CITY OF WEST DES MOINES
STAFF REPORT COMMUNICATION

Meeting Date: November 1, 2021

ITEM: Amendment to City Code – Amend Title 7 (Public Ways and Property), Chapter 1 (Streets, Sidewalks and Alleys), Section 1 (Use of Public Ways Restricted), to allow approval of the use of city property for construction staging. AO-005359-2021

RESOLUTION: Approval of Second Reading of Ordinance Amendment

Background: Development Services Staff requests an amendment to the noted chapter and section of Title 7 (Public Ways and Property) to give the City, in its sole discretion, the ability to allow the use of public property for construction staging:

Specifically, the following changes are proposed with this request:

- Title 7 (Public Ways and Property); Chapter 1 (Streets, Sidewalks and Alleys)
    - Section 1 (Use of Public Ways Restricted)

Staff Review & Comment:

- *Ordinance Amendment Intent*: The City has been approached by developers to use public property areas, outside of right-of-way, for staging of construction materials and equipment when such activities cannot be supported on the project site. Staff has reviewed the requests and determined there is a need to create a permitting process to allow such requests, especially as certain areas redevelop, such as Valley Junction.

- *Key Aspects of Proposed Amendment:* This ordinance amendment gives the City, in its sole discretion, the ability to allow the use of public property for construction staging. The authority to approve will be either by City Council or administratively by Staff depending on the size of the area to be used. This will follow the project area allowance used for a Minor vs. Major Modification planning application, with the maximum allowed size Staff can approve to be 2,000 square feet. In addition, the developer will be required to enter into a lease agreement with the City which will set forth the requirements for safety, maintenance, and restoration of public facilities. The lease will also include provisions regarding insurance, performance bond/security deposit, length of time, penalties, etc.

Outstanding Issues: There are no outstanding issues.

City Council First Reading:
Date: October 18, 2021
Vote: 4-1 for approval with Councilman Trevillyan voting no
Councilman Trevillyan stated that he does not believe it is appropriate to lease City owned property for construction staging for private development.

City Council policy is to waive the third reading for an ordinance amendment if the vote for the first reading is unanimous. Therefore, only consideration of the second reading of this item will be done at the November 1st meeting, with consideration of the 3rd reading and adoption to occur at the November 15th meeting.

Recommendation: Approve the Second Reading of the Ordinance Amendment.

Lead Staff Member: Linda Schemmel

Approval Meeting Dates:

City Council: First Reading	October 18, 2021
City Council: Second Reading	November 1, 2021
City Council: Third Reading& Adoption	

Staff Report Reviews

City Council	☒ Director	☒ Legal Department
	☐ Appropriations/Finance	☑ Agenda Acceptance

Publications

Published In	N/A
Date Published	N/A

Subcommittee Review (if applicable)

Committee	Public Service		
Date Reviewed	July 26, August 9, and October 11, 2021		
Recommendation	☐ Yes	☐ No	☒ Split

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2019, BY AMENDING TITLE 7, (PUBLIC WAYS AND PROPERTY), CHAPTER 1, (STREETS, SIDEWALKS AND ALLEYS); SECTION 1 (USE OF PUBLIC WAYS RESTRICTED) TO ALLOW APPROVAL OF USE OF CITY PROPERTY FOR CONSTRUCTION STAGING. **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:**

SECTION 1. AMENDMENT. Title 7 (Public Ways and Property), Chapter 1 (Streets, Sidewalks and Alleys), Section 1 (Use of Public Ways Restricted), is hereby amended by adding the bold italic text:

A. Use Of Streets For Business Purposes: It shall be unlawful to park, store or place any vehicle, equipment, machinery, or any goods, wares, and merchandise of any kind upon any public street or right-of-way, or Municipally owned property for the purpose of storage, exhibition, sale or offering same for sale, except in accordance with applicable provisions of this Code and other applicable City regulations or policies as approved by the City Council.

B. Obstruction Of Public Ways: It shall be unlawful for any person to place or cause to be placed over, into or upon any of the public streets and sidewalks of the City any obstruction whatsoever, including any building, fence, structure, projection, awnings, canopies, marquees, signs, flags, lumber, timber, brick, stone or other material, coal, wood, goods, wares or merchandise, decorations, planters, rubbish, debris, produce or other commodities, except for the purpose of immediate transfer, or for immediate construction or lawful repair of such street or sidewalk, or except as may be excepted in this chapter or in other ordinances of the City.

C. Certain Commercial Use Of Public Sidewalks: Due to minimal setbacks of buildings from the public right-of-way and in an effort to encourage a lively, viable, pedestrian oriented street culture in the Valley Junction Historic Business (VJHB) District, the use of the public sidewalks may be allowed in accordance with the following provisions:

…

5. Sidewalk Cafes On The Public Right-Of-Way: In the Valley Junction Historic Business (VJHB) District, the use of the public sidewalks for sidewalk cafes and outdoor service areas may be allowed in accordance with the following provisions***, or as otherwise allowed by City Council:***

…

D. Construction Staging on Public Property: The use of public property, except public streets and sidewalks, may be allowed at the City's sole discretion for the staging of construction vehicles, equipment, materials, and related items for a development project within close proximity on a temporary basis. If allowed by the City, the parties shall enter into a short-term lease agreement permitting the parking, storing, placing

of construction related items on city property. Said lease agreement may be approved administratively by city staff unless the areas to be utilized exceeds 2,000 square feet.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

SECTION 3. SAVINGS CLAUSE. If any section, provision, sentence, clause, phrase or part of the 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 4. 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 of the City Code of the City of West Des Moines, Iowa.

SECTION 5. 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 6. 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 _____, 2021, and approved this _____ day of _____, 2021.

_____
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 _____, 2021, and was published in the Des Moines Register on _____, 2021.

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Ryan T. Jacobson, City Clerk