CITY OF WEST DES MOINES
STAFF REPORT COMMUNICATION

Meeting Date: May 16, 2022

ITEM: Ordinance Amendment, Amend Title 9 (Zoning) to modify zoning district regulations related to SIC 5961, Catalog and Mail Order Houses - City Initiated – AO-005565-2022

ORDINANCE: Approval of First Reading of Ordinance Amendment

Background: Development Services Staff is initiating an amendment to the chapter and section identified below in Title 9 (Zoning) to modify commercial and industrial zoning district regulation related to SIC 5961, Catalog and Mail Order Houses, in the Retail Uses matrix within City Code.

Specifically, the following changes are proposed with this request:

- Title 9: Zoning
  - Chapter 6: *Commercial, Office and Industrial Zoning District,* Section 6: *Commercial, Office and Industrial Use Regulations* to add SIC 5961, Catalog and Mail Order Houses, in the Neighborhood Commercial, Support Commercial and Valley Junction Commercial Zoning Districts and modify the current allowance of the use in Community Commercial, Valley Junction Light Industrial and Light Industrial districts based on the size of the facility.

Staff Review & Comment:

- *Ordinance Amendment Intent*: SIC 5961, Catalog and Mail-Order Houses are establishments primarily engaged in the retail sale of products by television, catalog, and mail-order. These establishments do not ordinarily maintain stock for sale on the premises. The original amendment request to add SIC 5961 to the Valley Junction Commercial (VJC) district came from the Heart of Iowa, located on 5th Street in Valley Junction. Their retail operation has always had a mail order and corporate business component which has grown exponentially with the increase in e-commerce, requiring additional space that the current retail space can't provide. The owners found a building in the VJC district that could support their mail order and corporate fulfillment operations, while allowing their retail operation to continue in their current building. SIC 5961 is not currently allowed in VJC.

  Staff sees a need to enable additional areas for e-commerce operations and is supportive of SIC 5961 within the VJC district. In evaluating the request, other retail districts were considered for the addition of the use. With that evaluation, staff is recommending that the use also be added to the Neighborhood Commercial (NC) and Support Commercial (SC) zoning districts. Due to the proximity to residential uses in the Neighborhood Commercial and Valley Junction Commercial districts, staff is recommending that the use be considered as a Permitted Conditional Use which requires Board of Adjustment (BOA) approval and allows the BOA to add conditions to mitigate any potential impacts or determine the site is not an appropriate location. For the medium intensity zoning districts

of Community Commercial, Support Commercial, Valley Junction Light Industrial and Light Industrial, staff is recommending that the use be considered as a Permitted Conditional Use if the facility is over 5,000 square feet.

- *Key Aspects of Proposed Amendment:* The amendment modifies the current SIC 5961 use in the Retail Trade division of Table 6.1 (Use Matrix) to include two size categories: up to 5,000 square feet and over 5,000 square feet. Zoning districts that currently allow or are proposed to allow the use are then indicated as Permitted or Permitted Conditional as appropriate and as noted in the intent section above.
- *Development & Planning Subcommittee*: The request to add SIC 5961 in the Valley Junction Commercial district was discussed at the April 4, 2022, meeting. Adding SIC 5961 to other commercial districts and defining them further by size was discussed at the April 18, 2022, meeting. The subcommittee was supportive of the necessary code amendments as discussed.

Outstanding Issues: There are no outstanding issues.

Plan and Zoning Commission Action:
Date: May 9, 2022
Vote: 6-0 for approval, with Commissioner Conlin absent
Recommendation: Approve the Ordinance Amendment to City Code

City Council First Reading:
Date:
Vote:

City Council Second Reading:
Date:
Vote:

Recommendation: Approve the Ordinance Amendment to City Code.

Lead Staff Member: Linda Schemmel

Approval Meeting Dates:

Plan & Zoning Commission	May 9, 2022
City Council: First Reading	May 16, 2022
City Council: Second Reading	
City Council: Third Reading & Adopt	

Staff Report Reviews

Plan & Zoning Commission	☒ Development Coordinator/Director	☒ Legal Department
City Council	☒ Director ☐ Appropriations/Finance	☒ Legal Department ☑ Agenda Acceptance

Publications

Published In	Des Moines Register Community Section
Date Published	April 29, 2022

Subcommittee Review (if applicable)

Committee	Development & Planning		
Date Reviewed	April 4 & 18, 2022		
Recommendation	☒ Yes	☐ No	☐ Split

A RESOLUTION OF THE PLAN AND ZONING COMMISSION
NO. PZC-22-038

WHEREAS, pursuant to the provisions of Title 9, Zoning, of the West Des Moines Municipal Code, staff requests approval of an Ordinance Amendment to the following chapters and sections identified below in Title 9 (Zoning) to modify commercial and industrial zoning district regulation related to SIC 5961, Catalog and Mail Order Houses, in the Retail Uses matrix as currently regulated within City Code.

- Chapter 6: *Commercial, Office and Industrial Zoning District*, Section 6: *Commercial, Office and Industrial Use Regulations*

WHEREAS, the Ordinance Amendment request complies with the applicable provisions of Iowa Code Chapter 414, the Comprehensive Plan and City Code.

NOW THEREFORE, the Plan and Zoning Commission of the City of West Des Moines recommends the City Council approve the Ordinance Amendment (AO-005565-2022).

PASSED AND ADOPTED on May 9, 2022.

Jennifer Drake, Chair
Plan and Zoning Commission

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 May 9, 2022, by the following vote:

AYES: Costa, Crowley, Davis, Drake, Hatfield, Shaw

NAYS:

ABSTENTIONS:

ABSENT: Conlin

ATTEST: Michelle Riesenberg
Recording Secretary

Prepared by: L. Schemmel, City of West Des Moines, Development Services Dept., P.O. Box 65320, West Des Moines, IA 50265-3620, 515-222-3620
When Recorded Return to: City Clerk, City of West Des Moines, P.O. 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 9, (ZONING), CHAPTER 6 (COMMERCIAL, OFFICE AND INDUSTRIAL ZONING DISTRICT), TO MODIFY ZONING DISTRICT REGULATIONS RELATED TO SIC 5961, CATALOG AND MAIL ORDER HOUSES IN THE RETAIL USES MATRIX WITHIN CITY CODE.

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

Section 1. 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 – Retail Trade, is hereby amended by deleting the highlighted strike-through text and inserting the text in bold italics. All other items in current adopted table but not reflected below shall remain as is:

C. Table 6.1 - Use Matrix:

Division G - Retail Trade

SIC CODES	RC	CMC	NC	CVC	SC	VJC	VJHB	WR	BP	VJLI	LI	GI	OF	PCP	OS
5961 Catalog and mail order houses	~~P~~	~~P~~						~~P~~	~~P~~	~~P~~	~~P~~	~~P~~			
- 5,000 sq. ft. or less	***P***	***P***	***Pc***		***P***	***Pc***		***P***	***P***	***P***	***P***	***P***			

- greater than 5,000 sq. ft.	***P***	***Pc***	***Pc***		***Pc***	***Pc***		***P***	***P***	***Pc***	***Pc***	***P***			

Section 2. Repealer. All ordinances of parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. 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 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, Section 1 of the City Code of the City of West Des Moines, Iowa.

Section 5. Other Remedies. In addition to the provisions set out in 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 AND APPROVED by the City Council on June 6, 2022.

_____

Russ Trimble, Mayor

Attest:

_____

Ryan Jacobson, City Clerk

The foregoing Ordinance No. _____ was adopted by the Council for the City of West Des Moines, Iowa, on _____, 2022, and published in the Des Moines Register on _____, 2022.