CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

Date: March 16, 2020

ITEM: Amendment to City Code – Amend Title 3 (Business and Licensing), Chapter 2 (Beer and Liquor Control) to modify the requirements for Outdoor Service Areas.

Ordinance: Approval of First Reading

FINANCIAL IMPACT: Undetermined.

BACKGROUND: The City of West Des Moines requests an amendment to the noted chapter and section of Title 3 (Business and Licensing), Chapter 2 (Beer and Liquor Control) to amend regulations pertaining to Outdoor Service Areas.

- Title 3 (Business and Licensing)
  - Chapter 2 (Beer and Liquor Control), Section 7 (Outdoor Service Areas), Subsection B Paragraphs B2 and B3

On June 3, 2019, City Council approved an amendment to this section to specifically require a 3.5 feet high barrier to discourage the free movement of people between the outdoor service area and non-licensed areas. At that time, City staff was focused on outdoor service areas associated with bars and restaurants. The proposed amendment adds an option for alternative barrier methods for large-use areas such as golf courses, outdoor sports complexes, and outdoor recreational areas. The purpose of the barrier requirement is to provide a clear delineation between the licensed area and non-licensed areas.

City staff has discovered that application of this requirement to certain large-use areas may be impractical depending on the circumstances. Additionally, there are current licensed outdoor service areas that are not in compliance with the current requirements including Raccoon River Park, Glen Oaks Golf Course, and Willow Creek Golf Course. This amendment will allow staff to evaluate large-use outdoor service area applications and determine possible alternative barrier methods while still providing for delineation between the outdoor service area from non-licensed areas. The alternative method would then be considered by City Council as part of the approval of the outdoor service permit.

In addition to the areas identified above, this amendment could be applied to the Jamie Hurd Amphitheater, the MidAmerican RecPlex, and other similar large-use areas.

OUTSTANDING ISSUES: There are no outstanding issues.

RECOMMENDATION: City Staff recommends the City Council approve the first reading to amend City Code, Title 3 (Business and Licensing), Chapter 2 (Beer and Liquor Control).

Lead Staff Member: Jessica D. Spoden, Assistant City Attorney JDS

STAFF REVIEWS:

Department Director	
Appropriations/Finance	
Legal	Richard Scieszinski, City Attorney
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	
Date(s) Published	
Letter sent to surrounding property owners	

SUBCOMMITTEE REVIEW (if applicable)

Committee			
Date Reviewed			
Recommendation	Yes ☐	No ☐	Split ☐

ATTACHMENTS:

Exhibit I Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2019, BY AMENDING TITLE 3, (BUSINESS AND LICENSING), CHAPTER 2, (BEER AND LIQUOR CONTROL), SECTION 7 (OUTDOOR SERVICE AREAS).

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

SECTION 1. AMENDMENT. Title 3 (Business and Licensing), Chapter 2 (Beer and Liquor Control), Section 7 (Outdoor Service Areas), Subsection B2 is hereby amended by adding the test in bold lettering;

2. The boundary of an outdoor area shall be delineated by a barrier that is a minimum of 3.5 feet in height and discourages the free movement of people between the outdoor service area and non-licensed areas. **An alternative method which clearly delineates the outdoor service area from the non-licensed areas may be approved by the City for large-use areas including, but not limited to, golf courses, outdoor sports complexes, outdoor recreational areas.**

SECTION 2. AMENDMENT. Title 3 (Business and Licensing), Chapter 2 (Beer and Liquor Control), Section 7 (Outdoor Service Areas), Subsection B3 is hereby amended by deleting the highlighted strike-thru text and adding the bold italic text;

3. If the outdoor service area is to be used for more than a two (2) week period, the delineating barrier shall **permanent in nature and** be constructed of a material that is complementary to the architecture of the building housing the use and shall be in character with the surrounding areas~~,~~ **unless otherwise approved by the City**. All open designed barriers shall include a top rail with lower intermediate rails spaced so that a twelve inch (12") sphere cannot pass through. Densely planted shrubbery may be permitted as a delineating barrier if it is determined that the intent is met.

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 Title 1, Chapter 4, Sections 1 and 2 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 _____ day of _____, 2020, and approved this _____ day of _____, 2020.

_____
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 _____, 2020, and was published in the Des Moines Register on __ _____, 2020.

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Ryan T. Jacobson, City Clerk