

**CITY OF WEST DES MOINES
PLAN AND ZONING COMMISSION**

Meeting Date: August 15, 2016

Item: Ordinance Amendment – Amend Title 9 (Zoning), Chapter 2 (Zoning Rules and Definitions), Chapter 14 (Accessory Structures), and Chapter 18 (Signs) to add a definition of “Flagpole” and establish regulations and performance standards pertaining to flagpoles – City Initiated – AO-003171-2016

Request Action: Approval of an amendment to the ordinance

Case Advisor: Brian S. Portz, AICP *BP*

Applicant’s Request: Development Services is requesting an amendment to the City Code, Title 9, *Zoning*, Chapter 2, *Zoning Rules and Definitions*, Chapter 14, *Accessory Structures*) and Chapter 18, *Signs* to add a definition of “Flagpole” and establish regulations and performance standards pertaining to flagpoles. The proposed Ordinance Amendment is in response to a recent United States Supreme Court ruling on the content regulation of signs. Currently, the City considers a flag a means of communication, or a sign. Staff is recommending taking flagpoles out of the sign code and regulating them as a type of detached accessory structure, so that the flags themselves can be regulated separately. Related to this change, the definition for flags will be modified in the sign ordinance and the standards specific to flags, i.e., size, height, number of flags, etc. will be removed from the sign regulation matrix and moved to the accessory structures section.

City Council Subcommittee: This item was presented at the July 5, 2016 Development and Planning City Council Subcommittee meeting. The councilmembers were supportive of the proposed amendment.

Staff Review and Comment: There are no outstanding issues. Staff would note the following:

- **Amendment Justification:** There are many municipal buildings, i.e., schools, city buildings, etc. located in single family residential districts in West Des Moines. Current regulations allow only one flag pole in single family districts. Municipal buildings are often required to have three flags displayed, the United States, the State, and the jurisdiction’s flag. The legal department has pointed out that schools and government buildings cannot be treated differently from residential property if they have the same zoning classification. Thus, three flags cannot be allowed for an institutional use in a single family zoning district while a single family home is only allowed one flag. To accommodate the need for multiple flags to be displayed for municipal buildings and to allow posting of the U.S. flag at half-staff without the consequence of the secondary flags touching the ground when multiple flags are displayed on one pole, up to three flag poles are proposed to be allowed in all zoning districts. Staff researched and found that most cities do not even regulate flag poles. Staff has tried to identify logical parameters to enable installation and operation of the flags without encroachment on adjacent property by requiring a 10 foot setback for the poles and a minimum separation between poles. An exception is proposed that will allow flagpoles on properties zoned Valley Junction Historic Business (VJHB) District to have zero setbacks due to smaller lot sizes in this area and the zero building setback for the district.

Comprehensive Plan Consistency: The project has been reviewed for consistency with the Comprehensive Plan. Based upon that review, a finding has been made that the proposed project is consistent with the Comprehensive Plan in that the project is consistent with all of the goals and policies of the Comprehensive Plan and the land use map of the Comprehensive Plan.

Noticing Information: On August 5, 2016, notice of the August 15, 2016 Plan and Zoning Commission and August 22, 2016 City Council public hearings for this project was published in the *Des Moines Register*. No mail notices are required of City Code amendments.

Staff Recommendation and Conditions of Approval: Staff recommends the Plan & Zoning Commission approve a resolution recommending to the City Council approval of the ordinance amendments.

Attachments:

Attachment A - Resolution

Exhibit A – Proposed Ordinance

RESOLUTION NO. PZC

A RESOLUTION OF THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES, RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE AN ORDINANCE TO AMEND THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA 2014 BY AMENDING TITLE 9 (ZONING), CHAPTER 2 (ZONING RULES AND DEFINITIONS), SECTION 2 (DEFINITIONS), CHAPTER 14 (ACCESSORY STRUCTURES), SECTION 15 (VARIANCES) AND CHAPTER 18 (SIGNS), SECTION 3 (DEFINITIONS), SECTION 16 (SIGN REGULATIONS), AND SECTION 21 (SIGN REGULATION MATRIX) TO ESTABLISH REGULATIONS AND PERFORMANCE STANDARDS PERTAINING TO FLAGPOLES

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, Development Services staff requests an amendment to Amend Title 9 (Zoning), Chapter 2 (Zoning Rules and Definitions), Section 2 (Definitions) and Chapter 14 (Accessory Structures), Section 15 (Variances) and Chapter 18 (Signs), Section 3 (Definitions), Section 16 (Sign Regulations), and Section 21 (Sign Regulation Matrix) to establish regulations and performance standards pertaining to flagpoles;

WHEREAS, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

WHEREAS, this Commission held a duly-noticed hearing to consider the application for an amendment to ordinance;

NOW, THEREFORE, THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. The findings for approval in the staff report dated August 15, 2016 or as amended orally at the Plan and Zoning Commission public hearing are adopted.

SECTION 2. AMENDMENT TO ORDINANCE (AO-003171-2016) is recommended to the City Council for approval, as stated in the staff report or as amended in the attached Exhibit A.

PASSED AND ADOPTED on August 15, 2016.

Craig Erickson, Chairperson
Plan and Zoning Commission

ATTEST:

Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Plan and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on August 15, 2016, by the following vote:

AYES:
NAYS:
ABSTENTIONS:
ABSENT:

ATTEST:

Recording Secretary

Prepared by: B. Portz, 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.

AN ORDINANCE TO AMEND THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA 2014 BY AMENDING TITLE 9 (ZONING), CHAPTER 2 (ZONING RULES AND DEFINITIONS), SECTION 2 (DEFINITIONS); CHAPTER 14 (ACCESSORY STRUCTURES), SECTION 15 (VARIANCES); AND CHAPTER 18 (SIGNS), SECTION 3 (DEFINITIONS), SECTION 16 (SIGN REGULATIONS), AND SECTION 21 (SIGN REGULATION MATRIX) TO ESTABLISH REGULATIONS AND PERFORMANCE STANDARDS PERTAINING TO FLAGPOLES

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*, Section 2, *Definitions* is hereby amended by adding the italicized and bolded text in alphabetical order:

FLAG: Any fabric, banner, or bunting containing distinctive colors, lettering, patterns, or symbols.

FLAG POLE: A ground mounted independent structure, used to display a flag.

Section 2. Amendment. Title 9: *Zoning*, Chapter 14: *Accessory Structures*, Section 15, *Variances*, is hereby amended by deleting the highlighted strike-through text and adding the italicized and bolded text:

9-14-15: ~~VARIANCES~~ *FLAG POLES*

~~***Application for a variance of any of the above provisions shall be made to the board of adjustment in the manner provided in title 2 of this code.***~~

The following regulations shall apply to permanent flag poles. Temporary flags shall be regulated by the provisions in Chapter 18, Signs, under the temporary sign regulations.

A. *Bulk Requirements:*

- 1. Maximum Number of Flagpoles: 3 poles***
- 2. Pole Separation: eight (8) foot minimum separation between flagpoles or as needed to prevent flag overlap; ten (10) foot minimum separation from a building or as needed to prevent the flag from hitting the building.***

3. *Maximum Height: thirty (30) feet, except in RC, CMC, and SC zoning districts the maximum height is forty (40) feet and in PCP, the maximum height is sixty (60) feet.*
4. *Setback: Flag poles shall be set back a minimum of ten (10) feet from any property line, except that in in the VJHB zoning district no setback shall be required.*

Section 3. Amendment. Title 9: Zoning, Chapter 14: *Accessory Structures*, Section 16: *Variances* is hereby added by inserting the italicized and bolded language included below:

9-14-16: VARIANCES

Application for a variance of any of the above provisions shall be made to the board of adjustment in the manner provided in title 2 of this code.

Section 4. Amendment. Title 9: Zoning, Chapter 18: *Signs*, Section 3, *Definitions* is hereby amended by deleting the highlighted strike-through text and adding the italicized and bolded text:

~~FLAG: Any fabric, banner, or bunting containing distinctive colors, lettering, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.~~

~~SIGN, BANNER: A temporary sign composed of lightweight material either enclosed in a rigid frame or not enclosed, secured or mounted to a structure on one or more edges. National, state, or municipal flags, or the official flag of any institution or business shall not be considered a banner. (Sec figure 4)~~

SIGN, PERMANENT: any wall, ground, or other sign that is fixed, lasting, stable, enduring and intended to remain for an indefinite period of time.

Section 5. Amendment. Title 9: Zoning, Chapter 18: *Signs*, Section 16: *Sign Regulations*, Subsection 'C': *Flags* is hereby amended by deleting the highlighted strike-through text and adding the italicized and bolded text:

C. Flags: A maximum of three (3) flags shall be permitted on a flagpole.

~~1. Flags of the United States, the state, the city, foreign nations having diplomatic relations with the United States, and other flags adopted or sanctioned by an elected legislative body of competent jurisdiction, must be flown in accordance with protocol established by the congress of the United States for the Stars and Stripes. Any flag not meeting any one or more of the regulations established in section 9-18-21 of this chapter shall be considered a banner sign and shall be subject to regulation as such.~~

~~2. A flag with a recognized corporate logo, the official design of an educational institution, or other organization must comply with the general provisions for flags and first obtain site plan and administrative approval. No permit would be required. No flag of a commercial nature may be flown in a residential zone, except an apartment complex may have one flag in addition to the Stars and Stripes and/or state flag.~~

~~3. Flag poles shall be set back from the property line one foot (1') for every one foot (1') of height, unless a hold harmless agreement addressing the height and location of the flagpole has been executed with the adjoining property owner(s) affected by a reduction. In no case shall a flagpole be located less than five feet (5') from the property line.~~

Section 6. Amendment. Title 9: Zoning, Chapter 18: Signs, Section 21: Sign Regulation Matrix is hereby amended by deleting the highlighted strike-through text:

SIGN REGULATION MATRIX A								
Open Space/Agriculture (OS), Residential Estate (RE), Residential Single-Family (RS), Single-Family Residential (R-1)								
Type Of Sign	Permit/ Approval	Maximum Number	Minimum Lot Frontage	Maximum Sign Area	Area Formula	Maximum Sign Height	Sign Setback	Other Requirements
Flags	None	1 pole /site	-	24-sq-ft	A	25-ft	Pole height	See "Sign Regulations"

SIGN REGULATION MATRIX B								
Residential Medium Density (RM), Residential High Density (RH), and Manufactured Housing (MH)								
Type Of Sign	Permit/ Approval	Maximum Number	Minimum Lot Frontage	Maximum Sign Area	Area Formula	Maximum Sign Height	Sign Setback	Other Requirements
Flags	None	3/site	-	24-sq-ft	A	25-ft	Pole height	See "Sign Regulations"

SIGN REGULATION MATRIX C								
Regional Commercial (RC), Community Commercial (CMC), Support Commercial (SC), Warehouse Retail (WR)								
Type Of Sign	Permit/ Approval	Maximum Number	Minimum Lot Frontage	Maximum Sign Area	Area Formula	Maximum Sign Height	Sign Setback	Other Requirements
Flags	SP	3/site	5	60-sq-ft	A	40-ft	Pole height	See "Sign Regulations"

SIGN REGULATION MATRIX D

Neighborhood Commercial (NC), Convenience Commercial (CVC), Valley Junction Commercial (VJC)

Type Of Sign	Permit/ Approval	Maximum Number	Minimum Lot Frontage	Maximum Sign Area	Area Formula	Maximum Sign Height	Sign Setback	Other Requirements
Flags	None	3/site	-	24 sq. ft.	A	25 ft.	Pole height	See "Sign Regulations"

SIGN REGULATION MATRIX E

Valley Junction Historic Business (VJHB)

Type Of Sign	Permit/ Approval	Maximum Number	Minimum Lot Frontage	Maximum Sign Area	Area Formula	Maximum Sign Height	Sign Setback	Other Requirements
Flags	SP	1 pole /site	-	24 sq. ft.	A	25 ft.	Pole height	See "Sign Regulations"

SIGN REGULATION MATRIX F

Industrial Park (IP), Light Industrial (LI), General Industrial (GI)

Type Of Sign	Permit/ Approval	Maximum Number	Minimum Lot Frontage	Maximum Sign Area	Area Formula	Maximum Sign Height	Sign Setback	Other Requirements
Flags	None	3/site	-	60 sq. ft.	A	40 ft.	Pole height	See "Sign Regulations"

SIGN REGULATION MATRIX G

Office (OF), Professional Commerce Park (PCP)

Type Of Sign	Permit/ Approval	Maximum Number	Minimum Lot Frontage	Maximum Sign Area	Area Formula	Maximum Sign Height	Sign Setback	Other Requirements
Flags (OF)	None	3/site	-	24 sq. ft.	A	25 ft. Pole height	Pole height	See "Sign Regulations"
Flags (PCP)	None	3/site	-	40 sq. ft.	A	60 ft.	Pole height	See "Sign Regulations"

Section 7. Repealer. All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

Section 8. 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 9. 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 10. 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 11. 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 _____ day of _____, 2016, and approved this _____ day of _____, 2016.

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 _____, 2016, and was published in the Des Moines Register on _____, 2016.

Ryan T. Jacobson, City Clerk