CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

Date: February 21, 2017

ITEM: Vending Machines – Amend Title 9 (Zoning), Chapter 2 (Zoning Rules And Definitions), Chapter 6: Commercial, Office and Industrial Zoning District, and Chapter 10 (Performance Standards), to establish definitions and regulations pertaining to Vending Machines, Fuel Pumps and ATMs – City Initiated – AO-003330-2016. Continued from the January 23, 2017 and February 6, 2017 meetings.

Ordinance: Approval of First Reading of the Ordinance

FINANCIAL IMPACT: Undetermined.

BACKGROUND: Staff is requesting an amendment to the following sections within Title 9, Zoning of City Code to establish definitions and regulation pertaining to Vending Machines, Fuel Pumps and ATMs:

- Chapter 2 (Zoning Rules And Definitions), Section 2-2 (Definitions) to establish definitions for the terms Automated Teller Machine (ATM), Fuel Pump, Mail Box and Vending Machine.
- Chapter 6 (Commercial, Office, And Industrial Zoning Districts), Section 6 (Commercial, Office And Industrial Use Regulations) Subsection C: Table 6.1- Use Matrix, Division G to identify use allowances for vending machines and to clarify allowances for convenience stores with and without fuel pumps within the commercial, office and industrial use matrix.
- Chapter 6: Commercial, Office and Industrial Zoning District, Section 6: Commercial, Office and Industrial Use Regulations, Subsection C: Table 6.1- Use Matrix, Division H to clarify use regulations for stand-alone outdoor ATMs within the commercial, office and industrial use matrix.
- Chapter 10, Performance Standards, Section 4, Specific Use Regulations to establish regulations for the location and operation of vending machines.

Plan and Zoning Commission Action:
Vote: 5-0 approval, Commissioners Andersen and Brown Absent.
Date: January 16, 2017
Motion: Adopt a resolution recommending the City Council approve the ordinance amendment.

OUTSTANDING ISSUES: There are no outstanding issues. The following items of interest are noted in the attached Plan and Zoning Commission report (see Exhibit I):

- Request
- History
- City Council Subcommittee *(Development & Planning, October 31, 2016)*
- Staff Review and Comments
  - *Aesthetic Concerns*
  - *Safety Concerns*
  - *Proposed Ordinance*
- Comprehensive Plan Consistency
- Noticing Information
- Staff Recommendations and Conditions of Approval

RECOMMENDATION: Based upon the preceding review and a finding of consistency with the Comprehensive Plan, the Plan and Zoning Commission recommends the City Council approve the first reading to amend City Code to establish definitions and regulation pertaining to Vending Machines, Fuel Pumps and ATMs.

Lead Staff Member: J. Bradley Munford

STAFF REVIEWS:

Department Director	
Appropriations/Finance	
Legal	JRW
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	*Des Moines Register*
Date(s) Published	January 6, 2017
Letter sent to surrounding property owners	N/A

SUBCOMMITTEE REVIEW (if applicable)

Committee	Development and Planning		
Date Reviewed	October 31, 2016		
Recommendation	Yes ☒	No ☐	Split ☐

ATTACHMENTS:

Exhibit I - Plan and Zoning Communication
- Attachment A - Plan and Zoning Commission Resolution
  - Exhibit A - Proposed Ordinance *(now Exhibit II)*
- Attachment B – Examples of new generation vending machine

Exhibit II - Proposed Ordinance

EXHIBIT I

CITY OF WEST DES MOINES
PLAN AND ZONING COMMISSION COMMUNICATION

Meeting Date: January 16, 2017

Item: Vending Machines – Amend Title 9 (Zoning), Chapter 2 (Zoning Rules And Definitions), Chapter 6: Commercial, Office and Industrial Zoning District, and Chapter 10 (Performance Standards), to establish definitions and regulations pertaining to Vending Machines, Fuel Pumps and ATMs – City Initiated – AO-003330-2016

Request Action: Approval of Amendments to City Code

Case Advisor: J. Bradley Munford

Applicant's Request: Staff is requesting an amendment to the following sections within Title 9, Zoning of City Code to establish definitions and regulation pertaining to Vending Machines, Fuel Pumps and ATMs:

- Chapter 2 (Zoning Rules And Definitions), Section 2-2 (Definitions) to establish definitions for the terms Automated Teller Machine (ATM), Fuel Pump, Mail Box and Vending Machine.
- Chapter 6 (Commercial, Office, And Industrial Zoning Districts), Section 6 (Commercial, Office And Industrial Use Regulations) Subsection C: Table 6.1- Use Matrix, Division G to identify use allowances for vending machines and to clarify allowances for convenience stores with and without fuel pumps within the commercial, office and industrial use matrix.
- Chapter 6: Commercial, Office and Industrial Zoning District, Section 6: Commercial, Office and Industrial Use Regulations, Subsection C: Table 6.1- Use Matrix, Division H to clarify use regulations for stand-alone outdoor ATMs within the commercial, office and industrial use matrix.
- Chapter 10, Performance Standards, Section 4, Specific Use Regulations to establish regulations for the location and operation of vending machines.

History: In October, a parcel delivery service submitted a pre-application request to install an automated pick up station outside of a local business. The request involved a series of lockers with a computer interface. A package would be placed in one of the lockers, the customer would stop by at their convenience, enter a form of ID into the interface and retrieve their package out of the locker. This type of use is not identified in our code. While researching information for the request, staff discovered that this type of machine is a part of a larger shift in the vending machine industry. Vending machines have become more than a mechanized device that dispenses small items such as snack foods and beverages. They can now sell virtually anything, anywhere with just electricity and an internet connection. With the improvements in vending commerce technology and increased demand for internet commerce options with after hour pick up of purchases, vending machines are evolving to become a primary use.

City Council Subcommittee: Staff presented information about the new generation of vending machines to the Development and Planning City Council Subcommittee for guidance on October 31, 2016. Staff raised concerns on the aesthetics and compatibility of colors and materials with the existing building, signage aspects, potential for multiple lockers/vending machines to be located on a single site as they are income generators for the property owner, and safety concerns for patrons. The Subcommittee Members supported drafting an ordinance that addressed implementation of these.

Staff Review and Comment: There are no outstanding issues. Staff drafted the ordinance based on the approach that these new uses need to be identified to accommodate evolving business trends, yet address the following concerns:

Aesthetic Concern: Current trends show that companies are looking to rent outdoor spaces in front of existing business to place new generation vending machines. This practice can lead to buildings with multiple outdoor machines or banks of outdoor machines that dominate the building façade or creates visual clutter detrimental to the character of the community.

Safety Concern: With improvements in vending hardware, software and the increase in internet commerce, the value of the merchandise within these vending machines is higher. With these machines being outdoors and available 24/7 without reliable visibility and surveillance, it can create safety concerns for the users.

Proposed Ordinance: The proposed ordinance directs vending machines to be placed inside a principal building or in an attached vestibule that is constructed from similar material and have an appearance complementary to the principal building. This is a proven method that addresses the aesthetic and safety concerns. A current example would be the attached vestibules for can and bottle redemption areas found in local grocery stores. This method maintains the appearance of the building while providing a well-lit secure area for their patrons.

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

Noticing Information: On January 6, 2017 notice of the January 16, 2017, Plan and Zoning Commission public hearing for this project was published in the *Des Moines Register*.

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

Attachments:

Attachment A – Plan and Zoning Commission Resolution

Exhibit A – Proposed Ordinance

Attachment B – Examples of new generation vending machines

RESOLUTION NO. PZC–17-004

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); TITLE 9 (ZONING), CHAPTER 6 (COMMERCIAL, OFFICE, AND INDUSTRIAL ZONING DISTRICTS); TITLE 9, ZONING, CHAPTER 10, PERFORMANCE STANDARDS, TO ESTABLISH DEFINITIONS AND REGULATIONS PERTAINING TO VENDING MACHINES, FUEL PUMPS AND ATMS

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, staff requests an amendment to amend Title 9 (Zoning), Chapter 2 (Zoning Rules And Definitions), Section 2-2 (Definitions) to establish definitions for the terms Automated Teller Machine (ATM), Fuel Pump, Mail Box and Vending Machine. 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, Division G to establish use regulations for vending machines and to clarify allowances for convenience stores with and without fuel pumps within the commercial, office and industrial use matrix. Amend 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, Division H to clarify use regulations for stand-alone outdoor ATMs within the commercial, office and industrial use matrix. Amend Title 9, Zoning, Chapter 10, Performance Standards, Section 4, Specific Use Regulations to establish regulations for the location and operation of vending machines.

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 on January 16, 2017 to consider the application for an amendment to ordinance;

WHEREAS, this Commission did consider the request 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 January 16, 2017 or as amended orally at the January 16, 2017 Plan and Zoning Commission public hearing are adopted.

SECTION 2. The AMENDMENT TO ORDINANCE (AO-003330-2016) is recommended to the City Council for approval.

PASSED AND ADOPTED on January 16, 2017.

Craig Erickson, Chair
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 January 16, 2017, by the following vote:

AYES: Costa, Crowley, Hatfield, Erickson, Southworth
NAYS: -0-
ABSTENTIONS: -0-
ABSENT: Andersen, Brown

ATTEST:

_____
Recording Secretary

The Proposed Ordinance has been moved to be Exhibit II

Examples of new generation vending machines **ATTACHMENT B**

Ups and Amazon parcel pick-up lockers

Walmart and Fresh St. Market refridgerated grocery pick-up locker

Sprinkles Cupcakes, Cupcake ATM Best Buy Express

EXHIBIT II

Prepared by: J.B. Munford, 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 AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2014, TITLE 9 (ZONING), CHAPTER 2 (ZONING RULES AND DEFINITIONS), SECTION 2-2 (DEFINITIONS); 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, DIVISION G; 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, DIVISION H; TITLE 9, ZONING, CHAPTER 10, PERFORMANCE STANDARDS, SECTION 4, SPECIFIC USE REGULATIONS. TO AMEND DEFINITIONS AND REGULATION PERTAINING TO VENDING MACHINES, FUEL PUMPS AND ATMS

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 2-2: Definitions is hereby amended by inserting the italicized and bolded text accordingly in alphabetical order:

Automated Teller Machine (ATM): An automated device that performs banking or financial functions at a location remote from the controlling financial institution.

Fuel Pump: A machine that is used to dispense fuel.

Mail Box: A public or private box for US mail purposes. This definition does not include courier services (SIC 4215).

Vending Machine: Any unattended, product holding, automated, self-service device that dispenses goods, products or anything of value upon insertion of money, token, credit or identification.

Section 2. **Amendment.** 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, Division G, is hereby amended by inserting the italicized and bolded text:

SIC CODES	RC	CMC	NC	CVC	SC	VJC	VJHB	WR	BP	VJLI	LI	GI	OF	PCP	OS
541Grocery stores (except: convenience stores)	P	P	P		P		Pc	P							
-Convenience stores ***(With or without fuel pumps)***	Pc	Pc	Pc	Pc	Pc	Pc	Pc	Pc	Pc						

SIC CODES	RC	CMC	NC	CVC	SC	VJC	VJHB	WR	BP	VJLI	LI	GI	OF	PCP	OS
5962 Automatic merchandise machine operators								P	P	P	P	P			
Vending Machines (Not to include SIC 60 Automated Teller Machine (ATM's)															
-Outdoor															
-Indoor (See 9-10-4-A of this title)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
-Unattended Fuel Pumps (See 9-14-9 of this title)	Pc	Pc	Pc	Pc	Pc	Pc	Pc								
-Attended Fuel Pumps (See SIC 541 and SIC 554 of this title)															

Section 3. **Amendment.** 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, Division H, is hereby

amended by inserting the italicized and bolded text:

SIC CODES	RC	CMC	NC	CVC	SC	VJC	VJHB	WR	BP	VJLI	LI	GI	OF	PCP	OS
60 Depository institutions (banks)	P	P	P	P	P	P	P	P	P				P	P	
-Outdoor Freestanding ATM	Pc	Pc	Pc	Pc	Pc	Pc	Pc	Pc	Pc				Pc	Pc	

Section 4. <u>Amendment.</u> Title 9, Zoning, Chapter 10, Performance Standards, Section 4, Specific Use Regulations is hereby amended by adding the following underlined, italicized and bolded text in numerical order:

A. The following standards shall apply to all zoning districts unless noted otherwise in this Title:

22. Vending Machines: Vending machines are evolving to become more than a mechanized device that dispenses small item such as snack foods and beverages. With improvements in vending hardware, software and theft resistant technology, the operational and locational limitations these machines once had, have been removed. The intent of this section is to establish performance standards to accommodate the new ways vending machines are being used while being consistent with the Goals and Policies of the Comprehensive Plan, the stated purpose of each zoning district, to minimize visual clutter, and to maintain the aesthetic and architectural continuity of the community. Vending machines shall be in accordance with the following performance standards:

a. All vending machines except outdoor freestanding ATM's, fuel pumps and fuel canister dispensing units shall be located within the principal building or vestibule attached to the principal building.
b. Any addition to an existing building shall be constructed from similar material and shall have an appearance complementary to the main building.
c. No more than 50% of each façade adjacent to the machines can be transparent
d. The vending area shall not block any interior or exterior walkways.
e. Signage or advertising is allowed as regulated elsewhere in this title.

Section 5. <u>Repealer.</u> All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

Section 6. <u>Savings Clause.</u> 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 7. <u>Violations and Penalties.</u> 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 8. <u>Other Remedies.</u> 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 9. <u>Effective Date.</u> 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 _____, 2017, and approved this _____ day of _____, 2017.

_____
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 _____, 2017, and was published in the Des Moines Register on _____, 2017.

_____
Ryan T. Jacobson, City Clerk