subject portion of the right-of-way as though the improvement were to be immediately installed and stabilize the graded area in a manner approved by the community development director. The applicant may be exempted from this requirement if the community development director determines that unusual circumstances preclude the grading.

F. Waivers. The community development director may waive and not require or allow installations of a required improvement if the community development director determines that the current level and extent of the improvement in the right-of-way adjacent to the subject property will not be changed in the future.

The community development director shall take into consideration the designation and location of the street, the zoning and land use in the immediate area, the projected land use, the provision of public utilities to serve the area and on-site provisions for parking and maneuvering. (Ord. 1027 § 10, 1990).

12.20.120 Appeals.

The decision of the community development director may be appealed to the hearing examiner using the appeal provisions of Chapter 2.92 FMC. (Ord. 1593-06 § 30, 2006; Ord. 1027 § 11, 1990).

12.20.130 Bonds.

The community development director may require or permit a bond in the amount of 150 percent of the cost of the improvement to ensure compliance with any of the requirements of this chapter. The bond shall be in a form acceptable to the city attorney. (Ord. 1027 § 12, 1990).

12.20.140 Private streets.

Private streets shall meet street standards as determined by the community development director. The community development director shall classify each private street pursuant to FMC 12.20.020, and the applicable standard shall apply. The applicant shall comply with the applicable standard. Modification, deferment and waiver of the standard may be granted pursuant to FMC 12.20.110. (Ord. 1027 § 13, 1990).