

Ordinance Number 12345.6789

AN ORDINANCE AMENDING THE DES MOINES MUNICIPAL ZONING CODE TO INTRODUCE A NEW ZONING DISTRICT, TRANSIT-ORIENTED DEVELOPMENT (TOD) DISTRICT, AND MAKING CONFORMING AMENDMENTS WITH OTHER PORTIONS OF THE CODE.

WHEREAS, the City of Des Moines has complied with the notification requirements of the Iowa Code and the Des Moines Zoning Ordinance; and

WHEREAS, the development and adoption of a Transit-Oriented Development District will help the City of Des Moines attain its transportation, housing, economic development and sustainability goals identified in the DART Forward 2035 Plan, The Tomorrow Plan and Capital Crossroads Plan;

WHEREAS, the Des Moines City Council has determined that the proposed new zoning district and zoning ordinance amendments are in the best interest of the City of Des Moines and the health, safety and welfare of the general public; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA:

Amend Section 134.276 Classifications

In order to carry out the purpose of this chapter, the city is divided into 30 zoning district classifications and five overlay district classifications as follows:

Table is amended to include TOD Transit-Oriented Development

New Section ⁱ

Sec. 134.130 – Statement of Intent

The TOD zoning district is intended to create a mixed-use, transit-oriented neighborhood. The district is intended to facilitate increased choice between transportation methods, allowing for increased use of pedestrian, bicycle, public transit and other alternative modes of transportation to the automobile.ⁱⁱ The district emphasizes multi-story buildings comprising commercial, residential, and mixed-use tenants. The district is intended to create a pedestrian-friendly environment through the use of minimal setback requirements, aesthetic design, incorporation of green space and civic space. The street level of the district should appear welcoming to pedestrians and provide a setting for social interaction and active community life.ⁱⁱⁱ

The district is intended to remove parking requirements in order to prevent an oversupply of parking spaces. The district is also intended to prohibit a number of uses allowed in commercial and NPC districts such as auto-oriented uses and transient resident uses.

New Section

Sec. 134.131 – Principal permitted uses

Only the follow uses of structures or land shall be permitted in the TOD transit-oriented development district:

- (1) Any use permitted in the C-1 district except:
 - a. Apartment hotels.
 - b. Automotive and motorcycle accessory and parts stores.^{iv}
 - c. Correctional placement residences.
 - d. Drive-through businesses or any businesses with drive-up windows.^v
 - e. Funeral homes and mortuaries.^{vi}
 - f. Gas stations that permit more than four vehicles to be fueled at a time.
 - g. Hospitals, both public and private.
 - h. Parking lots used for the temporary placement of motor vehicles while the driver is engaged in some other activity (i.e. working, shopping, or attending a recreational event, etc.).^{vii} The district also permits parking ramps or lots to be built along the edge of the district for the purposes of park and ride operations with public transit.^{viii}
 - i. Private garages or carports.
 - j. Shelters for the homeless; emergency shelters.^{ix}
 - k. Single-family detached dwellings.^x
 - l. Supervised group residences.
 - m. Two-family dwellings.
- (2) The TOD transit-oriented development district permits the following uses:
 - a. Animal hospitals, veterinary clinics or kennels, provided any exercising runway shall be at least 200 feet from any R or C-0 district boundary.
 - b. Auction businesses.
 - c. Billiard parlors, pool halls and game rooms.
 - d. Bookbinding.
 - e. Carpenter and cabinet making shops for retail custom work.
 - f. Department stores (subject to bulk restrictions)
 - g. Package good stores for the sale of alcoholic beverages subject to section 134-954.
 - h. Pet shops, including aquariums.
 - i. Photographic printing or developing establishments.
 - j. Physical culture or health establishments.
 - k. Plumbing and heating shops.
 - l. Printing and lithographic shops.
 - m. Radio or television studios.
 - n. Tavern and nightclubs, including private clubs subject to section 134-954.
- (3) Combination of the uses in subsection (1) and (2) shall be allowed.
- (4) Communication towers and antennas which are accessory to a permitted use and comply with the bulk regulations for the district in which they are located or which are mounted on and do not extend more than 20 feet above an existing

structure shall be permitted.

- (5) Single-family and two family dwellings which were conforming uses on that date this ordinance takes effect, and replacements thereof, provided the construction of such replacements is commenced within six months of the destruction of the original dwelling and diligently pursued to completion.^{xi}

134-132 Special standards for new construction and remodeling

The TOD transit oriented development district shall use the following standards for new construction and remodeling:

- (1) Floor to Area Ratio
 - a. FAR minimum: 1.5^{xii}
 - b. FAR maximum: 3.0^{xiii}
- (2) The maximum FAR may be increased through various bonus provisions:
 - a. Below grade parking bonus. Developments including below grade parking are eligible for bonus floor area. Two square feet of additional floor area is allowed per gross square foot of additional floor area of below grade parking. In no case may the below grade parking FAR bonus exceed 1.0.
 - b. Low-income housing bonus. Developments including low-income housing, as defined in section 134-3 are eligible for bonus floor area. Three square feet of additional floor area is allowed per gross square foot of low-income unit. In no case may the low-income housing FAR bonus exceed 1.25.
 - c. Elderly housing bonus. Developments including elderly housing are eligible for bonus floor area. One and one-half square feet of additional floor area is allowed per gross square foot of elderly housing. In no case may the elderly housing FAR bonus exceed 0.75.
 - d. Childcare facilities bonus. Developments including childcare facilities are eligible for bonus floor area. One and one-half square feet of additional floor area is allowed per gross square foot of additional floor area of childcare facilities. In no case may the childcare facilities FAR bonus exceed 0.75.
 - e. **Green/civic space bonus.** Developments including green/civic space are eligible for bonus floor area. One square foot of additional floor area is allowed per gross square foot of additional floor area of green/civic space. In no case may the green/civic space FAR bonus exceed 0.5.
- (3) Maximum FAR bonus: in no case may the total FAR bonus of any development exceed 3.25.

In lieu of specific bulk regulations, new construction and remodeling within the TOD transit oriented development district are subject to the design guidelines within the site plan regulations.^{xiv}

134 – 134 Off-Street Parking and Loading

In the TOD transit oriented development district, there shall be no parking minimum requirement.

134 – 135 Signs^{xvi}

The signage allowed upon properties within a contiguous TOD transit oriented development district is dependent upon the predominant zoning within the district prior to rezoning to the TOD district classification. When more than 50 percent of the land area within a contiguous TOD district was rezoned from a C-2 or less restrictive zoning classification, property within the district shall be permitted signage in accordance with the C-2 signage regulations in section 134-951, subject to the limitation identified in this section. In all other cases, the signage shall conform to the C-1 signage regulations in section 134-847, subject to the following limitations:

- (1) No freestanding pole signs are permitted.
- (2) No setback requirements shall apply. However, any monumental sign larger than 60 square feet in area shall be set back at least 20 feet from all public streets.
- (3) Off-premises advertising signs, where allowed, shall not exceed 300 square feet in area and 48 feet in total height above grade.
- (4) Roof signs shall not exceed a height of 15 feet above the roofline at the point of mounting.

Amend Section 134-1376

- (a) In any zoning district, except PUD, NPC, TOD, and C-3 districts . . .

Amend Section 134-1377

- (a) Schedule of spaces. In all zoning districts, except the PUD, NPC, TOD. and C-3 districts, . . .

Amend Section 82-204(b)(2) to read as follows

Parking accessory to and for use in the NPC and TOD district which is located in an adjoining residential district shall be considered to be located in the NPC and TOD district for the purposes of this article.

Amend Section 82-209(a)(1) to read as follows

Improvement to property in the NPC neighborhood pedestrian commercial and TOD transit oriented development district.

New Section

Section 82-214.11 – Design guidelines within TOD districts.

- (a) In action upon any site plan application for property located within a TOD, transit oriented development, district, the plan and zoning commission shall apply the design regulations in section 82-213 of this article and the design guidelines in this section developed for the purpose of preserving the character of the neighborhood, while increasing density and promoting mixture of uses. The design guidelines express the predominant character giving features in the district. The commission may approve a site plan that does not negatively impact the character of surrounding properties, and that the failure to comply with the design guidelines is due to the following:
 - (1) An unusual lot shape, size, topography or double frontage. A lot over one acre in size shall always be considered to be of unusual size;
 - (2) A need to facilitate a smooth transition between existing developments in the vicinity;
 - (3) A need to accommodate existing development;
 - (4) A need to preserve an existing building; or
 - (5) A use with unique design requirements.
- (b) The additional design guidelines applicable to any development within a TOD district are as follows:
 - (1) The maximum setback shall be 15 feet.^{xvii}
 - (2) The principal building entrance shall be on the principal commercial street.^{xviii} If the lot is on a corner, the principal entrance may be to the corner.^{xix} If the lot abuts a street serviced by transit at least one building entry shall orient to that street. ^{xx}
 - (3) Any street level facade of a building that is commercial or mixed use shall have 50% coverage by windows. ^{xxi}
 - (4) Materials should be brick, stone, tile, stucco, or horizontal wood clapboard with a maximum width of six inches.

(5) Commercial buildings with over 50 feet of building frontage should have the appearance of being broken into separate bays or between 20 to 35 lineal feet using structural elements, fenestration patterns, protruding or recessed bays, or architectural details. ^{xxiii}

(6) Building Frontage should occupy at least 50 percent of the primary street frontage. ^{xxiv}

(7) Unifying architectural features and themes in existing buildings shall be incorporated in new construction. ^{xxv}

(8) Off-street parking is permissible subject to the following modifications:

- a. Parking should not exceed the amount otherwise required by section 134-1377 of this code. ^{xxvi}
- b. When possible parking shall be to the rear of the business or dwelling. If parking to the rear is not possible it shall be to the side of the business or dwelling. ^{xxvii}
- c. Shared parking among business and residential project will be allowed provided a shared parking plan is presented at the time of application, signed by the property owners, ensuring non duplication of parking. The shared parking must be within 300 feet of the business or dwelling. ^{xxviii}
- d. On-street parking directly adjacent to the occupant frontage shall count toward the minimum off-street parking requirement. Elimination of such on-street parking by the city shall have no effect on an approved site plan. ^{xxix}
- e. Tandem parking spaces shall count towards the minim off-street parking requirement if a parking plan demonstrates that the parking will be for employees and will be occupied for over four hours between changes. ^{xxx}
- f. Parking shall be located on the non street sides of the lot when possible, parking along streets shall be partially screened with a berm, wall, or landscaping. ^{xxxi} An emphasis of trees shrubs and other plantings should be placed around the perimeter of any parking area and within large parking lots to create a more attractive area. The landscape plan should generally enhance the visual appearance of the buildings, parking area and any pedestrian areas. ^{xxxii}

(9) The following bulk regulations should be observed. ^{xxxiii}

- a. Minimum lot area

1. Multiple dwelling, 10,000 square feet.

2. Mixed-use project, 10,000 square feet.

3. No Minimum requirement for permitted nonresidential uses.

b. Minimum lot area per dwelling unit:

Row and multiple dwellings, 2,000 square feet.

c. Front yard: Minimum zero feet.

d. Side yard: Minimum zero feet.

e. Rear yard: None required, except when adjoining any R or C-0 district or portion of a PUD designated for residential use, in which case ten feet

(c) Additional Consultation. As a part of the site planning process the developer and the community development department shall confer with the neighborhood association in which the development is located, and DART to gain additional input on the project. ^{xxxiv}

New Section – Annual Review ^{xxxv}

1. Purpose. The purpose of this section is to ensure that adequate monitoring of development trends within the district occur

- a. To provide a mechanism that ensures that development is occurring in a manner consistent with the intent of the district.
- b. To verify and adjust of required the requirements within the district; and
- c. To provide the decision makers with objective data that can be used to evaluate the performance of the district in achieving the goals that it is intended to promote.

2. Annual Review. It is a requirement of this section that the following data be collected, analyzed and summarized on an annual basis in the form of a report to the City of Des Moines Planning Commission and City Council. This data shall be collected through existing development activity reporting procedures.

- a. Development activity. Various statistics describing actual development activity within and outside the district including anticipated population density.
- b. Development design. Information shall be collected describing development design features of individual developments including, building orientation, setback and

frontage in the district.

c. Dart ridership. The change in ridership of public transit running through the district, including estimates on spontaneous ridership.

d. Tax abatement. Information shall be collected describing utilization of commercial and multi-family tax abatement programs under the Second Restated Urban Revitalization Plan for the City of Des Moines, including the choice of sustainable features under appendix 1.

President of the Des Moines City Council

Approved by me this ___ day of _____, 2012.

Mayor of Des Moines

Filed by me this ___ day of _____, 2012

City Clerk

Section X: Conflicts Clause

This ordinance shall be cumulative of all provisions of ordinances of the City of Des Moines, Iowa, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. To the extent that the provisions of the City of Des Moines' various development ordinances conflict with this ordinance, the terms of this ordinance shall control. ^{xxxvi}

Section X: Severability Clause

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section. ^{xxxvii}

Section X: Effective Date

The adoption of this ordinance, which is a power specifically delegated to the Des Moines City Council, is not subject to referendum. This Ordinance or a summary thereof shall be published in the official newspaper of the City of Des Moines and shall take effect and be in full force five (5) days after the date of publication. ^{xxxviii}

Passed by the City Council the ___ day of _____, 2012, and signed by me in open session in authentication of its passage this ___ day of _____, 2012.

- ⁱ Burleson, TX, Ordinance D-065-06, § 2 (A.) Community Intent; Eugene OR 9.4510 Applicability; Durham, North Carolina, Zoning Ordinance, § 5 Overlay Districts § 5.8.1 Purpose
- ⁱⁱ City of Phoenix, Arizona, Section 662. Interim Transit-Oriented Zoning Overlay District One (TOD-1) +1
- ⁱⁱⁱ South Salt Lake City, Ch. 17.66 Transit Oriented Development Overlay District
- ^{iv} City of Phoenix, Arizona;
- ^v City of Phoenix, AZ; City of Austin, Texas, Ordinance No. 20050519-008, § 25-2-766.12 (D) Use Regulations; Land Development Code of Cornelius, North Carolina, Chapter 5: District Provisions, § 5.14 Transit District Overlay, § 5.14.2 Uses Permitted.
- ^{vi} City of Phoenix, AZ; Seattle Municipal Code Ordinance Number 120452
- ^{vii} South Salt Lake City, Ch. 17.66 Transit Oriented Development overlay District, 17.66.040 “Prohibited Uses”
- ^{viii} Suggested by the Des Moines Sustainability Work Group, 4.11.12
- ^{xi} Durham, North Carolina, Zoning Ordinance, § 5 Overlay Districts § 5.8.3 Permitted Uses.
- ^x City of Austin, Texas, Ordinance No. 20050519-008, § 25-2-766.12 (B) Use Regulations
- ^{xi} See Des Moines Municipal Code 134-412(2)
- ^{xii} City Code of Bloomington, Minnesota Sec. 19.29(g)
- ^{xiii} Land Development Code Louisville Kentucky, 2004 Chapter 2.6.2
- ^{xiv} See Des Moines Municipal Code 134-914
- ^{xv}
- ^{xvi} See Des Moines Municipal Code 134-916
- ^{xvii} Austin TX 25-2-766.13(b), Eugene OR 9.4530 (1)(a), Cornelius NC 5.8.5(1)(a)
- ^{xviii} Austin TX 25-2-766.13(c)
- ^{xix} Eugene OR 9.4530(2)(B)
- ^{xx} Phoenix AZ 662.H(2)(a), Austin TX 25-2-766.13(c)
- ^{xxi} Austin TX 25-2-766.13(d)(3), Phoenix AZ 662.H(2)(a), Cornelius NC 5.8.4 (9)
- ^{xxii} See Des Moines Municipal Code 82-214(b)(4)
- ^{xxiii} See Des Moines Municipal Code 82-214(b)(5), Salt Lake City UT 17.66.050(2)(b), Cornelius NC 5.8.4(8)
- ^{xxiv} See Des Moines Municipal Code 82-214(b)(6)
- ^{xxv} Cornelius NC 5.8.4(1)
- ^{xxvii} See Des Moines Municipal Code 82-214(b)(7)(b), Cornelius NC 5.8.6(3) See Phoenix AZ 622.K(1)
- ^{xxviii}
- ^{xxix} See Des Moines Municipal Code 82-214(b)(7)(d), Salt Lake City UT 17.66.050(3)(a)
- ^{xxix} See Des Moines Municipal Code 82-214(b)(7)(e), Phoenix AZ 662.K(2)
- ^{xxx} See Des Moines Municipal Code 82-214(b)(7)(f),
- ^{xxxi} Cornelius NC 5.8.4(11)
- ^{xxxii} See Des Moines Municipal Code 82-214(b)(7)(g)
- ^{xxxiii} See Des Moines Municipal Code 134-914
- ^{xxxiv} Suggested by the Des Moines Sustainability Work Group on 4.11.12
- ^{xxxv} See Vancouver WA 20.550.080
- ^{xxxvi} Burleson, TX, Ordinance D-065-06, § 3 Cumulative Clause.
- ^{xxxvii} Burleson, TX, Ordinance D-065-06, § 4 Severability Clause; Woodenville, WA, Ordinance No. 397 § 8 Severability. Seattle Municipal Code Ordinance Number 120452 § 7 Severability.
- ^{xxxviii} Woodenville, WA, Ordinance No. 397 § 8 Effective Date. Seattle Municipal Code Ordinance Number 120452 § 8.