

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

Meeting Date: January 15, 2018

Item: Amendment to City Code – Title 2 (Boards and Commissions), Chapter 2 (Board of Adjustment) and Title 9 (Zoning), Chapter 1 (Entitlements – Process and Procedures), Chapter 5 (Agriculture/Open Space and Residential Zoning District), Chapter 6 (Commercial, Office and Industrial Zoning District), Chapter 10 (Performance Standards), Chapter 14 (Accessory Structures), and Chapter 19 (Landscaping) to modify the process, approval, and requirements for Permitted Conditional Use Permits– City Initiated (AO-003735-2017)

Request Action: Recommend approval of an amendment to City Code

Case Advisor: Karen Marren

Applicant's Request: The City of West Des Moines requests an amendment to the following noted chapters and sections of Title 2 (Boards and Commissions) and Title 9 (Zoning) to amend regulations pertaining to Permitted Conditional Use Permits:

- Title 2 (Boards and Commissions):
 - Chapter 2 (Board of Adjustment), Section 4 (Jurisdiction; Powers)
- Title 9 (Zoning):
 - Chapter 1 (Entitlements – Process and Procedures), Section 4 (Authority), Section 8 (Entitlements), and Section 9 (Filing and Processing of Application Requests),
 - Chapter 5 (Agriculture/Open Space and Residential Zoning District), Section 5 (Interpretations),
 - Chapter 6 (Commercial, Office and Industrial Zoning District), Section 3 (Interpretations),
 - Chapter 10 (Performance Standards), Section 4 (Specific Use Regulations),
 - Chapter 14 (Accessory Structures), Section 11 (Fences and Walls) and
 - Chapter 19 (Landscaping), Section 7 (Approval Process)

It was identified through discussions with the Board of Adjustment that the Plan and Zoning Commission and City Council are more knowledgeable in reviewing the details of site plans related to Permitted Conditional Use Permits. Under the proposed amendment, the Board of Adjustment will retain authority on approval of a Permitted Conditional Use and will have authority to place conditions of approval they feel is appropriate to mitigate any negative aspects of the use they feel necessary; however, the authority for approval of any development or redevelopment associated with the Permitted Conditional Use will be through the applicable site plan and modification processes for approval. (See Attachment A, Exhibit A – Proposed Ordinance).

City Council Subcommittee: This item was discussed at the January 8, 2018, Development and Planning City Council Subcommittee. The subcommittee was supportive of changes to the ordinance.

Staff Review and Comment: There are no outstanding issues. Staff summarizes the following key points of interest:

- *Summary of recommended changes:*
 - Relocate the findings for a Permitted Conditional Use Permit to Title 2, Chapter 4 of the code from Title 9, Chapter 1 to be consistent in code format;
 - Revise the Permitted Conditional Use findings to be specific to the use by removing the reference to development. The development of the site will be reviewed based on the existing findings for a Site Plan approval;
 - Amend the authority of the Board of Adjustment to approve, deny, or modify an application for the use of land related to permitted conditional use permits and identify the Plan and Zoning Commission and City Council's role in approval of the site development associated with a permitted conditional use;
 - Amend the Board's authority to condition the approval for such permitted conditional use. The Board will also have the only authority to remove a use condition placed by the Board;

● **Process:**

- The Plan and Zoning Commission shall recommend and the City Council shall approve the development of any land associated with a permitted conditional use permit (Pc) through the site plan development permit process if the development is found to be in compliance with the required findings and any conditions of the use approval placed by the Board on implementation of the use;
- Modification to a previously approved site plan for a Permitted Conditional (Pc) Use Permit shall be subject to the procedures for a major or minor modification to the site plan approval. This could be either an administrative approval or approval by the Plan and Zoning Commission and City Council;
- Expansion of a permitted conditional use on the property shall require approval by the Board of Adjustment;

Noticing Information: On January 5, 2018, notice of the January 15, 2018, Plan and Zoning Commission and January 22, 2018, City Council public hearings 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

RESOLUTION NO. PZC-18-002

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 TITLE 2 (BOARDS AND COMMISSIONS), CHAPTER 2 (BOARD OF ADJUSTMENT) AND TITLE 9 (ZONING), CHAPTER 1 (ENTITLEMENTS – PROCESS AND PROCEDURES), CHAPTER 5 (AGRICULTURE/OPEN SPACE AND RESIDENTIAL ZONING DISTRICT), CHAPTER 6 (COMMERCIAL, OFFICE AND INDUSTRIAL ZONING DISTRICT), CHAPTER 10 (PERFORMANCE STANDARDS), CHAPTER 14 (ACCESSORY STRUCTURES), AND CHAPTER 19 (LANDSCAPING) TO MODIFY THE PROCESS, APPROVAL, AND REQUIREMENTS FOR PERMITTED CONDITIONAL USE PERMITS

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 2 (*Boards and Commissions*), Chapter 2 (*Board of Adjustment*), Section 4 (*Jurisdiction; Powers*), and Title 9 (*Zoning*), Chapter 1 (*Entitlements – Process and Procedures*), Section 4 (*Authority*), Section 8 (*Entitlements*), Section 9 (*Filing and Processing of Application Requests*), Chapter 5 (*Agriculture/Open Space and Residential Zoning District*), Section 5 (*Interpretations*), Chapter 6 (*Commercial, Office and Industrial Zoning District*), Section 3 (*Interpretations*), Chapter 10 (*Performance Standards*), Section 4 (*Specific Use Regulations*), Chapter 14 (*Accessory Structures*), Section 11 (*Fences and Walls*) and Chapter 19 (*Landscaping*), Section 7 (*Approval Process*) to modify the process, approval, and requirements for Permitted Conditional Use Permits;

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;

WHEREAS, this Commission did 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 or as amended orally at the Plan and Zoning Commission public hearing are adopted.

SECTION 2. The AMENDMENT TO ORDINANCE (AO-003735-2017) 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 January 15, 2018.

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 January 15, 2018, by the following vote:

AYES:
NAYS:
ABSTENTIONS:
ABSENT:

ATTEST:

Recording Secretary

Prepared by: K. Marren, 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 BY AMENDING TITLE 2 (BOARDS AND COMMISSIONS), CHAPTER 2 (BOARD OF ADJUSTMENT) AND TITLE 9 (ZONING), CHAPTER 1 (ENTITLEMENTS – PROCESS AND PROCEDURES), CHAPTER 5 (AGRICULTURE/OPEN SPACE AND RESIDENTIAL ZONING DISTRICT), CHAPTER 6 (COMMERCIAL, OFFICE AND INDUSTRIAL ZONING DISTRICT), CHAPTER 10 (PERFORMANCE STANDARDS), CHAPTER 14 (ACCESSORY STRUCTURES), AND CHAPTER 19 (LANDSCAPING) TO MODIFY THE PROCESS, APPROVAL, AND REQUIREMENTS FOR PERMITTED CONDITIONAL USE PERMITS

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

Section 1. Amendment. Title 2 (*Boards and Commissions*), Chapter 2 (*Board of Adjustment*), Section 4 (*Jurisdiction; Powers*), Subsection A is hereby amended by adding the text in bold italic lettering and deleting the highlighted strikethrough text:

A. Powers: The board of adjustment shall have the following powers:

1. Hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by the director of ~~community~~ development *services*, or designee in the enforcement of the zoning regulations in title 9 of this code.
2. To hear and decide special exceptions to the terms of title 9 of this code upon which such board is required to pass under title 9 of this code.
 - a. *A 'special exception' is known as a Permitted Conditional Use and permits in a particular district a use not otherwise permitted when certain conditions specifically set out in title 9 of this code are satisfied.*
3. To authorize upon appeal in specific cases such variance from the terms of title 9 of this code as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of title 9 of this code will result in unnecessary hardship, and so that the spirit of title 9 of this code shall be observed and substantial justice done.
 - a. *A 'variance' is authority extended to the owner to improve the property in a manner prohibited by title 9 of this code in the situation where the plight of the owner is due to special or exceptional circumstances, not to the general conditions in the neighborhood and where literal enforcement would cause the owner unnecessary hardship.*
 - b. *An 'unnecessary hardship' is defined by the follow three factors:*
 - (1) *the land in question cannot yield a reasonable return if used only for a purpose allowed in that zone;*

(2) the plight of the owner is due to unique circumstances not of the owner(s) making and not to the general conditions in the neighborhood, which may reflect the unreasonableness of the zoning ordinance itself; and (3) the use to be authorized by the variance will not alter the essential character of the locality

Section 2. Amendment. Title 2 (*Boards and Commissions*), Chapter 2 (*Board of Adjustment*), Section 4 (*Jurisdiction; Powers*), Subsection J is hereby amended by adding the text in bold italic lettering:

J. Required *Variance* Findings: Approval by the board of adjustment shall only be granted if all of the following findings are made; or if conditions and limitations, as the board deems necessary, are imposed to allow it to make said findings. It shall be the responsibility of the applicant to prove to the satisfaction of the board that the following findings can be made:

Section 3. Amendment. Title 2 (*Boards and Commissions*), Chapter 2 (*Board of Adjustment*), Section 4 (*Jurisdiction; Powers*), is hereby amended by adding Subsection K as noted below in bold italic lettering:

K. Required Permitted Conditional Use Permit Findings: Permitted Conditional use permits (Pc) may only be granted if all of the following findings are made; or if conditions and limitations, as the board of adjustment deems necessary, are imposed to allow it to make said findings. It shall be the responsibility of the applicant to prove to the satisfaction of the board of adjustment that the following findings can be made:

- (1) That the proposed use is consistent with the West Des Moines comprehensive plan and any applicable subarea plan.*
- (2) That the proposed use does assure compatibility of property uses within the zone and general area.*
- (3) That all applicable standards and conditions have been imposed which protect the public health, safety and welfare.*
- (4) That there is adequate on site and off site public infrastructure to support the proposed development use.*
- (5) That the proposed use has met all the requirements contained in this code.*
- (6) That the proposed use be in keeping with the scale and nature of the surrounding neighborhood.*

Section 4. Amendment. Title 9 (*Zoning*), Chapter 1 (*Entitlements – Process and Procedures*), Section 4 (*Authority*), Subsection D is hereby amended by adding the text in bold italic lettering and deleting the highlighted strikethrough text:

D. The board of adjustment of the city of West Des Moines, Iowa (hereinafter "Board") may approve, deny or modify, wholly or partly, any application for the ~~development use~~ of land, including, ~~but not limited to,~~ Permitted Conditional use permits (Pc), *which may also be subject to approval of a site plan development permit for development of land by the Plan and Zoning Commission and City Council.* The board may impose such conditions and limitations *on the use* as it deems necessary to assure that the general purpose and intent of this title and all other ordinances or policies enacted or followed by the board will be observed, and that the public interest, health, safety, convenience and welfare will be served. *Conditions placed by the Board shall be enforced by the Plan and Zoning Commission and City Council as part of site plan development permit approval. No site plan development permit shall be approved if conditions placed by the Board have not be appropriately accommodated in the development of the site. Conditions placed by the Board as part of the Permitted Conditional Use permit approval may only be modified or removed by the Board. The Plan and Zoning Commission and City Council shall not have authority to modify, waive, or remove conditions placed by the Board..*

Section 5. Amendment. Title 9 (*Zoning*), Chapter 1 (*Entitlements – Process and Procedures*), Section 8 (*Entitlements*), Subsection A1e is hereby amended by adding the text in bold italic lettering and deleting the highlighted strikethrough text:

e. Duration: Upon ~~use inauguration~~ ***vesting of entitlement*** any permitted conditional use permit (Pc) is considered to run with the land, unless its duration is conditioned at the time the permitted conditional use permit (Pc) is granted.

Section 6. Amendment. Title 9: (*Zoning*), Chapter 1: (*Entitlements – Process and Procedures*), Section 8 (*Entitlements*), Subsection A2 is hereby amended by adding the text in bold italic lettering and deleting the highlighted strikethrough text:

2. Permitted Conditional Use Permit (Pc):

a. Purpose: “Permitted Conditional use permit (Pc)” shall mean a zoning instrument used primarily to review the locations, ~~site development~~, or conduct of certain land uses. These are uses which may have a distinct impact on the area in which they are located, or are capable of creating special problems for bordering properties unless given special attention.

The board of adjustment may grant a Permitted Conditional use permit (Pc) if the proposed ~~development or use~~ is found to be in compliance with the required findings, ***and the plan and zoning commission shall recommend and the city council shall approve the development of any land associated with a permitted conditional use permit (Pc) through the site plan development permit process if the development is found to be in compliance with the required findings and any conditions of the approval placed by the Board on implementation of the use.***

b. General Provisions: A Permitted Conditional use permit (Pc) shall be required for those uses as noted in the agricultural/open space and residential zoning district and commercial, office and industrial zoning district matrices, and as specified elsewhere within this title.

c. Application: Application for a Permitted Conditional use permit (Pc) shall be made on the prescribed form provided by the *Development Services* department ~~of community development~~. The application shall be accompanied by the prescribed number of copies of a project plan and such other detailed elevations, plans and other information as may be required to adequately evaluate the proposed ~~development use~~. All applications shall be signed by the owner of the property or person with the appropriate power of attorney.

d. Required Permitted Conditional Use Permit Findings: Permitted conditional use permits (Pc) may only be granted if all of the ~~following~~ ***Permitted Conditional Use Permit findings from Title 2, Chapter 2*** are made; or if conditions and limitations, as the board of adjustment deems necessary, are imposed to allow it to make said findings. It shall be the responsibility of the applicant to prove to the satisfaction of the board of adjustment that ~~the following~~ findings can be made.†

- (1) ~~That the proposed development or use is consistent with the West Des Moines comprehensive plan and any applicable subarea plan.~~
- (2) ~~That the proposed development or use does assure compatibility of property uses within the zone and general area.~~
- (3) ~~That all applicable standards and conditions have been imposed which protect the public health, safety and welfare.~~
- (4) ~~That there is adequate on-site and off-site public infrastructure to support the proposed development use.~~
- (5) ~~That the proposed development or use has met all the requirements contained in this code.~~
- (6) ~~That the proposed development or use be in keeping with the scale and nature of the surrounding neighborhood.~~

e. Duration: Upon ~~use inauguration~~ ***vesting of entitlement*** any permitted conditional use permit (Pc) is considered to run with the land, unless its duration is conditioned at the time the permitted conditional use permit (Pc) is granted.

Section 7. Amendment. Title 9 (*Zoning*), Chapter 1 (*Entitlements – Process and Procedures*), Section 8 (*Entitlements*), Subsection A3a and A3d is hereby amended by adding the text in bold italic lettering and deleting the highlighted strikethrough text:

a. Purpose: The modification procedure is intended to provide a method whereby changes may be made to an existing, approved *site plan* entitlement, ~~e.g., permitted conditional use permit (Pe) or site plan development permit.~~ This procedure may allow an applicant to process changes that affect only a portion of a previously approved entitlement.

d. Required Permit Findings: Findings for modifications shall be the same as those required for the original ~~permit, e.g., site plan development permit, and the permitted conditional use permit (Pe).~~ ***Any modification to a previously approved site plan for a Permitted Conditional (Pc) Use Permit shall be subject to review by the plan and zoning commission and approval by city council. Any expansion of a permitted conditional use on the property shall require approval by the board of adjustment.***

Section 8. Amendment. Title 9 (*Zoning*), Chapter 1 (*Entitlements – Process and Procedures*), Section 8 (*Entitlements*), Subsection A4b4, A4b5, and A4b8 are hereby amended by adding the text in bold italic lettering and deleting the highlighted strikethrough text:

(4) Any modification to a previously approved ~~permitted conditional use~~ site plan ***for a Permitted Conditional (Pc) Use Permit*** approval that does not qualify for the level 1 or the level 2 minor modification process shall be subject to review by the ~~board of adjustment~~ ***plan and zoning commission and approval by city council.*** Any expansion of a permitted conditional use ~~of~~ ***on the*** property shall require approval ~~of the expansion of the use~~ by the board of adjustment.

(5) Any level 1 or level 2 minor modification to a previously approved site plan ~~or to a previously approved permitted conditional use site plan~~ that is for a site which has nonconforming attributes, e.g., setbacks, open space percentage, landscaping, parking, and which proposes to increase the scope of any nonconforming attribute shall not be granted approval, except in those cases where a variance is obtained from the board of adjustment.

(8) The director of development services or designee shall have the discretion to refer any level 1 or level 2 minor modification request to the plan and zoning commission and city council for permitted uses or ~~to the board of adjustment for permitted conditional uses permits.~~

Section 9. Amendment. Title 9 (*Zoning*), Chapter 1 (*Entitlements – Process and Procedures*), Section 9 (*Filing and Processing of Application Requests*), Subsection A2 are hereby amended by adding the text in bold italic lettering and deleting the highlighted strikethrough text:

2. Vesting Of Entitlement: An entitlement shall remain in effect so long as:

a. Substantial Site Work Defined: "Substantial site work" shall be defined as the point at which the site work has progressed beyond grading and completion of structural foundations and twenty five percent (25%) of the total ~~project construction~~ ***building area*** has occurred above grade within twenty four (24) months of the effective date of the approval, or a greater time period authorized by the original entitlement, or by approval of an extension of the original entitlement.

b. Nonbuilding Projects: The project is completed as set forth in subsection A4 of this section, project completion, within ~~twenty-four (24)~~ ***twelve (12)*** months or greater period authorized by an entitlement or approval of an extension of entitlement.

c. Resource Extraction Operations: In the case of a resource extraction operation, the vesting of the entitlement shall occur when extraction operations authorized by the entitlement have been commenced.

Section 10. Amendment. Title 9 (*Zoning*), Chapter 5 (*Agricultural/Open Space and Residential Zoning District*), Section 5 (*Interpretations*), Subsection B is hereby amended by deleting the highlighted strikethrough text:

B. Uses shown in the matrix as “permitted conditional use permit” (Pc) are permitted in the applicable district following ~~the review and approval of the board of adjustment~~ through the permitted conditional use permit (Pc) process. This requirement shall apply to new uses, as well as new construction and building expansions.

The use of a permitted conditional use permit (Pc) allows the city to regulate the intensity of development of a particular use, activity, or location. The use of the permitted conditional use permit (Pc) process should not be seen as a means to prohibit uses but as a way to allow the city to secure more information concerning a specific use and its operation.

Section 11. Amendment. Title 9 (*Zoning*), Chapter 6 (*Commercial, Office and Industrial Zoning District*), Section 3 (*Interpretations*), Subsection B is hereby amended by deleting the highlighted strikethrough text:

B. Uses shown in the matrix as “permitted conditional use permit” (Pc) are permitted in the applicable district following ~~the review and approval of the board of adjustment~~ through the permitted conditional use permit (Pc) process. This requirement shall apply to new uses, as well as new construction and building expansions.

The use of a permitted conditional use permit (Pc) allows the city to regulate the intensity of development of a particular use, activity, or location. The use of the permitted conditional use permit (Pc) process should not be seen as a means to prohibit uses but as a way to allow the city to secure more information concerning a specific use and its operation.

Section 12. Amendment. Title 9 (*Zoning*), Chapter 10 (*Performance Standards*), Section 4 (*Specific Use Regulations*), Subsection A2a is hereby amended by deleting the highlighted strikethrough text:

a. Screening Of Ground Mounted Mechanical Units: For all uses, except for single-family detached and bi-attached residential uses, all ground mounted mechanical units, including, but not limited to: air conditioning condensers, heat pumps, ventilation units, computer cooling equipment, etc., and any related utility structures and equipment, that are visible from any adjacent public thoroughfare shall be visibly screened from public view by the use of a screening wall built out of materials compatible and consistent with the architecture and materials of the principal building, landscape plantings of predominately evergreen materials to provide year round screening, or a combination of the above. The type of screening to be used shall be identified as part of the site plan ~~or permitted conditional use permit (Pc)~~ submittal.

Section 13. Amendment. Title 9 (*Zoning*), Chapter 10 (*Performance Standards*), Section 4 (*Specific Use Regulations*), Subsection A5d2 is hereby amended by deleting the highlighted strikethrough text:

(2) Satellite dishes and antennas in nonresidential areas shall be sited to minimize the visual impact on surrounding properties and public thoroughfares. Location of satellite dishes and communication antennas in the front yard (to include all of the area between the principal structure and the public street) shall be discouraged and shall only be allowed if approved through the appropriate site plan ~~or permitted conditional use permit (Pc)~~ process.

Section 14. Amendment. Title 9 (*Zoning*), Chapter 10 (*Performance Standards*), Section 4 (*Specific Use Regulations*), Subsection A5g is hereby amended by deleting the highlighted strikethrough text:

g. Accessory Equipment Associated With Satellite Dishes And Antennas: Accessory equipment associated with satellite dishes and communication antennas shall either be located within the building, on the roof in a screened enclosure constructed of materials compatible with the building or other roof structures, or on the ground within a structure designed and landscaped to be compatible with the principal structure. The

location of the equipment and enclosure shall meet setback standards for the principal structure and shall be subject to site plan or ~~permitted conditional use permit (Pe)~~ review as required elsewhere in this title.

Section 15. Amendment. Title 9 (*Zoning*), Chapter 10 (*Performance Standards*), Section 4 (*Specific Use Regulations*), Subsection A8 is hereby amended by deleting the highlighted strikethrough text:

8. Outdoor Storage Yards: Outdoor storage yards associated with service oriented businesses such as, but not limited to, construction contractors, plumbing companies, wholesale material suppliers, etc., and self-storage facilities shall only be allowed in rear and side yard areas within the warehouse retail (WR), Valley Junction light industrial (VJLI), light industrial (LI) and general industrial (GI) zoning districts unless noted otherwise elsewhere within this title. Areas of outside storage shall not occupy any portion of required yard areas, open space, required off street parking areas, etc., and shall be screened from views from the public streets, adjoining properties, especially those of a different zoning classification and any residential property through the use of opaque screening reviewed as part of the site plan or ~~permitted conditional use permit~~ submittal. The need for limited visibility for security reasons should be considered when determining appropriate screening levels. With the exception of business associated vehicles, equipment and trailers and recreational vehicles, no material being stored shall exceed the height of the screening structure. Appropriate security lighting shall be so arranged as to divert the light away from adjoining traveled roadway of public streets and adjoining properties.

Section 16. Amendment. Title 9 (*Zoning*), Chapter 10 (*Performance Standards*), Section 4 (*Specific Use Regulations*), Subsection G1 is hereby amended by adding the text in bold italic lettering and deleting the highlighted strikethrough text:

1. Outside Storage And Displays: No merchandise shall be stored or displayed outside a building except as allowed by the approval of the City Council as part of a site plan permit or ~~a permitted conditional use permit (Pe)~~, or as permitted by a temporary use permit issued by the *Development Services Department* ~~Community Development Department~~.

Section 17. Amendment. Title 9 (*Zoning*), Chapter 10 (*Performance Standards*), Section 4 (*Specific Use Regulations*), Subsection L1 is hereby amended by deleting the highlighted strikethrough text:

1. Outdoor Storage And Displays: Outdoor storage is allowed in the warehouse retail district in rear and side yards away from the public right of way provided that: a) the location of such storage has been approved in conjunction with a site plan or ~~permitted conditional use~~; and b) the entire area to be used for outdoor storage is opaquely screened by a fence, screen wall, or a very dense stand of evergreen trees. The height of the fence, wall, or stand of trees shall be at least as high as the object(s) being screened. In this district, fences of twelve feet (12') high will be allowed. Outdoor display areas, such as car sales uses, may be allowed provided that they are approved as part of a site plan or ~~permitted conditional use permit~~ and do not detract from the general aesthetics of the surrounding area.

Section 18. Amendment. Title 9 (*Zoning*), Chapter 14 (*Accessory Structures*), Section 11 (*Fences and Walls*), Subsections C2 and C3 is hereby amended by deleting the highlighted strikethrough text:

2. Industrial Districts: Unless otherwise specified herein, fences and walls not exceeding eight feet (8') in height are allowed within the limits of side and rear yards. Fences may be allowed within the limits of the front yard if approved by the city council through the site plan or ~~permitted conditional use permit~~ process. The use of barbed wire may be allowed, provided the barbed wire is not less than six feet (6') above the ground.

3. Warehouse Retail District: Fences and screen walls not exceeding twelve feet (12') in height are allowed within the limits of the side and rear yards. Fences may be allowed within the limits of the front yard if approved by the city council or ~~board of adjustment~~ through the site plan or ~~permitted conditional use permit~~ process.

Section 19. Amendment. Title 9 (*Zoning*), Chapter 19 (*Landscaping*), Section 7 (*Approval Process*), Subsections A is hereby amended by deleting the highlighted strikethrough text:

A. Landscape plans are required to be submitted for review as part of the development application process as denoted in the entitlement chapter of this title. Landscape plans shall be approved by the city council following the recommendation of the plan and zoning commission except for landscape plans associated with ~~permitted conditional use or~~ variance requests which shall be approved by the board of adjustment. Landscape plans associated with minor modification requests may be reviewed and approved administratively provided no reduction to the standards presented herein is proposed.

Section 20. Amendment. Title 9 (*Zoning*), Chapter 19 (*Landscaping*), Section 7 (*Approval Process*), Subsections E8 is hereby amended by deleting the highlighted strikethrough text:

8. Site Plan Review: For any type of development that requires a site plan review ~~or permitted conditional use permit~~, the buffer plans shall be submitted as a part of the site plan ~~or permitted conditional use permit~~ submittal.

Section 21. Repealer. All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

Section 22. 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 23. 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 24. 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 25. 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 _____, 2018, and approved this _____ day of _____, 2018.

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 _____, 2018, and was published in the Des Moines Register on _____, 2018.

Ryan T. Jacobson
City Clerk