

**ORDINANCE NO. 1669**

**AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON** relating to zoning, confirming zoning controls previously enacted as interim, amending Footnote 58 of DMMC 18.52.010B, adding a definition to DMMC 18.01.050, regulating the proportion of required commercial uses within Mixed Use Developments, and allowing limited flexibility when specific conditions are met.

**WHEREAS**, on July 7, 2016 the City Council enacted Ordinance 1656, making modifications related to the W-C Woodmont Commercial Zone, and

**WHEREAS**, Mixed Use developments were added as an allowed use within certain portions of the W-C Woodmont Commercial Zone with, among other things, certain conditions for the proportion of required commercial uses, and

**WHEREAS**, the City Council's intent was for a minimum of 60 percent of the ground floor to be occupied by commercial uses, and

**WHEREAS**, there is a potential conflict within the DMMC that may be contrary to the City Council's intent for regulating the proportion of required commercial uses within Mixed Use Developments, and

**WHEREAS**, RCW 35A.63.220 and RCW 36.70A.390 authorize adoption of interim zoning controls with certain limitations, including the requirement to hold a public hearing on the adopted interim zoning controls within 60 days of its adoption, and the adoption of findings of facts, and

**WHEREAS**, in accordance with RCW 35A.63.220, interim zoning controls may be effective for no longer than six months, but may be effective for up to a year if a work plan is developed for related studies providing for such a longer period, and

**WHEREAS**, on October 13, 2016 the City Council enacted Ordinance No. 1661 establishing interim zoning controls, and

**WHEREAS**, Ordinance 1661 set a public hearing date for December 1, 2016 in accordance with state law, and

**WHEREAS**, the Planning, Building and Public Works Director acting as the SEPA responsible official reviewed this proposed

non-project action and determined that the proposed textual code amendments are within the scope of the existing environmental documents and fulfilled the SEPA requirements established by chapter 197-11 WAC and DMMC 16.05.04 pursuant to WAC 197-11-600 and DMMC 16.05.280, and

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

**WHEREAS**, notice of the public hearing was issued on November 15, 2016 in accordance with the DMMC, and

**WHEREAS**, a public hearing was held on December 1, 2016 where all persons wishing to be heard were heard, and

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

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

**Sec. 1. Findings.** RCW 35A.63.220 and RCW 36.70A.390 authorize adoption of interim zoning measures with certain limitations. In compliance with the requirements of these statutes and applicable case law authority, the City Council adopts as findings the pronouncements contained in the above recital provisions.

**Sec. 2.** Footnote 58 of DMMC 18.52.010B and section 133 of Ordinance No. 1591 as amended by section 12 of Ordinance No. 1601 as amended by section 8 of Ordinance No. 1618-A as amended by section 2 of Ordinance No. 1644 as amended by section 1 of Ordinance No. 1645 as amended by section 8 of Ordinance No. 1655 as amended by section 4 of Ordinance No. 1656 as temporarily amended by Ordinance No. 1661 is amended to read as follows:

**58. Mixed Use.** This regulation applies to all parts of Table 18.52.010B that have a [58].

Mixed use development shall conform to the following limitations and standards in the T-C and W-C Zones:

(a) Mixed use structures within the W-C Zone shall only be permitted south of South 268th Street.

(b) Mixed use structures shall contain area for retail trade or personal and business services at street level as follows:

(i) Pedestrian access from the public sidewalk to the retail trade or personal and business services shall be provided;

(ii) A minimum of 60 percent of the gross floor area located at the street level shall be occupied by retail trade or personal and business services;

(iii) A minimum of 75 percent of the street level building frontage adjacent to public right(s)-of-way shall contain floor area for retail trade or personal and business services uses; and

(iv) Building space allocated for retail trade or personal and business service uses at the street level shall have a minimum gross interior depth dimension of 55 feet measured perpendicular to the property line abutting the public street(s) serving the site.

(c) The City Manager or the City Manager's designee is authorized to consider and approve up to a 20-percent reduction of the bulk requirements specified in subsection (58)(b) of this section when a development proposal incorporates on-site parking substantially at street floor level for retail trade or personal and business service uses and the City Manager or designee determines that the proposed reduction(s) does not compromise, interrupt, or interfere with the desired functionality of the building or the continuity of City pedestrian-oriented design goals in the general area and

pedestrian access to the site from the public sidewalk or right-of-way.

(d) Mixed use developments shall comply with all the requirements of chapter 18.155 DMMC, except for private recreational requirements established by DMMC 18.155.050(2).

(e) Mixed use projects in the W-C Zone shall include a Crime Prevention Through Environmental Design ("CPTED") review as part of the design review process.

(f) A detached structure that contains residential uses and does not meet the requirements for mixed use structures is prohibited, except as provided for in subsection (g).

(g) When a mixed use development as a whole meets the general intent of subsection (b) above, the requirements contained in subsections (b), (c), (d) and (f) above, may be modified as part of a Planned Unit Development (PUD) and associated Development Agreement that are approved by the City Council.

**Sec. 3.** DMMC 18.01.050 and section 5 of Ordinance No. 1591 as amended by section 1 of Ordinance No. 1628 as amended by section 1 of Ordinance No. 1655 as temporarily amended by section 3 of Ordinance 1661 are amended to add the following definition:

"Gross floor area" means the area included within the surrounding exterior walls of a structure or building expressed in square feet and fractions thereof. The gross floor area of structure or building not provided with surrounding exterior walls shall be the area under each outer edge of the roof.

**Sec. 4. 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. 5. Effective date.** This Ordinance shall take effect and be in full force thirty (30) days after its final passage by the Des Moines City Council in accordance with law.

**PASSED BY** the City Council of the City of Des Moines this 1st day of December, 2016 and signed in authentication thereof this 1st day of December, 2016.

  
MAYOR

APPROVED AS TO FORM:

  
City Attorney

ATTEST:

  
City Clerk

Published: December 6, 2016

Effective Date: December 31, 2016

LEGAL NOTICE  
SUMMARY OF ADOPTED ORDINANCE  
CITY OF DES MOINES

ORDINANCE NO. 1669, Adopted December 1, 2016.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This Ordinance relates to zoning, confirms zoning controls previously enacted as interim, amends Footnote 58 of DMMC 18.52.010B, adds a definition to DMMC 18.01.050, regulates the proportion of required commercial uses within Mixed Use Developments, and allows limited flexibility when specific conditions are met.

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

Bonnie Wilkins, CMC  
City Clerk

Published: December 6, 2016