NO CHANGE FROM PREVIOUS READING

CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

Date: February 9, 2015

ITEM: Ordinance Amendment – Amend Title 9 (Zoning), Chapter 2 (Zoning Rules and Definitions) to add a definition for Antiques, Collectibles and Flea Markets and Amend Title 9 (Zoning), Chapter 6 (Commercial, Office and Industrial Zoning Districts), Section 6 (Commercial, Office and Industrial Use Regulations), Subsection C, Table 6.1 (Use Matrix) to make SIC 5932-02, Antiques a Permitted Use and SIC 5932-03, Book Stores - Secondhand in the Neighborhood Commercial zoning district and make SIC 7389-14, Auction, Appraisal, and Exchange Services (Flea Market) a Permitted Use in the Regional Commercial District, the Community Commercial District, the Valley Junction Historic Business District, and the Warehouse Retail District with no outdoor displays – Brad Brody – AO-002565-2014

ORDINANCE: ORDINANCE: Approval of Third Reading and Adopt in Final Form

FINANCIAL IMPACT: Undetermined.

BACKGROUND: Brad Brody, Strategic Growth Capital Inc., has requested an amendment to the City Code, Title 9, *Zoning*, Chapter 6, *Commercial, Office, and Industrial Zoning District,* Section 6, *Commercial, Office, and Industrial Use Regulations*, Subsection C, Table 6.1, *Use Matrix* to allow SIC 5932-02 as a Permitted use in the Neighborhood Commercial Zoning District. In conjunction with Mr. Brody's proposed amendment, Staff is requesting an amendment to Title 9, *Zoning*, Chapter 2, *Zoning Rules and Definitions*, an amendment to Title 9, Zoning, Chapter 6, *Commercial, Office, and Industrial Zoning District,* Section 6, *Commercial, Office, and Industrial Use Regulations*, Subsection C, Table 6.1, *Use Matrix.*

The Plan & Zoning Commission passed a resolution recommending the City Council approve an ordinance to amend City Code on January 5, 2015.

Previous City Council Action:
Vote: 5-0 approval
Date: January 12, 2015
Motion: Approve the first reading of the amendment to the Zoning Code, Section 9-2 and Section 9-9-6-C.

Previous City Council Action:
Vote: 5-0 approval
Date: January 26, 2015
Motion: Approve the second reading of the amendment to the Zoning Code, Section 9-2 and Section 9-9-6-C.

OUTSTANDING ISSUES: There are no outstanding issues.

RECOMMENDATION: Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan, Staff recommends the City Council approve the third reading of the ordinance and adoption of the ordinance in final form.

Lead Staff Member: Kara Tragesser, AICP KAT

Staff Reviews:

Department Director	
Appropriations/Finance	
Legal	
Agenda Acceptance	RTJ

PUBLICATION(S) (if applicable)

Published In	Des Moines Register
Date(s) Published	December 26, 2014
Letter sent to surrounding property owners	N/A

SUBCOMMITTEE REVIEW (if applicable)

Committee	Development & Planning		
Date Reviewed	December 4, 2014.		
Recommendation	Yes ☒	No ☐	Split ☐

ATTACHMENTS:

Exhibit I - Ordinance

EXHIBIT I

Prepared by: KTragesser, West Des Moines Development Services, PO Box 65320, West Des Moines, IA 50265, 515-222-3620
When Recorded, Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

ORDINANCE NO.

TO AMEND TITLE 9 (ZONING), CHAPTER 2 (ZONING RULES AND DEFINITIONS) TO ADD A DEFINITION FOR ANTIQUES AND COLLECTIBLES, FLEA MARKETS, AND USED MERCHANDISE OR SECOND HAND STORES AND TO AMEND TITLE 9 (ZONING), CHAPTER 6 (COMMERCIAL, OFFICE AND INDUSTRIAL ZONING DISTRICTS), SECTION 6 (COMMERCIAL, OFFICE AND INDUSTRIAL USE REGULATIONS), SUBSECTION C, TABLE 6.1 (USE MATRIX) TO MAKE SIC 5932-02, ANTIQUES, AND SIC 5932-03, BOOK STORES - SECONDHAND, PERMITTED USES IN THE NEIGHBORHOOD COMMERCIAL ZONING DISTRICT AND TO MAKE SIC 7389-14, AUCTION, APPRAISAL, AND EXCHANGE SERVICES (FLEA MARKETS) A PERMITTED USE IN THE REGIONAL COMMERCIAL DISTRICT, THE COMMUNITY COMMERCIAL DISTRICT, THE VALLEY JUNCTION HISTORIC BUSINESS DISTRICT, AND THE WAREHOUSE RETAIL DISTRICT WITH NO OUTDOOR DISPLAYS

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

Section 1. Amendment. Title 9: Zoning, Chapter 2: Zoning Rules and Definitions, is hereby amended to place in alphabetical order the following definitions:

ANTIQUE STORE: Antiques are items belonging to the past. The items sold, to include collectibles, are items that are collected or desirable because of craftsmanship, age, rarity, personal emotion connection, or other unique features, may be part of a group of similar items and generally are more valuable than their original worth. Stores typically are organized to provide for one point of sale, even if individual stalls are rented. For this definition these stores do not include flea markets, second hand stores or used merchandise stores as defined elsewhere in this section. This definition does not include a business which primarily engages in selling new merchandise, parts, or services.

FLEA MARKET: a market for second hand articles where sellers or vendors typically have individual stalls with their own point of sale. A fee to enter the market may or may not be charged.

USED MERCHANDISE STORE or SECOND HAND MERCHANISE STORE: a retail store that sells previously owned or used goods of recent or modern vintage. The merchandise generally is less valuable that its original worth. This definition does not include antiques and collectibles or flea markets.

Section 2. Amendment. Title 9 (Zoning), Chapter 6 (Commercial, Office and Industrial Zoning Districts), Section 6 (Commercial, Office and Industrial Use Regulations), Subsection C, Table 6.1 (Use Matrix) is hereby amended by adding the text in bold lettering:

SIC CODES	RC	CMC	NC	CVC	SC	VJC	VJHB	WR	BP	VJLI	LI	GI	OF	PCP	OS
~~593 Used Merchandise Stores (except used Building Materials)~~	~~P~~	~~P~~				~~P~~	~~P~~	~~P~~							
~~Used Building Materials (no outside storage)~~	~~P~~	~~P~~				~~P~~	~~P~~	~~P~~							
5932-01 Home furnishings and Appliances, Second Hand	**P**	**P**				**P**	**P**	**P**							
5932-02 Antiques (no outdoor displays)	**P**	**P**	**P**			**P**	**P**	**P**							
5932-03 Book Stores – Secondhand	**P**	**P**	**P**			**P**	**P**	**P**							
5932-04 Clothing and Shoes, Second Hand	**P**	**P**				**P**	**P**	**P**							
5932-05 Office Furniture and Store Fixtures, Second Hand	**P**	**P**				**P**	**P**	**P**							

5932-99 Used Merchandise Stores (Except: use building materials)	P	P				P	P	P							
5932-99 Used Building Materials (no outside storage)	P	P						P		P	P	P			
7389-14 Auction, Appraisal, and Exchange Services (Flea Market)	P	P					P	P							

Section 3. Repealer. All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

Section 4. Savings Clause. If any section, provision, sentence, clause, phrase or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

Section 5. Violations and Penalties. Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in Section 1-4-1 of the City Code of the City of West Des Moines, Iowa.

Section 6. Other Remedies. In addition to the provisions set out in the Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

Section 7. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed by the City Council on the 9th day of February 2015, and approved this 9th day of February 2015.

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan T Jacobson
City Clerk

The foregoing Ordinance No. _____ was adopted by the Council for the City of West Des Moines, Iowa, on _____, 2015, and was published in the Des Moines Register on _____, 2015.

_____
Ryan T. Jacobson
City Clerk