NO CHANGE FROM PREVIOUS READING

CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

Date: December 7, 2020

ITEM: Ordinance Amendment – Amend Title 5 (Police Regulations) and Title 9 (Zoning) to modify regulations pertaining to keeping of animals – City Initiated – AO-004869-2020

ORDINANCE: Approval of Second Reading, Waive Third and Adopt in Final Form

FINANCIAL IMPACT: Undetermined.

BACKGROUND: City staff is initiating an amendment to the chapters and sections identified below in Title 5 (Police Regulations) and Title 9 (Zoning) of the City Code to modify regulations pertaining to animal keeping as currently regulated within City Code. The intent with the amendments to Title 9 is to only regulate in the zoning code those animals which have a land use aspect (i.e. agricultural production animals, bees, etc.). Any animal that doesn't meet the test in Title 9 will be regulated under the animal control section of Title 5.

- Title 5: *Police Regulations*,
  - Chapter 3: *Animal Control,* Section 2: *Definitions*
  - Chapter 3*: Animal Control,* Section 19*: Keeping of Certain Animals Prohibited*
  - Chapter 3: *Animal Control*, Article A: *Dogs and Cats*, Section 15: *Limited Number of Animals Allowed*
- Title 9: *Zoning*,
  - Chapter 2: *Zoning Rules and Definitions*, Section 2: *Definitions*
  - Chapter 5: *Agricultural/Open Space and Residential Zoning District*, Section 8: *Open Space/Agricultural and Residential Use Regulations*, Subsection C: *Use Matrices*, Table 5.2: *Equestrian Uses*
  - Chapter 5: *Agricultural/Open Space and Residential Zoning District*, Section 8: *Open Space/Agricultural and Residential Use Regulations*, Subsection C: *Use Matrices*, Table 5.3: *Agricultural Uses/Animal Keeping*
  - Chapter 6: *Commercial, Office and Industrial Zoning District*, Section 6: *Commercial, Office and Industrial Use Regulations*, Subsection C, Table 6.1 – *Use Matrix*
  - Chapter 7: *Setback and Bulk Density Regulations*, Section 4: *Setback and Density Regulations,* Subsection C.9.d
  - Chapter 10: *Performance Standards*, Section 4: *Specific Use Regulations,* Subsections C and D
  - Chapter 14: *Accessory Structures*, Section 5: *General Provisions,* Subsection B, *Types*, Table 14.1, *Accessory Structure Types*

Previous Council Action:
Vote: 5-0 approval
Date: November 16, 2020
Motion: Approval of the First Reading of the Ordinance.

OUTSTANDING ISSUES: There are no outstanding issues.

RECOMMENDATION: Staff recommends the City Council approve the second reading, waive the third and adopt the Ordinance in final form.

Lead Staff Member: Brian Portz, AICP BP

Staff Reviews:

Department Director	*LMT*
Appropriations/Finance	
Legal	*JDS*
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	Des Moines Register
Date(s) Published	September 30, 2020
Letter sent to surrounding property owners	NA

SUBCOMMITTEE REVIEW (if applicable)

Committee	Development & Planning		
Date Reviewed	March 2nd, April 20th, July 20th, and September 21, 2020		
Recommendation	Yes ☒	No ☐	Split ☐

ATTACHMENTS:

Exhibit I - Proposed Ordinance

EXHIBIT I

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 AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2019, TITLE 5 (POLICE REGULATIONS), CHAPTER 3 (ANIMAL CONTROL), INCLUDING ARTICLE A (DOGS AND CATS), AND TITLE 9 (ZONING), CHAPTER 2 (ZONING RULES AND DEFINITIONS), CHAPTER 5 (AGRICULTURAL/OPEN SPACE AND RESIDENTIAL ZONING DISTRICT), CHAPTER 6 (COMMERCIAL, OFFICE AND INDUSTRIAL ZONING DISTRICT), CHAPTER 7 (SETBACK AND BULK DENSITY REGULATIONS), CHAPTER 10 (PERFORMANCE STANDARDS), AND CHAPTER 14 (ACCESSORY STRUCTURES) PERTAINING TO THE KEEPING OF ANIMALS

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

Section 1. Amendment. Title 5: *Police Regulations*, Chapter 3: *Animal Control*, Section 2: *Definitions* is hereby amended by inserting the italicized and bolded text accordingly in alphabetical order:

AGRICULTURAL PRODUCTION ANIMALS, COMMERCIAL: Any livestock animal as defined by Code of Iowa, Sec. 717.1 which is raised to provide a service such as labor, breeding purposes with offspring sold or provided to another individual or business, or production of commodities such as, but not limited to meat, eggs, milk, fur, leather and wool primarily for sale to individuals or businesses not located within the property upon which the livestock animal(s) is raised, with little to no personal consumption or use. Roosters shall be considered agricultural production animals, commercial.

AGRICULTURAL PRODUCTION ANIMALS, PERSONAL: Any livestock animal as defined by Code of Iowa, Sec. 717.1 which is housed or primarily live outside of the residence and raised for or can be raised for production of commodities such as, but not limited to meat, eggs, fur, milk, leather, and wool for personal consumption or use. Roosters are considered agricultural production animals, commercial.

Section 2. Amendment. Title 5: *Police Regulations*, Chapter 3: *Animal Control*, Article A: *Dogs and Cats*, Section 15: *Limited Number of Animals Allowed* is hereby amended by deleting the highlighted text with strikethrough lettering and adding the bold, italicized text:

> ***Except as otherwise allowed by Code,*** ~~I~~it shall be unlawful~~, except for a licensed kennel or pet shop, veterinary hospital, or animal grooming shop,~~ for an owner to harbor***,*** ~~or~~ house ***or confine*** ~~on his premises~~ more than four (4) cats or four (4) dogs, or a combination of four (4) such animals, over the age of six (6) months. ***Additionally, no more than a total of eight (8) animals, inclusive of the limitation on cats and dogs, shall be allowed, unless such animal is otherwise prohibited by this Code. This limitation shall not apply to limit the total number of aquatic or amphibious animals***.

Section 3. Amendment. Title 5: *Police Regulations*, Chapter 3: *Animal Control*, is hereby amended by inserting a new Section 19 as shown by the bold, italicized text and renumbering subsequent sections accordingly:

5-3-19. ***KEEPING OF CERTAIN ANIMALS PROHIBITED.***

A. Outside the Dwelling. It shall be unlawful for an owner to harbor, house or confine an animal, except a cat, dog or aquatic animal, outside the owner's dwelling, including but not limited to allowing an animal to defecate, roam, or exercise outside, unless otherwise allowed by this Code or except as otherwise required by law.

B. ***Agricultural Animals Prohibited. No person shall harbor, house or confine any agricultural production animal, commercial, agricultural production animal, personal, or any animal as defined by the Code of Iowa, Sec. 717.1, unless otherwise allowed by this Code or except as otherwise required by law.***

Section 4. Amendment. Title 9: *Zoning*, Chapter 2: *Zoning Rules and Definitions*, Section 2: *Definitions* is hereby amended by inserting the italicized and bolded text accordingly in alphabetical order:

AGRICULTURAL PRODUCTION ANIMALS, COMMERCIAL: Any livestock animal as defined by Code of Iowa, Sec. 717.1 which is raised to provide a service such as labor, breeding purposes with offspring sold or provided to another individual or business, or production of commodities such as, but not limited to meat, eggs, milk, fur, leather and wool primarily for sale to individuals or businesses not located within the property upon which the livestock animal(s) is raised, with little to no personal consumption or use. Roosters shall be considered agricultural production animals, commercial.

AGRICULTURAL PRODUCTION ANIMALS, PERSONAL: Any livestock animal as defined by Code of Iowa, Sec. 717.1 which is housed or primarily lives outside of the residence and raised for or can be raised for production of commodities such as, but not limited to meat, eggs, fur, milk, leather, and wool for personal consumption or use. Roosters are considered agricultural production animals, commercial.

Section 5. Amendment. Title 9: *Zoning*, Chapter 5: *Agricultural/Open Space and Residential Zoning District*, Section 8: *Open Space/Agricultural and Residential Use Regulations*, Subsection C: *Use Matrices*, Table 5.2: *Equestrian Uses* is hereby amended by deleting in its entirety and renumbering subsequent tables accordingly.

~~TABLE 5.2 EQUESTRIAN USES~~										
~~Land Uses~~		~~OS~~	~~RE~~	~~RS~~	~~R-1~~	~~SF-CR~~	~~SF-VJ~~	~~MH~~	~~RM~~	~~RH~~
	~~Horse keeping, private, minimum 2 acres per horse required~~	~~P~~	~~P~~							
~~0752~~	~~Animal special services except veterinary, horse only~~	~~Pc~~	~~Pc~~							
~~7999~~	~~Amusement and recreation services, not elsewhere classified, horse shows, horse stables and commercial areas only~~	~~Pc~~	~~Pc~~							

Section 6. Amendment. Title 9: *Zoning*, Chapter 5: *Agricultural/Open Space and Residential Zoning District*, Section 8: *Open Space/Agricultural and Residential Use Regulations*, Subsection C: *Use Matrices*, Table 5.3: *Agricultural Uses/Animal Keeping* is hereby amended by deleting the highlighted text with strikethrough lettering, inserting the italicized and bolded text, and renumbering subsequent tables accordingly. All other items in the current code adopted table but not reflected below shall remain in the table.

TABLE ~~5.3~~ ***5.2*** AGRICULTURAL USES/ANIMAL KEEPING									
Land Uses	OS	RE	RS	R-1	SF-CR	SF-VJ	MH	RM	RH
~~Animal, wild by nature~~	~~Pc~~	~~Pc~~							
~~Dogs and cats~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~
~~Other Household Pets~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~
02 Agricultural production - livestock and animal specialties	~~P~~	~~Pc~~							
- ***Agricultural Production Animals, Personal – less than 40,000 square foot lot size***									
- ***Agricultural Production Animals, Personal – lot size of 40,000 square foot or greater***	***Pc***	***Pc***	***Pc***	***Pc***	***Pc***	***Pc***	***Pc***		

- ***Agricultural Production Animals, Commercial***	***Pc***								
0272 Horses and Other Equines – A minimum lot size of two (2) acres is required and a minimum of two (2) acres per horse is required	***P[1]***	***Pc***							
0279-9901 – Apiary (bee and honey farm/beekeeping) ***(no minimum lot size) See 9-10-4.19 for specific regulations related to beekeeping.***	P	P	P	P	P	P	P		
0752 - Animal special services except veterinary, horse only	***Pc***	***Pc***							
7999 - Amusement and recreation services, not elsewhere classified, horse shows, horse stables and commercial areas only	***Pc***	***Pc***							

Notes:

1. ***Livestock & Animal Specialties: Approval of a Permitted Conditional Use Permit shall be required for any property upon which any building housing the animal(s) is located less than 100 feet (100') from a residential dwelling not on the same property as the animal(s).***

Section 7. <u>Amendment.</u> 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 is hereby amended by inserting the italicized and bolded text. All other items in the current code adopted table but not reflected below shall remain in the table.
(Note to codifier: superscript "1" is italic and bolded.)

SIC CODES	RC	CMC	NC	CVC	SC	VJ-C	VJ-HB	WR	BP	VJ-LI	LI	GI	OF	PCP	OS
02 Agricultural production - livestock and animal specialties, ***including Animal Production, Commercial***															

0211 Beef cattle feedlots															
0212 Beef cattle, except feedlots															P[1]
0213 Hogs - hog farms, except feedlots															P[1]
- Hog feedlots															
0214 Sheep and goats															P[1]
0219 General livestock, except dairy and poultry															P[1]
024 Dairy farms															P[1]
025 Poultry and eggs															P[1]
027Animal specialty															P[1]
029 General farms primarily livestock and animal specialties															P[1]

Notes:

1. ***Livestock & Animal Specialties: Approval of a Permitted Conditional Use Permit shall be required for any property upon which any building housing the animal(s) is located less than 100 feet (100') from a residential dwelling not on the same property as the animal(s).***

Section 8. Amendment. Title 9: *Zoning*, Chapter 7: *Setback and Bulk Density Regulations*, Section 4: *Setback and Density Regulations,* Subsection C.9: *Bulk Regulations, Minimum Setbacks And Building Separations For Accessory Buildings And Structures In Residential Districts*, Subsection "d" is hereby amended by deleting the highlighted text with strikethrough lettering and re-lettering subsequent subsections accordingly.

~~d. See section 9-10-4, "Specific Use Regulations", of this title for additional separation requirements for accessory structures that will house animals.~~

Section 9. Amendment. Title 9: *Zoning*, Chapter 10: *Performance Standards*, Section 4: *Specific Use Regulations,* Subsections C and D are hereby deleted in their entirety and re-lettering subsequent subsections as required:

~~C. The Following Standards Shall Apply To Uses Within The Agricultural/Open Space District:~~

~~1. Separation From Residential Structures: Any accessory structure that will house farm animals, animals wild by nature or a kennel shall be located no closer than one hundred feet (100') from an existing residential dwelling on a lot not under the same ownership.~~

~~2. Disposal Of Offal And Manure: There shall be no disposal of offal or manure, other than the regular removal thereof, within five hundred feet (500') of any adjacent residentially zoned property.~~

~~3. Storage And Disposal Of Chemicals And Hazardous Waste: All chemicals and hazardous waste shall be stored and disposed of as shown on the product label or regulated by the applicable County, State and Federal regulations.~~

~~D. The Following Standards Shall Apply To Uses Within The Low Density Residential District:~~

~~1. Keeping Of Horses: The keeping of horses shall be allowed, provided the use shall comply with the following:~~

~~a. Minimum of two (2) acres per horse shall be required.~~

~~b. Any accessory structure that will house farm animals, animals wild by nature or a kennel shall be located no less than one hundred feet (100') from an existing residential dwelling on a lot not under the same ownership.~~

~~2. Separation From Residential Structures: Any accessory structure that will house farm animals, animals wild by nature or a kennel, as permitted in this district, shall not be located closer than one hundred feet (100') from an existing residential dwelling on a lot not under the same ownership.~~

~~3. Disposal Of Offal And Manure: There shall be no disposal of offal or manure, other than the regular removal thereof, within seven hundred fifty feet (750') of any adjacent residentially zoned property.~~

~~4. Storage And Disposal Of Chemicals And Hazardous Waste: All chemicals and hazardous waste shall be stored and disposed of as shown on the product label or regulated by the applicable County, State and Federal regulations.~~

~~5. Keeping Of Domestic Animals: The keeping of domestic animals and birds normally raised as a hobby and maintained in outdoor enclosures, such as pigeons, rabbits, etc., shall be permitted provided that the enclosure is located no less than fifty feet (50') from the property line and shall be screened from the view from the public right-of-way and the surrounding properties.~~

Section 10. Amendment. Title 9: *Zoning*, Chapter 14: *Accessory Structures*, Section 5: *General Provisions,* Subsection B: *Types*, Table 14.1: *Accessory Structure Types*, is hereby amended by deleting the highlighted text with strikethrough lettering and inserting the italicized and bolded text.

Structures or buildings for animal keeping	~~See section 9-10-4 of this title for specific use regulations related to structures housing animals~~ ***See 'Notes' with 9-5-8.C Table 5.2 and 9-6-6.C Table 6.1***
	See section 9-14-6 of this chapter for accessory building regulations ***pertaining to dog runs, dog pens and housing***

Section 11. Repealer. All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

Section 12. 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 13. 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, Section 1 of the City Code of the City of West Des Moines, Iowa.

Section 14. 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 15. 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.

_____
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.

_____
Ryan T. Jacobson, City Clerk