

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 15.104, 15.106 and 15E.18(3), the Iowa Department of Economic Development hereby adopts Chapter 77, “Site Development Program,” Iowa Administrative Code.

This chapter implements a new site development program to increase the availability and expedite the development of sites in Iowa that may be suitable for achieving the state’s economic development objectives, specifically regarding the availability and development of potential commercial and industrial sites. The Legislature appropriated \$175,000 for the program via 2010 Iowa Acts, chapter 1184, section 37.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 1, 2010, as **ARC 9255B**. The Department held a public hearing on Tuesday, December 21, 2010, to receive comments on these rules. A representative from the Franklin County Economic Development Group commented that minimum size should not be included in the provisions regarding an eligible application. Additionally, the Department held a process improvement event and discussed amending the provisions regarding an eligible applicant. In response, the initial minimum-size criterion included in the rules published under Notice of Intended Action has not been adopted. Finally, the catchwords for subrule 77.13(2) and a reference in subrule 77.14(1) have been changed from “additional criteria” to “additional considerations,” and the word “may” was changed to “will” in the introductory paragraph of subrule 77.13(1) for accuracy.

The Iowa Economic Development Board adopted these rules on March 17, 2011.

These rules will become effective on June 8, 2011.

These rules are intended to implement Iowa Code section 15E.18 and 2010 Iowa Acts, chapter 1184, section 37.

The following amendment is adopted.

Adopt the following new 261—Chapter 77:

CHAPTER 77
SITE DEVELOPMENT PROGRAM

DIVISION I
GENERAL PROVISIONS

261—77.1(15E) Purposes. The purposes of the site development program are to establish an inventory of sites in Iowa that may be suitable for development or redevelopment and to provide consultation to local governments about site development techniques.

261—77.2(15E) Authority. The authority for establishing this program is provided in Iowa Code section 15E.18 and 2010 Iowa Acts, chapter 1184, section 37.

261—77.3(15E) Definitions.

“*Applicant*” means the entity that submits an application to the department for a certificate of readiness for a site development area or areas.

“*Certificate of readiness*” means a certificate issued to a local government or local economic development official for a site that is determined to be ready for development or redevelopment based on criteria set forth in rule 261—77.13(15E).

“*Department*” means the Iowa department of economic development.

“*Site development area*” means property that is included as part of a site development plan and that is to be used or proposed to be used for development or redevelopment.

“*Site development techniques*” means environmental evaluations, property and wetland delineation, and historical evaluations.

261—77.4 to 77.10 Reserved.

DIVISION II
CERTIFICATE OF READINESS

261—77.11(15E) Eligibility. Eligible applicants may apply to the department for a certificate of readiness which verifies that a particular site is ready for development or redevelopment. Eligible applicants include local governments or local economic development officials.

261—77.12(15E) Application; review; approval.

77.12(1) Application. All requests for a certificate of readiness for a site development area shall be made using the application provided by the department. The application shall include at least the following information:

- a. Applicant information, including name, address, telephone number and contact person.
- b. Legal description of the site development area(s).
- c. Identification of the property owner(s) related to the site development area(s).
- d. Detailed site development plan(s) for the site development area(s).

77.12(2) Review. The department will review each complete application in the order the applications are received and based on the general criteria described in subrule 77.13(1). The department will evaluate each application to identify any barriers to development or redevelopment.

77.12(3) Approval. The department may approve, deny or defer applications for a certificate of readiness. If the department approves an application for a certificate of readiness, the department will issue a certificate of readiness in accordance with rule 261—77.14(15E).

261—77.13(15E) Evaluation criteria.

77.13(1) General. When evaluating applications for certificates of readiness, the department will consider the following criteria:

- a. The thoroughness and detail of the site development plan.
- b. The site development plan’s regard for compliance with applicable regulations, including without limitation land-use and zoning restrictions or environmental or cultural protections.
- c. The presence of viable transportation infrastructure.
- d. The presence of viable utility infrastructure.
- e. The presence of viable vertical infrastructure, as defined in Iowa Code section 8.57, which includes existing land acquisition and construction, major renovation and major repair of buildings, all appurtenant structures, utilities, site development, and recreational trails.
- f. The geologic and natural characteristics of the site development area(s) including the proximity or inclusion of any floodplains.
- g. The ownership and control of the site development area(s).
- h. Demonstrated support, including without limitation financial and local support, for the site development plan.

77.13(2) Additional considerations. In addition to the general criteria described above, the department will consider the following:

- a. The site development plan for the site development area utilizes smart planning principles, as identified by the smart planning task force created by 2010 Iowa Acts, chapter 1184, section 25.
- b. The site development plan for the site development area utilizes sustainable design and practices.

(1) For purposes of these rules, sustainable practices include those practices in accordance with the department’s Iowa green streets criteria, which are available on the department’s Web site.

(2) For purposes of these rules, sustainable design, as defined in rule 261—65.2(15), means construction design intended to minimize negative environmental impacts and to promote the health

and comfort of building occupants, including, but not limited to, measures to reduce consumption of nonrenewable resources, minimize waste, and create healthy, productive environments. Sustainable design standards are also known as green building standards pursuant to Iowa Code section 103A.8B.

261—77.14(15E) Certificate of readiness.

77.14(1) Certification. Upon approval of an application for a certificate of readiness, the department will issue a certificate of readiness to the applicant. The certificate of readiness will include a short description of how the site development plan meets the general criteria described in subrule 77.13(1) and will include whether the site development plan meets the additional considerations described in subrule 77.13(2) and a short discussion related thereto, if applicable. The certificate of readiness will be valid for the term described on the certificate, which may vary for each site development area depending on the nature of the development and the site characteristics. In no event shall the term of a certificate exceed ten years.

77.14(2) Recertification. The department shall not recertify site development areas for which a certificate of readiness has expired or will expire. The local government or local economic development official responsible for the site development area shall reapply for a certificate of readiness under these rules for the site to be considered for a subsequent certificate of readiness.

261—77.15 to 77.20 Reserved.

DIVISION III
CONSULTATION

261—77.21(15E) Consultation.

77.21(1) The department shall consult with local governments and local economic development officials in regard to site development techniques. The department may contract with third parties to provide site development consultations regarding site development techniques directly to local governments and local economic development officials.

77.21(2) The department may charge a reasonable fee for consultation. A local government or local economic development official seeking assistance under subrule 77.21(1) shall make a request to the department and provide information requested by the department for use in formulating a fee estimate and work plan. Before any work is undertaken, the department shall provide a fee estimate to the interested local government or local economic development official and a description of the services that will be provided. The fee shall be reasonable and shall cover the department's costs of providing the service. The department may require the local government or local economic development official to enter into a contract that identifies the services to be performed and obligates the local government or local economic development official to pay the fee to the department or a third-party consultant for satisfactory completion of services.

77.21(3) Applicants are not required to seek consultation under the program to be eligible to apply for a certificate of readiness and may seek consultation from the department at any time.

These rules are intended to implement Iowa Code section 15E.18 and 2010 Iowa Acts, chapter 1184, section 37.

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