AGENDA

Finance and Economic Development Committee Meeting
Thursday May 14, 2015
5:30 p.m. – 6:50 p.m.
South Conference Room

1. **Call to Order**

2. **Approval of the April 9, 2015 meeting minutes**

3. **2015 First Quarter Financial Update**
   Finance Director will provide the Committee an update on Financials for Q1.

4. **Nuisance Update**
   Staff will provide an update on the Nuisance Property List.

5. **Junk Vehicle Code**
   Staff will provide a discussion of our Junk Vehicle Codes and the criteria used to define junk vehicles.

6. **Domestic Fowl Ordinance**
   Staff will provide a discussion of a request to change codes regarding raising chickens. Staff will also discuss other options to address amendments related to community gardens, produce stands, community supported agriculture drop-off locations that were identified as part of the HEAL grant work a few years ago.

7. **Homeless Encampment Ordinance**
   Staff will provide a discussion on a Draft Ordinance on Homeless Encampments. This is related to a 2014 Land Use Audit by WCIA.

8. **Committee member comments**

AGENDA

MINUTES FINANCE & ECONOMIC DEVELOPMENT COMMITTEE MEETING
Thursday April 9, 2015
South Conference Room

Council Members
Chair Matt Pina
Jeremy Nutting
Jeanette Burrage

City Staff
Tony Piasecki - City Manager
Michael Matthias – Assistant City Manager
Denise Lathrop – Community Development Mgr
Grant Fredricks – Consultant
Autumn Lingle – Exec. Admin. Asst.

1. **Call to Order**
   Chair Matt Pina called the meeting to order at 5:57 p.m.

2. **Approval of the March 12, 2015 meeting minutes**
   Minutes approved as submitted.

3. **Development Updates**
   Assistant City Manager Matthias update the committee on the following topics:
   - FAA decision (none so far)
   - Marina Floor Development
     - Potential Tech startup
     - Marina office possible relocation to aid development
     - Boat store interest
     - Opportunities on 6th & 7th Ave may help create connection between marina floor and downtown
     - Bebe nails property- possible change in development
   - **Downtown**
     - Theater construction

4. **2015 Comprehensive Plan Periodic Update**
   Community Development Manager Lathrop explained the process and provided an update on the following neighborhoods:

   - **North Central Neighborhood Element**
     - Changes to Chapter 9, 10 and 11
     - Asked for direction regarding goals and strategies
     - SR509 ROW
     - Possible zone changes
   - **Downtown Neighborhood Element**
     - Changes to Chapter 10 with major amendment.
     - Change document format
       - Remove numbering format
       - Positive wording

   - **Pacific Ridge Neighborhood Element**

- Address subareas per Council direction
- Create vibrant village
- Walkability
- Parking
- Setbacks

Discussion ensued regarding the pros and cons of building up to the sidewalk as opposed to setbacks. Development Manager Lathrop noted that building up to the sidewalk creates more activity and synergy. Assistant City Manager Matthias stated that it is important to be flexible while maintaining standards.

Assistant City Manager Matthias discussed his recent attendance at Soundside Alliance and touched on transportation infrastructure.

5. Business and parking improvement options for the Marina District

Assistant City Manager Matthias enlightened the committee about the steps required to establish a Parking and Business Improvement Area.

Intents and goals.

- Establish a sense of a distinct district
- How to address parking (review existing ordinance)
- Identify and execute visual improvements
  - Flower baskets, etc..
- Roadway improvements
- Incorporate downtown district with the marina district

Finance options

- Special assessments
- Partnerships

Public Development Authority (PDA)

- Purpose
- Formation steps
- Pros and cons

6. Committee member comments

Chair Pina suggested exploring options further.

The next regular meeting is scheduled for May 14, from 6:00-6:50 p.m. in the South Conference room.

Adjourned at 6:55 p.m.
Respectfully submitted by,
Autumn Lingle, Executive Administrative Assistant

MEETING ITEM

SUBJECT: General Fund Financial Discussion - First Quarter 2015	FOR AGENDA OF: May 14, 2015
	DEPT. OF ORIGIN: Finance
ATTACHMENTS: General Fund Monthly Report – March Major Revenue Trends – March	DATE SUBMITTED: May 6, 2015
	APPROVED BY CITY MANAGER FOR SUBMITTAL:_____

Purpose

The purpose of this meeting item is to review the attached financial reports' highlights and answer any questions.

Background

The attached reports are report formats which have been included since January 2015 in Finance's monthly report to the City Manager. They are also included in the city wide City Manager's Monthly Report to Council and the public.

Highlights and Discussion

- **REVENUES -** Year to date revenues are consistent with the 2015 Budget and prior year's pattern of seasonality with the exception of taxes. Most types of tax revenue are higher than prior year with the exception of utility taxes. Even though the rate was increased, total collections for the first quarter are down 7.4 % ($73K). This is predominately due to lower electricity and natural gas taxes; most likely a result of the unseasonably warm weather.

- **EXPENDITURES –** Year to date expenditures are on track with the 2015 Budget with one notable item. As several union contracts were settled there was retro pay of approximately $50K that was not included in the original 2015 Budget (the higher salary/benefit rates for the rest of 2015, however, are included in the 2015 Budget).

  Year-to-Year Comparability – 2015 year to date (YTD) spending as a percentage of annual budget is lower for all departments than for the previous year. This is largely due to a change in accounting. Two large bills (annual WCIA insurance premium of $530K and $94K for the VEBA personnel benefit contribution) which were typically paid by the general fund in January of each year were paid by the Payroll Clearing Fund and the Self Insurance Fund instead this year. The general fund now recognizes these interfund expenses on a monthly basis which is consistent with how other benefit costs are recognized and makes the monthly operating costs more meaningful.

- **CASH BALANCES** – This is an area of concern. Even with the deferral of nine months of costs as mentioned in ***Year-to-Year Comparability*** above the general fund had *negative* cash balances at the end of all three months. In order to pay bills the general fund borrowed amounts from money previously set aside in the Equipment Replacement Fund. The borrowing was paid back in April when property tax revenue was received.

  How much? At the end of March 2014 the General Fund had $144K cash on hand. At the end of March 2015 it had $(445K). Eliminating the effects of cost deferrals mentioned above the net consumption of cash in the April 2014 to March 2015 twelve month period is over $1 million.

  Is this a problem? Yes. It indicates the city has a structural spending deficit issue: on-going expenses are higher than on-going revenues.

  Is this normal for the city? Yes and No. **Yes**, the city has been struggling to maintain the current level of services to the citizens in the face of lower on-going revenues for many years. At various times, the city has used one-time revenues and consumed fund balances to pay operating costs to maintain service levels. **No,** the amount of structural deficit and negative cash is *not* the same as past years. A review of cash balances at the end of March for nine years prior show March ending balances show the negative cash amount for this year (as adjusted for the change in accounting mentioned above) of ($885K) is significantly more than the worst year in 2010 where it was $(256K). In the past 10 years the city has not experienced negative cash balances for each of the January, February and March month ends in the same year.

MARCH	GF Cash Bal
2015	(884,846)
2014	143,780
2013	409,534
2012	109,192
2011	616,289
2010	(255,685)
2009	(24,545)
2008	777,070
2007	736,519
2006	758,525

  Will this situation correct itself with one-time revenues? Yes and No. **Yes,** one time revenue collections can help reduce the cash deficit problem. **No,** by definition, the structural deficit is the difference between on-going revenues and on-going expenses. Given this situation, one-time revenues are critical to not only maintain service levels but also to restore depleted cash balances and reserves. If budgeted one time revenues are delayed then the general fund ends up spends money it does not have (so it is forced to borrow cash; internal lending sources are decreasing).

  Can we "grow" our way out of the current year operating deficit with the additional property taxes and utility taxes we'll get this year? Not likely. The 2015 original budget excluded about $850K in on-going computer and equipment contributions while including these new revenues. Excluding contributions for computer and equipment assets used to perform services in 2015 helps cash flow but is another indicator of the actual size of the structural operating deficit. This pushes the cash flow issue into the next year, but does not solve the underlying problem.

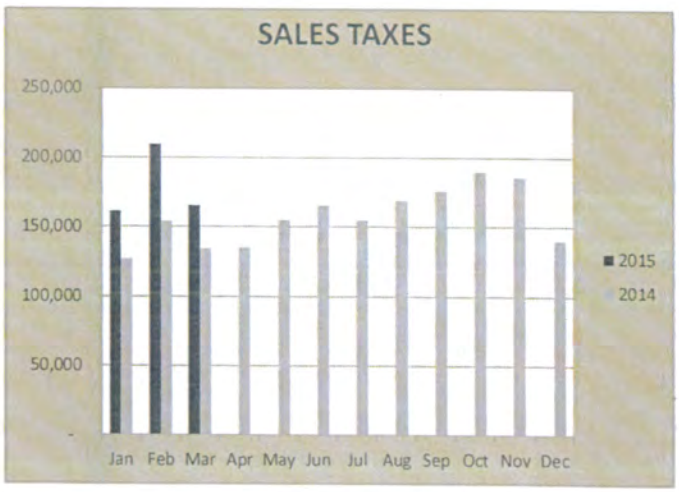
GENERAL FUND MONTHLY REPORT
REVENUES & EXPENDITURES
MARCH

		2015 Budget Annual	2015 Actual Year to Date	%	2014 Actual Annual	2014 Actual Year to Date	%
REVENUES							
310	Taxes	11,714,541	2,048,949	17.5%	10,016,244	2,064,666	20.6%
320	Licenses & Permits	2,228,087	437,266	19.6%	2,224,912	407,460	18.3%
330	Intergovernmental	631,597	140,759	22.3%	596,569	154,990	26.0%
340	Charges Goods/Services	3,085,169	633,487	20.5%	3,256,126	638,478	19.6%
350	Fines & Forefitures	617,750	164,657	26.7%	735,000	197,148	26.8%
360	Misc Revenues	316,300	78,798	24.9%	282,638	49,462	17.5%
380	Other Financing Sources	5,000	1,711	34.2%	318,800	-	0.0%
	TOTAL	18,598,444	3,505,627	18.8%	17,430,289	3,512,204	20.2%
EXPENDITURES							
021	City Council	77,801	15,775	20.3%	81,087	25,334	31.2%
022	Muni Court	925,331	236,404	25.5%	870,006	248,706	28.6%
023	City Manager	1,445,328	357,639	24.7%	1,656,284	359,909	21.7%
024	Financial	982,677	204,072	20.8%	902,852	228,061	25.3%
026	Legal	607,147	150,364	24.8%	564,181	156,026	27.7%
030	Police	8,649,532	1,869,504	21.6%	7,895,702	2,115,659	26.8%
040	Planning & PW Admin	3,481,270	812,287	23.3%	3,043,083	801,443	26.3%
045	Recreation & Sr Serv	1,977,917	440,052	22.2%	1,779,016	489,694	27.5%
050	NonDepartmental	129,904	70,978	54.6%	127,359	66,626	52.3%
	TOTAL	18,276,907	4,157,075	22.7%	16,919,570	4,491,458	26.5%
REVENUES MORE THAN OR (LESS THAN) EXPENDITURES		321,537	(651,448)		510,719	(979,254)	
Ending Cash & Investments			(444,846)			143,780	
March is 3 months of 12		*25.0%*					

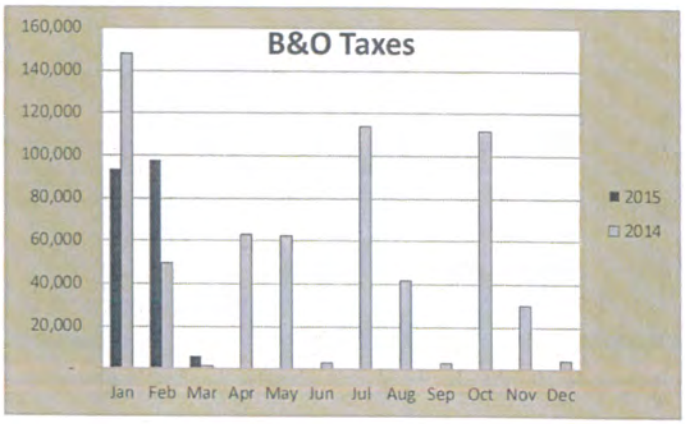
MAJOR REVENUE TRENDS

(CASH BASIS)

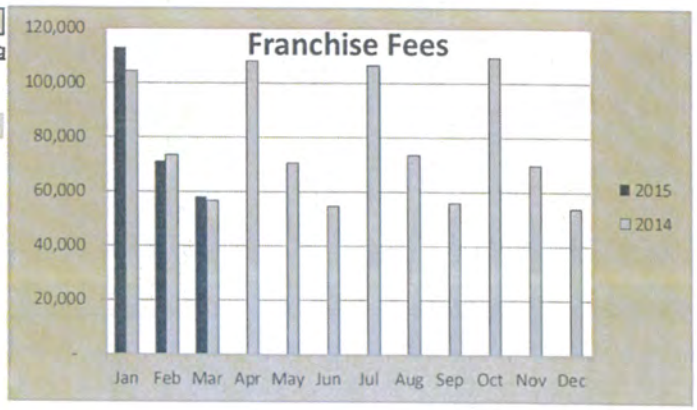
2015 YTD Compared to 2014 YTD:		120,351	29.0%
	2015	2014	2013	% Mo Chg
Jan	160,900	126,879	126,113	26.8%
Feb	209,487	153,733	160,865	36.3%
Mar	165,375	134,800	125,007	22.7%
Apr		134,987	122,018	
May		154,647	156,458	
Jun		165,137	139,451	
Jul		154,543	161,651	
Aug		169,515	158,378	
Sep		176,210	157,093	
Oct		189,546	140,486	
Nov		185,575	153,672	
Dec		140,331	151,908	
Totals	535,762	1,885,903	1,753,099	
One-time	$ -	$ -		



2015 YTD Compared to 2014 YTD:		(1,771)	-0.9%
	2015	2014	2013	% Mo Chg
Jan	93,389	147,677	100,067	-36.8%
Feb	97,788	49,873	48,891	96.1%
Mar	6,095	1,493	13,027	308.2%
Apr		62,741	91,188	
May		62,565	40,537	
Jun		2,971	2,167	
Jul		113,874	27,144	
Aug		41,690	106,791	
Sep		2,890	2,073	
Oct		111,494	88,101	
Nov		30,155	26,655	
Dec		3,722	3,712	
Totals	197,272	631,145	550,353	



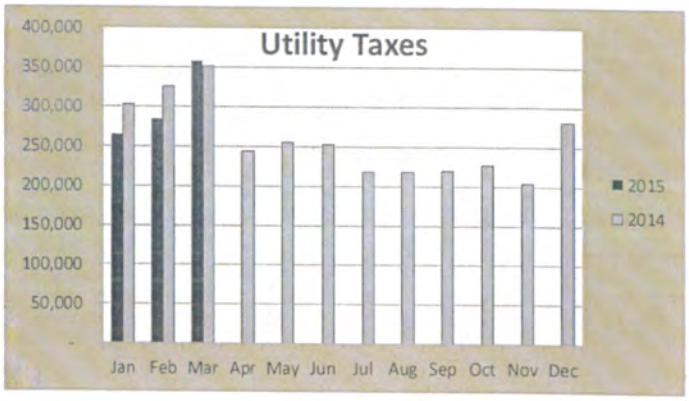
2015 YTD Compared to 2014 YTD:		8,131	3.5%
	2015	2014	2013	% Mo Chg
Jan	112,789	104,055	97,583	8.4%
Feb	71,075	73,165	69,824	-2.9%
Mar	57,924	56,436	58,146	2.6%
Apr		108,097	63,550	
May		70,303	102,992	
Jun		54,540	58,903	
Jul		106,309	95,600	
Aug		73,166	74,178	
Sep		55,862	60,086	
Oct		109,105	63,978	
Nov		69,418	71,924	
Dec		53,544	92,407	
Totals	241,787	934,000	909,171	



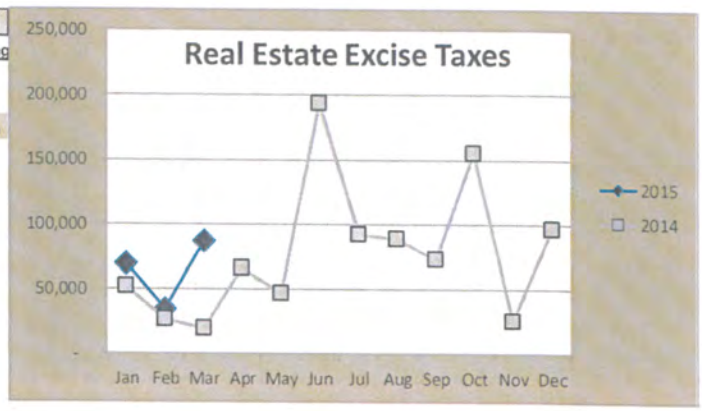
MAJOR REVENUE TRENDS

(Cash Basis -Continued)

2015 YTD Compared to 2014 YTD:			(72,895)	-7.4%
	2015	2014	2013	% Mo Chg
Jan	264,911	302,063	272,719	-12.3%
Feb	284,340	326,082	307,637	-12.8%
Mar	357,130	351,131	303,169	1.7%
Apr		243,314	219,977	
May		254,925	321,953	
Jun		251,914	223,309	
Jul		217,888	236,019	
Aug		218,164	223,535	
Sep		219,620	206,135	
Oct		226,349	278,845	
Nov		203,122	244,044	
Dec		280,978	237,280	
Totals	**906,381**	**3,095,550**	**3,074,622**	



2015 YTD Compared to 2014 YTD:			91,849	92.9%
	2015	2014	2013	% Mo Chg
Jan	69,565	52,276	37,800	33.1%
Feb	34,149	26,826	22,749	27.3%
Mar	86,979	19,742	13,056	340.6%
Apr		66,103	23,814	
May		46,430	75,897	
Jun		193,059	91,940	
Jul		91,941	63,653	
Aug		88,753	53,813	
Sep		72,437	73,970	
Oct		154,557	52,202	
Nov		25,792	52,846	
Dec		96,222	39,308	
Totals	**190,693**	**934,138**	**601,048**	



GENERAL FUND MONTHLY REPORT
CASH BALANCES
MARCH

Ending Cash by Month End:	2015 Actual	2014 Actual
January	(24,890)	348,835
February	(229,322)	238,790
March	(444,553)	143,780
April		371,244
May		1,180,497
June		858,513
July		841,042
August		401,113
September		221,578
October		1,082,047
November		980,159
December		1,095,263

Chapter 7.32
JUNK VEHICLES

Sections

7.32.005 Purpose.
7.32.010 Definitions.
7.32.020 Junk vehicles prohibited.
7.32.025 Public nuisance declared.
7.32.030 Exceptions.
7.32.040 Abatement and removal of junk vehicles on private property.
7.32.050 Violation – Penalty.
7.32.060 Rules and procedures.

7.32.005 Purpose.

The purpose of this chapter is to preserve the character and safety of the city's neighborhoods by eliminating as nuisances junk vehicles from private property, and to provide procedures for the removal of junk vehicles as authorized by RCW 46.55.240. [Ord. 1283 § 1, 2001.]

7.32.010 Definitions.

(1) Use of Words and Phrases. As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

(2) "Apparently inoperable" means that the vehicle does not appear to comply with requirements for safe and legal operation on public streets or highways with regard to expired or a lack of current licensing, a lack of brakes, lights, tires, safety glass, or other safety equipment or other circumstances or conditions that are evidence that the vehicle is not currently operable, including, but not limited to, a vehicle having its passenger compartment filled with trash or debris, vegetation growing inside, around, or on the vehicle, or other evidence that the vehicle has not been moved for an extended period of time.

(3) "Director" means the director of the department in charge of code enforcement or his or her designee or any designated alternate who is empowered by ordinance or by the city manager to enforce this chapter including assigned code enforcement officials.

(4) "Junk vehicle" means a vehicle meeting at least three of the following requirements:

(a) Is three years old or older;

(b) Is extensively damaged, such damage including, but not limited to, any of the following: a broken window or missing windshield or missing wheels, tires, motor, or transmission;

(c) Is apparently inoperable; or

(d) Has an approximate fair market value equal only to the approximate value of the scrap value.

(5) "Landowner" means an owner of private property, or a person in possession or control of private property.

(6) "Vehicle" means a motorized or nonmotorized vehicle or device for carrying passengers, goods or equipment, including but not limited to automobiles, trucks, motorcycles, bicycles, boats, tractors, campers, trailers, or devices of a similar nature or any components of such devices. [Ord. 1508 § 1, 2011: Ord. 1283 § 2, 2001.]

7.32.020 Junk vehicles prohibited.

No person shall keep, permit, or allow a junk vehicle to be placed, maintained, or stored on real property. [Ord. 1508 § 2, 2011: Ord. 1057 § 2, 1993.]

7.32.025 Public nuisance declared.

All junk vehicles certified as such by a law enforcement officer or the director designated by the director according to RCW 46.55.230 and found on public or private property are declared to constitute a public nuisance subject to removal, impoundment and disposal. It is unlawful for any individual firm, entity or corporation to allow, cause to allow or place a junk vehicle on any premises. [Ord. 1283 § 3, 2001.]

7.32.030 Exceptions.

(1) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or

(2) A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to the provisions of RCW 46.80.130.

(3) At any one time, a landowner may have on his or her premises only one junk vehicle outside an enclosed building for a period not to exceed 10 days. [Ord. 1508 § 3, 2011: Ord. 1283 § 4, 1993.]

7.32.040 Abatement and removal of junk vehicles on private property.

(1) Voluntary Compliance. Whenever the director determines that a vehicle is a public nuisance and in violation of this chapter, a reasonable attempt shall be made to secure voluntary compliance from the landowner and the vehicle's registered owner.

(2) Issuance of Notice of Civil Violation. If the director does not obtain voluntary compliance with this chapter, the director shall issue a notice of civil violation to the landowner of record and the vehicle's last registered owner of record in accordance with the provisions of DMMC 1.28.040.

(3) Content. For violations of this chapter, the notice of civil violation to the fullest extent reasonably possible shall contain the following information:

(a) The name and address of the landowner of record upon whose property the vehicle is located;

(b) The name and address of the vehicle's last registered owner of record, provided license or vehicle identification numbers are available and/or readily capable of obtaining;

(c) The vehicle description, including the license plate number and/or the vehicle identification number, the model year, the make, and the factors which render the vehicle a public nuisance;

(d) The street address or a description sufficient for identification of the property where the vehicle is located;

(e) The required corrective action and a date and time by which the correction must be completed;

(f) The date, time, and location of a hearing before the Des Moines municipal court on the question of abatement and removal of the vehicle or part thereof as a public nuisance which will be at least 10 days but no more than 45 days from the date the notice is issued;

(g) A statement indicating the city may remove, impound, and dispose of the vehicle, and assess all costs and expenses of administration, removing, impounding, and disposing of the

vehicle against the landowner or the registered owner as ordered by the Des Moines municipal court; and

(h) A statement that a monetary penalty pursuant to DMMC 1.28.040(5) in an amount per day for each violation shall be assessed against the landowner and/or the vehicle's registered owner as specified and ordered by the Des Moines municipal court in accordance with DMMC 1.28.040.

(4) Service of Notice. The notice shall be mailed by certified mail, with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owner of record of the vehicle unless the vehicle is in such condition that identification numbers are not available to determine ownership.

(5) Landowner Responsibility Disclaimer. The landowner must appear in person at the hearing or present a written statement prior to the hearing to deny responsibility for the vehicle's presence on the property. If the Des Moines municipal court determines that the vehicle was placed on the property without the landowner's consent and that the landowner has not subsequently acquiesced in its presence, then the costs and expenses of administration, removing, impounding, and disposing of the vehicle shall not be assessed against the landowner or otherwise attempted to be collected from said landowner.

(6) Removal by the City. Pursuant to the Des Moines municipal court's orders, the vehicle or part thereof may be removed at the request of a law enforcement officer with notice to the Washington State Patrol and the Washington State Department of Licensing that the vehicle has been wrecked. The city may use any lawful means to cause the vehicle to be removed from the private property and disposed of to a licensed motor vehicle wrecker or hulk hauler or scrap processor.

(7) Recovery of Costs and Expenses.

(a) The costs of removal and disposal shall be assessed against the last registered owner if the identity of the owner can be determined unless the owner in the transfer of ownership complied with RCW 46.12.101 and 46.12.650, or against the landowner of record of the property on which the vehicle is stored, or both. If both the owner of the vehicle and the landowner are assessed the costs of removal, then liability for the costs shall be their joint and separate obligation.

(b) Pursuant to law, the city shall file a lien for the cost of any abatement proceedings and all other related costs against the real property on which the monetary penalty was imposed or any of the work of abatement was performed, except no lien shall attach to the real property if the landowner was found not responsible in the ruling issued by the Des Moines municipal court. Any claim of lien shall contain sufficient information regarding the notice of violation and abatement, a description of the property to be charged with the lien and the owner of record, and the total amount of the lien.

(c) The costs of administration and of removal and disposal of the vehicle may also be recovered pursuant to DMMC 1.28.060(4).

(8) Entry of Private Property. Using any lawful means, the city may enter upon the subject property and remove or correct the condition that is subject to abatement. The city may seek such judicial process as it deems necessary to effect the removal or correction of such condition. When a law enforcement officer or public official has probable cause to believe that a nuisance created by public nuisance vehicles exists on any property in violation of this chapter, he or she may request permission to enter the premises to inspect for evidence thereof if the landowner is present. If permissive entry cannot be obtained, the law enforcement officer or prosecuting attorney may apply to a court of competent jurisdiction for a warrant to enter the property, notwithstanding the inability to locate the landowner.

(9) Conflict of Provision. This notice and related requirements of this section are intended to supplement those of chapter 1.28 DMMC; however, should a conflict exist, the provisions of this section shall prevail. [Ord. 1508 § 4, 2011; Ord. 1283 § 5, 2001.]

7.32.050 Violation – Penalty.

(1) Any violation of any provision of this chapter is a class 1 civil infraction and shall be prosecuted as provided in chapter 1.24 DMMC.

(2) If the same individual receives two committed findings for violating this chapter within one year, the third violation within one year from the date of the original citation shall constitute a misdemeanor.

(3) The violation of this chapter shall also entitle the city to abate or impound the nuisance in accordance with chapter 1.28 DMMC and DMMC 7.32.040.

(4) Each day upon which a violation occurs constitutes a separate offense. [Ord. 1508 § 5, 2011: Ord. 1283 § 6, 2001.]

7.32.060 Rules and procedures.

The applicable department director in charge of enforcement of this chapter may adopt such rules as may be necessary to effectively implement and administer this chapter. [Ord. 1283 § 7, 2001.]

Beginning of Chapter << 46.55.010 >> 46.55.020

RCW 46.55.010
Definitions.

The definitions set forth in this section apply throughout this chapter:

(1) "Abandoned vehicle" means a vehicle that a registered tow truck operator has impounded and held in the operator's possession for one hundred twenty consecutive hours.

(2) "Immobilize" means the use of a locking wheel boot that, when attached to the wheel of a vehicle, prevents the vehicle from moving without damage to the tire to which the locking wheel boot is attached.

(3) "Abandoned vehicle report" means the document prescribed by the state that the towing operator forwards to the department after a vehicle has become abandoned.

(4) "Impound" means to take and hold a vehicle in legal custody. There are two types of impounds -- public and private.

(a) "Public impound" means that the vehicle has been impounded at the direction of a law enforcement officer or by a public official having jurisdiction over the public property upon which the vehicle was located.

(b) "Private impound" means that the vehicle has been impounded at the direction of a person having control or possession of the private property upon which the vehicle was located.

(5) "Junk vehicle" means a vehicle certified under RCW 46.55.230 as meeting at least three of the following requirements:

(a) Is three years old or older;

(b) Is extensively damaged, such damage including but not limited to any of the following: A broken window or windshield, or missing wheels, tires, motor, or transmission;

(c) Is apparently inoperable;

(d) Has an approximate fair market value equal only to the approximate value of the scrap in it.

(6) "Master log" means the document or an electronic facsimile prescribed by the department and the Washington state patrol in which an

operator records transactions involving impounded vehicles.

(7) "Registered tow truck operator" or "operator" means any person who engages in the impounding, transporting, or storage of unauthorized vehicles or the disposal of abandoned vehicles.

(8) "Residential property" means property that has no more than four living units located on it.

(9) "Suspended license impound" means an impound ordered under RCW 46.55.113 because the operator was arrested for a violation of RCW 46.20.342 or 46.20.345.

(10) "Tow truck" means a motor vehicle that is equipped for and used in the business of towing vehicles with equipment as approved by the state patrol.

(11) "Tow truck number" means the number issued by the department to tow trucks used by a registered tow truck operator in the state of Washington.

(12) "Tow truck permit" means the permit issued annually by the department that has the classification of service the tow truck may provide stamped upon it.

(13) "Tow truck service" means the transporting upon the public streets and highways of this state of vehicles, together with personal effects and cargo, by a tow truck of a registered operator.

(14) "Unauthorized vehicle" means a vehicle that is subject to impoundment after being left unattended in one of the following public or private locations for the indicated period of time:

Subject to removal after:

(a) Public locations:

(i) Constituting an accident or a traffic hazard as defined in RCW 46.55.113 . . . . . Immediately

(ii) On a highway and tagged as described in RCW 46.55.085 . . . . . 24 hours

(iii) In a publicly owned or controlled parking facility, properly posted under RCW 46.55.070 . . . . . Immediately

(b) Private locations:

(i) On residential property . . . . . Immediately

(ii) On private, nonresidential property, properly posted under RCW 46.55.070 . . . . . Immediately

(iii) On private, nonresidential property, not posted . . . . . 24 hours

[2005 c 88 § 2; 1999 c 398 § 2; 1998 c 203 § 8; 1994 c 176 § 1; 1991 c 292 § 1; 1989 c 111 § 1. Prior: 1987 c 330 § 739; 1987 c 311 § 1; 1985 c 377 § 1.]

Notes:

Finding -- 1998 c 203: See note following RCW 46.55.105.

Construction -- Application of rules -- Severability -- 1987 c 330: See notes following RCW 28B.12.050.

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46.55.220 << 46.55.230 >> 46.55.240

RCW 46.55.230

Junk vehicles — Removal, disposal, sale — Penalties — Cleanup restitution payment.

(1)(a) Notwithstanding any other provision of law, any law enforcement officer having jurisdiction, or any employee or officer of a jurisdictional health department acting pursuant to RCW 70.95.240, or any person authorized by the director shall inspect and may authorize the disposal of an abandoned junk vehicle. The person making the inspection shall record the make and vehicle identification number or license number of the vehicle if available, and shall also verify that the approximate value of the junk vehicle is equivalent only to the approximate value of the parts.

(b) A tow truck operator may authorize the disposal of an abandoned junk vehicle if the vehicle has been abandoned two or more times, the registered ownership information has not changed since the first abandonment, and the registered owner is also the legal owner.

(2) The law enforcement officer or department representative shall provide information on the vehicle's registered and legal owner to the landowner.

(3) Upon receiving information on the vehicle's registered and legal owner, the landowner shall mail a notice to the registered and legal owners shown on the records of the department. The notification shall describe the redemption procedure and the right to arrange for the removal of the vehicle.

(4) If the vehicle remains unclaimed more than fifteen days after the landowner has mailed notification to the registered and legal owner, the landowner may dispose of the vehicle or sign an affidavit of sale to be used as a title document.

(5) If no information on the vehicle's registered and legal owner is found in the records of the department, the landowner may immediately dispose of the vehicle or sign an affidavit of sale to be used as a title document.

(6) It is a gross misdemeanor for a person to abandon a junk vehicle on property. If a junk vehicle is abandoned, the vehicle's registered owner shall also pay a cleanup restitution payment equal to twice the costs incurred in the removal of the junk vehicle. The court shall distribute one-half of the restitution payment to the landowner of the property upon which the junk vehicle is located, and one-half of the restitution payment to the law

enforcement agency or jurisdictional health department investigating the incident.

(7) For the purposes of this section, the term "landowner" includes a legal owner of private property, a person with possession or control of private property, or a public official having jurisdiction over public property.

(8) A person complying in good faith with the requirements of this section is immune from any liability arising out of an action taken or omission made in the compliance.

[2002 c 279 § 13; 2001 c 139 § 3; 2000 c 154 § 4; 1991 c 292 § 2; 1987 c 311 § 19; 1985 c 377 § 23.]

Notes:

Severability -- 2000 c 154: See note following RCW 70.93.030.

Memo

Date: May 6, 2015

To: Council Finance and Economic Development Committee

From: Denise Lathrop, AICP – Community Development Mgr.
Laura Techico, AICP – Senior Planner

RE: *Development Standards for Urban Agriculture: Community Gardens, Keeping of Animals, and Community Supported Agricultural Programs*

Purpose

The purpose of this discussion item is to provide the Council Finance and Economic Development Committee with an overview of the City's current development standards related to the keeping of animals and specifically chickens. The subject was discussed with the Committee on 8/28/12 and full Council during the HEAL grant project in 2012. Recent citizen inquiries regarding the keeping of chickens have brought the subject back to the forefront.

Policy direction and input is requested as it relates to proposed amendments to the Des Moines Municipal Code that would provide clarification and guidance. If the Committee concurs with the proposed changes, an ordinance would be developed for consideration by the full Council in the July/August timeframe.

Food Systems Policy and Development Standards

City-oriented food systems policy is becoming more widespread across the country. Throughout King County, Washington, cities have been working to improve food security for their residents by integrating healthy food access into their regulatory framework, starting with comprehensive plans.

In 2010, the City of Des Moines received an 18-month Communities Putting Prevention to Work (CPPW) grant from the CDC and PHSKC to develop a new Healthy Eating and Active Living (HEAL) Initiative. The purpose of the initiative was to increase access to nourishing foods and beverages and opportunities for physical activity through policy, systems, and environments that make "the healthy choice the easy choice." The CPPW grant ignited a *"Healthy Des Moines Movement"* led by the Des Moines City Council and a 12-member Healthy Des Moines Technical Advisory Committee composed of City staff, community leaders/members, Public Health – Seattle & King County, consultants and the state-wide CPPW Coalition in moving Des Moines toward our healthy outcomes.

The Healthy Des Moines Movement was ignited by the need to address critical public health issues in our community related to poor nutrition, lack of physical activity, and high rates of diabetes and obesity. Many of these issues are directly related to the design of the built environment that affects the health and well being of our residents, especially vulnerable population groups such as children, elderly, people of color, and low-income households.

In January 2012, Des Moines City Council adopted *"Chapter 12: Healthy Des Moines Element"* into the Comprehensive Plan. This was the first step in establishing the policy framework and implementation strategies for improving the health of our citizens. While the City has accomplished a lot in the intervening years, most activities have focused on increasing opportunities for physical activity and improving nutritional standards in City-sponsored programs. We have yet to establish and/or clarify development standards that support community food production and distribution with the primary goal to increase access to healthful affordable food for all Des Moines residents.

On August 28, 2012, staff presented proposed code amendments related to keeping of animals (including

chickens), community gardens and community supported agriculture programs to the Council Finance and Economic Development Committee for discussion. While the Committee was supportive of the work, other Council priorities took precedent and no further action was taken by Council.

Working with Code Enforcement and Animal Control, staff have identified amendments to the Des Moines Municipal Code (DMMC) and specifically – DMMC 18.01.050 Definitions, Chapter 18.52 Permitted Uses, and Chapter 18.150 Keeping of Animals, along with recommendation for other development standards and guidance documents (see Attachments 1 and 2).

Key items for discussion include:

- Adding/amending definitions, permitted uses and standards:
  - Definitions - Community gardens, Community Supported Agriculture (CSA)/food membership distribution, domestic fowl, farmers markets, produce carts
  - Permitted uses – outright, on public properties and med-high density residential areas, limited in commercial areas
  - Special regulations – size limits, hours of operation, equipment use, permit/license requirements, violations
- Guidance for small domestic animals:
  - # domestic fowl permitted (recommending 3), roosters not allowed
  - # permitted in addition to other domestic animals (recommending 3 for total of 6 domestic animals)
  - # pigeons and doves permitted
  - Standards for setbacks and housing
- Reviewing guidance for large domestic animals:
  - Lot size (per USDA requires 1/5-2 ac/cow for grazing) – would make existing uses non-conforming
  - Standards for pigmy goats

ATTACHMENT 1

Chapter 18.150
KEEPING OF ANIMALS IN RESIDENTIAL ZONES

Sections

18.150.010 Title.

18.150.020 Application.

18.150.030 Purpose.

18.150.040 Authority.

18.150.050 Types of animals regulated.

18.150.060 Minimum requirements – Additional controls authorized when.

18.150.070 Household pet requirements.

18.150.080 Small domestic animal requirements.

18.150.090 Large domestic animal requirements.

18.150.100 Bee requirements.

18.150.110 Notification to nearby property owners required when.

18.150.120 Modification of regulations – City Manager or the City Manager's designee authority.

18.150.010 Title.

This section shall be entitled "Supplemental Conditions for Specific Uses." This chapter shall be entitled "Keeping of Animals in Residential Zones." [Ord. 1591 § 331, 2014.]

18.150.020 Application.

This chapter applies to the keeping of animals in any zone where a dwelling unit is permitted; provided, that with respect to Suburban Estate Zones found in chapter 18.85 DMMC this chapter is intended to supplement the provisions contained therein, and any conflict between this chapter and chapter 18.85 DMMC shall be resolved in favor of chapter 18.85 DMMC; and provided further, that this chapter is intended to supplement the provisions of DMMC 18.52.010A(28) (related to the keeping of horses or cattle) and any conflict between this chapter and DMMC 18.52.010A(28) shall be resolved in favor of this chapter; and provided further, that the keeping of animals is forbidden in Commercial Zones except as otherwise specifically permitted. [Ord. 1591 § 332, 2014.]

18.150.030 Purpose.

The limitations on keeping of animals in Residential Zones contained in this chapter have the following purposes:

(1) To maintain the general health and sanitation of the City;

(2) To maintain the character of residential neighborhoods within the City; and

(3) To minimize any nuisances which may result from the keeping of animals. [Ord. 1591 § 333, 2014.]

18.150.040 Authority.

This chapter is adopted pursuant to the provisions of chapters 35.63, 35A.63 and 36.70A RCW and other applicable laws. [Ord. 1591 § 334, 2014.]

18.150.050 Types of animals regulated.

Animals are regulated according to the following categories. The expression "adult animal" refers to any animal that has attained the age of ~~90~~ 60 days.

(1) Household Pets. The following adult animals are regulated as household pets:

~~(e)~~(a) In combination, no more than three of the following animals: dogs, cats, miniature potbellied pigs, pygmy goats or rabbits, plus an additional three chickens, ducks, doves, or pigeons, per dwelling unit;

~~(a)~~(b) Three dogs or fewer per dwelling unit;

~~(b)~~(c) Three cats or fewer per dwelling unit;

~~(c)~~ (d)Three rabbits or fewer per dwelling unit;

~~(d)~~ (e)Two miniature potbellied pigs per dwelling unit;

(f) Three or fewer chickens, ducks, doves or pigeons, provided roosters are prohibited; ~~(e) In combination, no more than three of the following animals: dogs, cats, miniature potbellied pigs, or rabbits per dwelling unit;~~

(f) Gerbils;

(g) Guinea pigs;

(h) Hamsters;

(i) Mice;

(j) Cage birds;

(k) Tank fish;

(l) Nonvenomous reptiles and amphibians; and

(m) Other animals normally associated with a dwelling unit, and that are generally housed within the dwelling unit.

(2) Small Domestic Animals. The following adult animals are regulated as small domestic animals:

(a) More than three dogs per dwelling unit;

(b) More than three cats per dwelling unit;

(c) More than three rabbits per dwelling unit;

(d) More than two miniature potbellied pigs per dwelling unit;

(e) In combination, more than three of the following animals: dogs, cats, miniature potbellied pigs, chickens, ducks, doves, pigeons, pigmy goats, or rabbits per dwelling unit; ~~and~~

(f) More than three chickens, ducks, dove or pigeons per dwelling unit; and~~Fowl.~~

(g)) More than three pigmy goats per dwelling unit.

(3) Large Domestic Animals. The following adult animals are regulated as large domestic animals, provided intact males are prohibited:

(a) Horses;

(b) Cattle;

(c) Sheep;

(d) Pigs;

(e) Goats; and

(f) Other grazing or foraging animals.

(4) Bees. [Ord. 1591 § 335, 2014.]

18.150.060 Minimum requirements – Additional controls authorized when.

DMMC 18.150.070 through 18.150.100 constitute the minimum requirements for the keeping of animals in the City. Nothing contained in DMMC 18.150.070 through 18.150.100 shall limit the authority of the City Manager or the City Manager's designee to require additional controls if, in his judgment, additional controls are needed to effect the purposes of this chapter. Further, nothing contained in DMMC 18.150.070 through 18.150.100 shall relieve a keeper of animals from compliance with any other City, county, or state law regulating the keeping of animals. The City Manager or the City Manager's designee is authorized to delegate his review authority. [Ord. 1591 § 336, 2014.]

18.150.070 Household pet requirements.

Minimum requirements for the keeping of household pets are as follows:

(1) Required procedure: none;

(2) Application information: none;

(3) Maximum number of adult animals per one dwelling unit:

(a) Dogs: three;

(b) Cats: three;

(c) Rabbits: three;

(d) Miniature potbellied pigs: two;

(e) In combination, a total number of three dogs, cats, miniature potbellied pigs, pygmy goats, or rabbits~~: three~~ plus an additional three chickens, ducks, dove or pigeons, provided roosters are prohibited;

(f) Other: no maximum;

(4) Minimum lot size: As required by general zoning regulations;

(5) Minimum setback: None;

(6) Special regulations and requirements: Household pets, excluding dogs, cats, rabbits, chickens, ducks, dove, pigeons, pygmy goats, and miniature potbellied pigs shall be housed within the dwelling unit. If housed outside of the dwelling units, household pets excluding dogs, cats, rabbits, and miniature potbellied pigs are regulated as small domestic animals. [Ord. 1591 § 337, 2014.]

18.150.080 Small domestic animal requirements.

Minimum requirements for the keeping of small domestic animals are as follows:

(1) Required Procedure. City Manager or the City Manager's designee review;

(2) Application Information.

(a) A site plan indicating the location of the dwelling units, and structure used to house the animals, and any roaming or grazing area;

(b) A vicinity map indicating the type of use on property abutting the subject property and the location of any structures on abutting property;

(c) The type and number of animals to be kept by the applicant;

(3) Maximum number of adult animals per one dwelling unit: 10 per 22,000 square feet of lot area, plus an additional five adult animals for each 11,000 square feet of lot ~~size~~area;

(4) Minimum lot size: 22,000 square feet per dwelling unit;

(5) Minimum Setback. Any structure or enclosure used to house animals must be at least 35 feet from a property line and at least 45 feet from any dwelling unit located on an adjacent lot. Any "run" or animal exercise area must be at least 20 feet from any property line, and at least 30 feet from any dwelling unit located on an adjacent lot, and shall be constructed to effect these setbacks;

(6) Special Regulations and Requirements.

(a) The City may limit the number of animals allowed to less than the maximum considering:

(i) Proximity to dwelling units both on and off the subject property;

(ii) Lot size and isolation;

(iii) Compatibility with surrounding uses;

(iv) Potential noise impacts;

(b) The applicant must provide a suitable structure to house the animals, and must maintain that structure in a clean condition;

(c) If an abutting property owner files a signed and notarized statement in support of the request, the City may permit a "run" or exercise area to extend to the property line in common with the abutting property. Such release shall be effective until revoked in writing by the abutting property owner and the City;

(7) Screening. The City may require screening to mitigate financial, health, and aesthetic impacts on adjacent residential property when such residential property is used for residential purposes. The screening shall consist of a solid wall, a view-obscuring fence or hedge not less than five feet nor more than six feet in height, which will be erected and maintained on any exterior boundary that is common with property used for residential purposes, or shall consist of predominantly view-obscuring evergreen shrubs and trees of a type, number, location, height, and size approved by the City. [Ord. 1591 § 338, 2014.]

18.150.090 Large domestic animal requirements.

Minimum requirements for the keeping of large domestic animals are as follows:

(1) Required Procedure. City Manager or the City Manager's designee review;

(2) Application Information.

(a) A site plan indicating the location of the dwelling units, and structure used to house the animals, and any roaming or grazing area;

(b) A vicinity map indicating the type of use on property abutting the subject property and the location of any structures on abutting property;

(c) The type and number of animals to be kept by the applicant;

(3) Maximum number of adult animals per one dwelling unit: one per 35,000 square feet of lot area and one per each additional 17,500 square feet of lot area;

Commented [dl1]: Should we increase the lot size? The USDA recommends 1.5-2 AC/cow for grazing = 65,340-87,120 sf/animal; still researching requirements for horses, sheep, pigs and goats.

(4) Minimum lot size: 35,000 square feet per dwelling unit;

(5) Minimum Setback. Any structure or enclosure used to house animals must be at least 35 feet from a property line and at least 45 feet from any dwelling unit located on an adjacent lot. Roaming or grazing areas must be at least 20 feet from any property line, and at least 30 feet from any dwelling unit located on an adjacent lot, and shall be constructed to effect these setbacks;

(6) Special Regulations and Requirements.

(a) If an abutting property owner files a signed and notarized statement in support of the request, the City may permit roaming or grazing areas to extend to the property line in common with the abutting property. Such release shall be effective until revoked in writing by the abutting property owner and the City;

(b) The City may limit the number of animals allowed to less than the maximum considering:

(i) Proximity to dwelling units both on and off the subject property;

(ii) Lot size and isolation;

(iii) Compatibility with surrounding uses;

(iv) Potential noise impacts;

(c) The applicant must provide a suitable structure to house the animals, and must maintain that structure in a clean condition;

(7) Screening. The City may require screening to mitigate financial, health, and aesthetic impacts on adjacent residential property when such residential property is used for residential purposes. The screening shall consist of a solid wall, a view-obscuring fence or hedge not less than five feet nor more than six feet in height, which will be erected and maintained on any exterior boundary that is common with property used for residential purposes, or shall consist of predominantly view-obscuring evergreen shrubs and trees of a type, number, location, height, and size approved by the City. [Ord. 1591 § 339, 2014.]

18.150.100 Honey Bee requirements. (Note – no specific regulation per King County or WA State)

Minimum requirements for the keeping of bees are as follows:

(1) Required Procedure. City Manager or the City Manager's designee review;

(2) Application Information: Registration with the Washington State Department of Agriculture and. Show demonstrate compliance with subsections (4), (5) and (6) of this section;

(3) Maximum number of adult animalshives per one dwelling unit: no maximum;No more than four hives, each with one swarm, are allowed on lots less than 12,500 square feet;

Commented [dl2]: Changes are based on Seattle Code. Check WA State Department of Agriculture for recommendations

(4) Minimum lot size: 12,500 square feet per dwelling unit;

(5) Minimum Setback. Hive must be at least 20 feet from a property line;

(6) Special Regulations and Requirements.

(a) A hive must be enclosed by a fence, at least four feet high;

(b) The applicant must install at least two signs, measuring two square feet each, which provide notice and warning of the hive;

(7) Screening. The City may require screening to mitigate financial, health, and aesthetic impacts on adjacent residential property when such residential property is used for residential purposes. The screening shall consist of a solid wall, a view-obscuring fence or hedge not less than five feet nor more than six feet in height, which will be erected and maintained on any exterior boundary that is common with property used for residential purposes, or shall consist of predominantly view-obscuring evergreen shrubs and trees of a type, number, location, height, and size approved by the City. [Ord. 1591 § 340, 2014.]

18.150.110 Notification to nearby property owners required when.

In order to give all interested parties an opportunity to avail themselves of the appellate procedure contained in DMMC 18.20.170, the following procedure shall be followed in applications for small domestic animals, large domestic animals, and bee review. The applicant shall give notice of the pending application to all property owners within 300 feet of the applicant's property in the same manner as that required for a zoning amendment. Thereafter, the City Manager or the City Manager's designee shall give notice of his decision to any such property owner who has previously requested such notification in writing. [Ord. 1591 § 341, 2014.]

18.150.120 Modification of regulations – City Manager or the City Manager's designee authority.

The City Manager or the City Manager's designee shall have authority, either at the request of a property owner or on his own initiative, to modify any approval granted pursuant to this chapter if conditions on adjacent lots have substantially changed and the City Manager or the City Manager's designee concludes such modifications are necessary to effect the purposes of this chapter. [Ord. 1591 § 342, 2014.]

ATTACHMENT 2
City of Des Moines – Zoning for Community Gardens and Farmers Markets

Definitions (DMMC 18.01.050)

Community garden.

"Community garden" means a publicly accessible area of land managed and maintained by a public or non-profit organization or group of individuals to grow and harvest food crops or ornamental crops, for personal or group use, consumption or donation.

Community garden. ***(Optional Definition)***

"Community garden" means privately or publicly owned land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by multiple users for personal or group use, consumption or donation.

Community supported agriculture.

"Community supported agriculture" or "CSA" means a program that allows consumers to buy a share from a local farm and in return they receive a box of farm-fresh produce or local value added products (i.e., cheese, baked goods, flowers…) every week during the growing season. CSA boxes are either delivered to the residence or a CSA delivery location.

Domestic Fowl.

"Domestic fowl" means domesticated birds that are kept for their meat, eggs and/or feathers that include chickens, ducks, turkeys, doves, and pigeons.

Farmers market.

"Farmers' Market" means an outdoor market open to the public, operated by a governmental agency, a nonprofit corporation, or one or more producers, at which:

(1) At least 75 percent of the products sold are farm products or value-added farm products, and

(2) At least 75 percent of the vendors regularly participating during the market's hours of operation are producers, or family members or employees of producers.

Farmers' market or outdoor market. ***(Optional Definition from SeaTac)***

"Farmers' market or outdoor market" means a public market at which farmers and often other vendors sell agricultural produce and a variety of goods, which includes the sale of flowers directly to consumers.

DRAFT

Farm products.

"Farm products" means fruits, vegetables, mushrooms, herbs, nuts, shell eggs, honey or other bee products, flowers, nursery stock, livestock food products (including meat, milk, cheese and other dairy products), and fish.

Fresh produce.

"Fresh Produce" means unprocessed, unfrozen, whole, raw fruits and vegetables that have not been combined with other ingredients.

Produce cart.

"Produce cart" means any pushcart or stand approved by the City Manager or designee from which a produce cart permit holder sells fresh produce.

Produce cart permit.

"Produce cart permit" means a permit for the selling of fresh produce from a produce cart at a designated produce cart sales location.

Producer.

"Producer" means a person or entity that raises or produces farm products on land that the person or entity farms and owns, rents, or leases.

Urban farm.

"Urban farm" means privately or publically owned land used for the cultivation of fruits, vegetables, plants, flowers, or herbs and/or for animal products or livestock production by an individual, organization or business with the primary purpose of growing food for sale.

Value-added farm product.

"Value-added farm product" means any product processed by a producer from a farm product, such as baked goods, jams, and jellies.

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Permitted Uses (Chapter 18.52 DMMC)

(Note: propose that the following uses be permitted outright in residential zones and as a conditional use in commercial zones)

Community gardens, subject to the following minimum conditions:

(a) A land use agreement approved by the City Manager or designee shall be executed between the landowner and those who are interested in gardening on private or public land; and

(b) The agreement shall include Community Garden Rules to maintain the property safely and prevent disturbances to neighbor property owners and residents.

Community supported agriculture or CSA delivery.

Farmers' markets, subject to the following minimum conditions:

(a) All Farmers' markets and their vendors shall comply with all federal, state, and local laws and regulations relating to the operation, use, and enjoyment of the market premises; and

(b) All Farmers' markets and their vendors shall obtain all required operating and health permits, and these permits (or copies) shall be in the possession of the Farmers' Market Manager or the vendor, as applicable, on the site of the Farmers' Market during all hours of operation;

(c) All Farmers' markets and their vendors shall accept forms of payment by participants of federal, state, or local food assistance programs, including but not limited to the Food Stamps/Supplemental Nutrition Assistance Program; the Women, Infants, and Children (WIC) Farmers' Market Nutrition Program; and the Senior Farmers' Market Nutrition Program. Such forms of payment include but are not limited to coupons, vouchers, and Electronic Benefit Transfer (EBT) cards.

(d) All Farmers' Markets have an established set of operating rules addressing the governance structure of the farmers' market, hours of operation, maintenance and security requirements and responsibilities; and appointment of a Market Manager.

(e) All Farmers' Markets have a Market Manager authorized to direct the operations of all vendors participating in the market on the site of the market during all hours of operation.

(f) All Farmers' Markets provide for composting, recycling, and waste removal in accordance with all applicable City of Des Moines codes.

(g) All Farmers' Markets are encouraged to provide secure bicycle storage for their patrons.

Produce cart, subject to the following minimum conditions:

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Other Regulations and/or Guidelines for Consideration

The following guidelines are intended as a comparison to the existing rules and application for *Daisy Sonju Community Garden* with the intent to create generic guidelines that would be applicable to any community garden. Research is in progress.

Community Garden Establishment and Maintenance Guidelines

All community gardens will be developed and maintained at no cost to the City of Des Moines, have a minimal amount of impact on City staff time and resources, and will be operated by a non-profit organization, school, church group or volunteers from the community hereinafter referred to as the "Community Group." The City, in its discretion, may assist said groups on a case-by-case basis.

The Community Group will be responsible for all garden activities including but not limited to:

(1) Site Preparation:

- (a) Removing grass
- (b) Turning the soil
- (c) Adding compost
- (d) Adjusting irrigation systems
- (e) Soil testing

(2) Establishment and Operation

- (a) Installation and maintenance of all community garden facilities;
- (b) Repair to broken or damaged facilities maintaining compliance with the plan/agreement;
- (c) Maintain garden's cleanliness, pest control, and tend to weeds; particularly when weeds are prevalent;
- (d) Compliance with the American with Disabilities Act (ADA);
- (e) Paying utility costs such as water or electrical bills;
- (f) Collecting allotment charges from plot users;
- (g) Keeping record of all revenues and expenses incurred by the community garden to be forwarded to the City of Des Moines Finance Department; and
- (h) Any other responsibility required or assigned by the City.

DRAFT

Memo

Date: May 6, 2015

To: Council Finance and Economic Development Committee

From: Denise Lathrop, AICP – Community Development Mgr.
Laura Techico, AICP – Senior Planner

RE: *Homeless Encampments*

Purpose

The purpose of this agenda item is to discuss proposed legislation related to Temporary Encampments for the Homeless . In June 2014, Washington Cities Insurance Authority (WCIA) completed their 2014 Land Use Liability Audit of the City's land use practices. One of the audit findings related to Des Moines compliance with legislation on Temporary Encampments for the Homeless, pursuant to RCW 35.21.915, RCW 35A.21.360 and RCW 36.01.290.

> **Q1.22:** *Do your code and practices comply with current legislative enactments governing temporary encampments for the homeless?*

The current version of the Draft Ordinance is provided as Attachment 1. This is a work in progress as staff is still in the process of reviewing and preparing the Draft Ordinance. We are discussing how we want to review and permit homeless encampments, and reviewing how other agencies have addressed this issue, including looking at other legislation, administrative forms, policies and procedures, and fees. We will need to amend the ordinance to indicate that DMMC 18.20 would also be modified to add the "homeless encampment permit" or "temporary use permit" to the land use review table. At a minimum, this would be a Type II Land Use permit, requiring public notice.

Overview

In 2010, the Washington State Legislature passed Engrossed Substitute House Bill 1956 (ESHB 1956), codified as RCW 36.01.290 which authorized religious organizations to host temporary encampments for homeless persons on property owned or controlled by a religious organization. The legislation grants broad authority to religious organizations to provide shelter or housing to homeless persons on property owned or controlled by such organizations. It prohibits local governments from enacting an ordinance or regulation that imposes conditions other than those necessary to protect the public health and safety and that do not substantially burden the decisions or actions of a religious organization with respect to the provision of homeless housing. It also prohibits the imposition of permit fees in excess of the actual costs associated with the review and approval of the required permit applications for homeless housing encampments. (From House Bill Report ESHB 1956).

Discussion

Draft Ordinance No. 15-030 would amend DMMC 18.01.050 to add new definitions, and add new sections to Chapter 18.170 Temporary Uses. Specific amendments would address:

- ***Frequency and Duration*** – limits the frequency of a homeless encampment at a particular site to no more than once per 365-day period at a duration not to exceed 92 days.
- ***Noticing Requirements:***
  - Establishes noticing requirements for new locations that include notice of application, public informational meeting, and decision as well as mailing and posting; and
  - Establishes noticing requirements for repeat locations that include mailing and posting notices 14 days prior to the anticipated start of the encampment.

- ***Options for Modifying Standards*** – establishes the process by which standards that differ from the DMMC can be modified, including application requirements, a comment period and appeal to the Hearing Examiner.

If the committee concurs with the proposed legislation, staff will bring Draft Ordinance No. 15-030 before the full Council for consideration in the July/August timeframe.

CITY ATTORNEY'S FIRST DRAFT 02/19/2015

DRAFT ORDINANCE NO. 15-030

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to zoning and the regulating of homeless encampments, amending DMMC 18.01.050 by adding definitions, and adding and codifying new sections to chapter 18.170 DMMC.

WHEREAS, there are many homeless persons in our region that are in need of shelter and other services that are not being provided by the state and local governments, and

WHEREAS, in many communities, religious organizations play an important role in providing needed services to the homeless, including the provision of shelter upon property owned by the religious organization, and

WHEREAS, establishing temporary use provisions that allow temporary homeless encampments enable religious institutions in our community to perform a valuable public service that, for many, offers a temporary, stop-gap solution to the larger social problem of increasing numbers of homeless persons, and

WHEREAS, Draft Ordinance No. 15-030 provides guidance in regulating homeless encampments and provides the City with broad discretion to protect the health and safety of our citizens; now therefore,

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

Sec. 1. The following definitions shall be added to DMMC 18.01.050 and section 5 of Ordinance No. 1591:

Homeless encampment means a group of homeless persons temporarily residing out of doors on a site with services provided by a sponsor and supervised by a managing agency.

Commented [D1]: This may be revised to Temporary throughout.

Homeless encampment managing agency means an organization that has the capacity to organize and manage a homeless encampment. A managing agency may be the same entity as the sponsor.

Homeless encampment sponsor means an entity that has an agreement with the managing agency to provide basic services and support for the residents of a homeless encampment and liaison with the surrounding community and joins with the managing agency in an application for a temporary use permit. A sponsor may be the same entity as the managing agency.

NEW SECTION. Sec. 2. A new section is added to chapter 18.170 DMMC to read as follows:

Homeless encampment standards.

(1) An application for a homeless encampment must include a local church or other community-based organization as a sponsor or managing agency.

Commented [D2]: Need to define.

(2) The encampment shall be located a minimum of twenty (20) feet from the property line of abutting properties containing residential uses.

(3) Sight-obscuring fencing is required around the perimeter of the homeless encampment unless the Planning, Building and Public Works Director determines that there is sufficient vegetation, topographic variation, or other site conditions such that sight-obscuring fencing would not be needed.

(4) Exterior lighting must be directed downward and contained within the homeless encampment.

(5) The maximum number of residents within a homeless encampment is one hundred (100).

(6) Parking for five (5) vehicles shall be provided.

(7) A transportation plan is required which shall include provision of transit services.

(8) The homeless encampment shall be located within one-half (1/2) mile of transit service.

(9) No children under eighteen (18) years of age are allowed in the homeless encampment. If a child under the age of eighteen (18) attempts to stay at the homeless encampment, the managing agency shall immediately contact Child Protective Services.

(10) No animals shall be permitted in encampments except for service animals.

(11) A code of conduct is required to be enforced by the managing agency. The code shall contain the following as a minimum:

(a) No illegal drugs or alcohol.

(b) No weapons.

(c) No violence.

(d) No open flames.

(e) No loitering in the surrounding neighborhood.

Commented [D3]: Staff still need to evaluate this distance in relation to transit service, locations of religious organizations, and other potential prohibitions.

Commented [D4]: May want to add standards for proximity to schools and parks. ¼ mile? 1,000 feet?

May also want to add a standard for proximity to another active pre-established encampment.

Commented [D5]: Need to consider other issues like noise, and litter….

NEW SECTION. Sec. 3. A new section is added to chapter 18.170 DMMC to read as follows:

Homeless encampment frequency and duration of temporary use. The City may not grant a homeless encampment temporary use permit at the same site more frequently than once in every 365-day period. The City may only grant a temporary use permit for a specified period of time, not to exceed 92 days.

NEW SECTION. Sec. 4. A new section is added to chapter 18.170 DMMC to read as follows:

Notice requirements for homeless encampments in new locations.

(1) Applicability. The following notice requirements apply only to new locations for homeless encampments. If an encampment has previously located at the site, the provisions of _____ shall apply.

(2) Public meeting. A minimum of fourteen (14) calendar days prior to the anticipated start of the encampment, the sponsor and/or managing agency shall conduct a public informational meeting by providing mailed notice to owners of property within six hundred (600) feet of the subject property and residents and tenants adjacent to the subject property. The purpose of the meeting is to provide the surrounding community with information regarding the proposed duration and operation of the homeless encampment, conditions that will likely be placed on the operation of the homeless encampment, requirements of the written code of conduct, and to answer questions regarding the homeless encampment.

(3) A Notice of Application for Homeless Encampment shall be provided prior to the Planning, Building and Public Works Director's decision. The purpose of the notice is to inform the surrounding community of the application. Due to the administrative and temporary nature of the permit, there is no comment period. The notice shall contain at a minimum the date of application, project location, proposed duration and operation of the homeless encampment, conditions that will likely be placed on the operation of the homeless encampment, requirements of the written code of conduct, and how to get more information (i.e., City website). The Planning, Building and Public Works Department shall distribute this notice as follows:

Commented [D6]: This needs to be reviewed. Seems that there should be a comment period.

(a) The notice, or a summary thereof, will be published in the official newspaper of the City at least seven

(7) calendar days prior to the Planning, Building and Public Works Director's decision.

(b) The notice, or a summary thereof, will be distributed to owners of all property within six hundred (600) feet of any boundary of the subject property and residents and tenants adjacent to the subject property at least fourteen (14) calendar days prior to the Planning, Building and Public Works Director's decision.

(c) The notice will be posted on the City's website.

(4) A Notice of Decision for Homeless Encampment, or summary thereof, shall contain the decision of the Planning, Building and Public Works Director and appeal procedure and be distributed as required for notice of application within four (4) business days after the decision.

NEW SECTION. Sec. 5. A new section is added to chapter 18.170 DMMC to read as follows:

Option to Modify Standards for Homeless Encampments. The applicant may apply for a temporary use permit that applies standards that differ from those in DMMC _____ If a modification is proposed, then the application will be processed according to Process _____ DMMC, including a comment period and appeal to the Hearing Examiner. In addition to all other permit application requirements, the applicant shall submit a description of the standard to be modified and shall demonstrate how the modification will result in a safe homeless encampment under the specific circumstances of the application. In considering whether the modification should be granted, the Planning, Building and Public Works Director shall consider the effects on health and safety of residents and the community.

NEW SECTION. Sec. 6. A new section is added to chapter 18.170 DMMC to read as follows:

Notice Requirements for Homeless Encampments at Repeat Locations.

(1) A minimum of fourteen (14) calendar days prior to the anticipated start of the encampment, the sponsor and/or managing

agency shall provide mailed notice to owners of property within six hundred (600) feet of the subject property and residents and tenants adjacent to the subject property. The purpose of the notice is to inform the surrounding community of the proposed duration and operation of the homeless encampment, applicable standards, requirements of the written code of conduct, and how to get more information.

(2) A minimum of fourteen (14) calendar days prior to the anticipated start of the encampment, the City shall update the City's website with the date of application, project location, proposed duration and operation of the homeless encampment, the conditions that will be placed on the operation of the homeless encampment, requirements of the written code of conduct and how to get more information.

Sec. 7. Codificaton. Sections 2 through 6 of this Ordinance shall be codified as a new section in chapter 18.170 DMMC entitled *"Homeless Encampments."*

Sec. 8. 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. 9. 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 _____, 2015 and signed in authentication thereof this ____ day of _____, 2015.

_____
M A Y O R

APPROVED AS TO FORM:

_____
City Attorney

ATTEST:

_____
City Clerk

Published: _____