

CITY OF WEST DES MOINES STAFF REPORT COMMUNICATION

Meeting Date: May 23, 2022

ITEM: Ordinance Amendment, Amend Title 9 (Zoning) to modify zoning district regulations related to SIC 7832, Motion Picture Theaters, except Drive In – Tallgrass Theatre Company– AO-005613-2022

RESOLUTION: Recommend approval of Ordinance Amendment

Background: Tallgrass Theatre Company requests an amendment to the chapter and section identified below in Title 9 (Zoning) to modify the use matrix within City Code (9-6-6, Table 6.1, Division I - Services) to allow SIC 7832: Motion Picture Theaters, except Drive-In, in the General Industrial (GI) and Light Industrial (LI) zoning districts. The amendment modifies the current SIC 7832 into two parts to breakout the number of picture screens and define that only single screen theaters are proposed to be allowed in the industrial districts. Staff recommends that the multi-screen theaters be allowed in the districts where more parking is generally available. Typically, industrial uses require fewer parking spaces and don't support a use that requires more parking spaces. Therefore, staff recommends an amendment to Title 9 (Zoning), Chapter 15 (Off-Street Parking and Loading), Section 7 (Number of Parking Spaces) to require the necessary parking.

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*, Subsection C: Table 6.1 – *Use Matrix, Division I - Services* to add SIC 7832 Motion Picture Theaters as allowed by Permitted Conditional Use permit in the Light Industrial and General Industrial zoning districts.
 - Chapter 15, *Off-Street Parking and Loading*, Section 7: *Number of Parking Spaces Required*, Subsection C: *Parking Spaces Requirements for Land Uses: Service and Commercial* to add Movie Theaters: multi-screen and Movie Theaters: single screen to the table and require parking accordingly.

Staff Review & Comment:

- **History:** In response to a request by Tallgrass Theatre Company to establish a live performance theater in an existing building within a Light Industrial district, the City Council approved an ordinance amendment on October 5, 2020, to allow SIC 7922, Theatric Producers within the Light and General Industrial zoning districts with approval of a Permitted Conditional Use permit (Pc) (AO-004795-2020). Parking requirements for the live performance theater use also were amended to one (1) space per two (2) seats; staff reasoned that for live performances there would be smaller groups of people per car, but more cars than a typical movie theater.

- **Ordinance Amendment Intent:** The intent of the Ordinance Amendment is to allow and regulate single-screen movie theaters in the Light Industrial and General Industrial zoning districts. The amendment is focused on single-screen movie theaters as the impacts of the smaller theater in an industrial district, less traffic generation and less parking needs are more compatible with the context of these zoning districts. The amendment also regulates the use through a Permitted Conditional Use permit process where the parking and traffic can be evaluated, and the necessary conditions added if appropriate.
- **Parking:** Staff has proposed in this ordinance amendment to distinguish between single-screen and multi-screen movie theaters to allow a difference in parking requirements. For similar reasons when regulating live performances where there is one theater, staff proposes that the parking requirements for single screen movie theaters be consistent with the live performance theater at one (1) space per two (2) seats. The current rate of parking of one (1) space per four (4) seats would still apply to standard multi-screen theatres as a change to this requirement could render a current theatre non-compliant with code for parking.
- **Condition of Approval:** Tallgrass Theatre Company desires to show movies during the afternoon and evening of June 15, 2022, to participate in activities related to Juneteenth. This ordinance amendment will be presented to the City Council on June 6, 2022, for the first reading and will be schedule for its second reading on June 20, 2022, which is after Juneteenth. The Board of Adjustment public hearing for the Permitted Conditional Use permit that is required to operate the movie theater is scheduled for June 1, 2022. Due to the final reading of the ordinance not occurring until after June 15th, Staff proposes a condition of approval allowing the movies to be shown as part of Juneteenth celebrations if the City Council approves the first reading of the ordinance amendment on June 6th.
- **Development & Planning Subcommittee:** The request by Tallgrass Theatre Company to add SIC 7832 in the light industrial and general districts was discussed at the May 2, 2022, meeting. The subcommittee supported the necessary code amendments as proposed.

Outstanding Issues: There are no outstanding issues.

Plan and Zoning Commission Action:

Date: May 23, 2022

Vote:

Recommendation:

City Council First Reading:

Date:

Vote:

City Council Second Reading:

Date:

Vote:

Recommendation: Approve the Ordinance Amendment to City Code, with the following condition of approval:

1. The City Council allowing the showing of movies upon approval of the first reading and prior to the second and third readings and adoption of the ordinance amendment contingent upon the Board of Adjustment granting approval of the associated Permitted Conditional Use permit.

Lead Staff Member: Kara Tragesser

Approval Meeting Dates:

Plan & Zoning Commission	May 23, 2022
City Council: First Reading	
City Council: Second Reading	
City Council: Third Reading & Adopt	

Staff Report Reviews

Plan & Zoning Commission	<input checked="" type="checkbox"/> Development Coordinator/Director	<input checked="" type="checkbox"/> Legal Department
City Council	<input type="checkbox"/> Director <input type="checkbox"/> Appropriations/Finance	<input type="checkbox"/> Legal Department <input type="checkbox"/> Agenda Acceptance

Publications

Published In	Des Moines Register Community Section
Date Published	May 20, 2022

Subcommittee Review (if applicable)

Committee	Development & Planning		
Date Reviewed	May 2, 2022		
Recommendation	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Split

**A RESOLUTION OF THE PLAN AND ZONING COMMISSION
NO. PZC-22-051**

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 SIC 7832, Motion Picture Theaters, except Drive-In as currently regulated within City Code.

- Chapter 6: *Commercial, Office and Industrial Zoning District*, Section 6: *Commercial, Office and Industrial Use Regulations*, Subsection C: *Table 6.1 – Use Matrix, Division I Services* to add SIC 7832 Motion Picture Theaters, except Drive-In to be allowed by Permitted Conditional Use permit in the Light Industrial and General Industrial zoning districts.
- Chapter 15, *Off-Street Parking and Loading*, Section 7: *Number of Parking Spaces Required*, Subsection C: *Parking Spaces Requirements for Land Uses: Service and Commercial* to add Movie Theaters: multi-screen and Movie Theaters: single screen to the table and require parking accordingly.

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-005613-2022).

PASSED AND ADOPTED on May 23, 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 23, 2022, by the following vote:

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

ATTEST:

Recording Secretary

Prepared by: KTragesser, 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 7832, MOTION PICTURE, EXCEPT DRIVE-IN, AND AMENDING TITLE 9, (ZONING), CHAPTER 15 (OFF-STREET PARKING AND LOADING), TO MODIFY PARKING REGULATIONS FOR MOTION PICTURES

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 I – Services, 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 I - Services

SIC CODES	RC	CMC	NC	CVC	SC	VJC	VJHB	WR	BP	VJLI	LI	GI	OF	PCP	OS
78 Motion Pictures															
781 Motion Picture Production and allied services								P	P	P	P	P	P	P	
782 Motion Picture	P	P						P	P	P	P	P	P	P	

distribution and allied services															
7832 Motion Picture Theaters, Except Drive In	P	P						P							
<i>Single screen Theater</i>	<i>P</i>	<i>P</i>						<i>P</i>				<i>Pc</i>	<i>Pc</i>		
<i>Multi-Screen Theater</i>	<i>P</i>	<i>P</i>						<i>P</i>							

Section 2. Amendment. Title 9: Zoning, Chapter 15: Off-Street Parking and Loading, Section 7: Number of Parking Spaces Required, Subsection C: Parking Spaces Requirements for Land Uses is hereby amended by deleting the highlighted strike-through text and inserting the text in bold italics accordingly in alphabetical order. All other items in current adopted table but not reflected below shall remain as is:

Land Use	Requirements
Service and commercial:	
Motion picture theatres	1 space per 4 fixed seats
<i>Motion picture theaters, except drive-in, single screen</i>	<i>1 space per 2 seats</i>
<i>Motion picture theaters, except drive-in, multi-screen</i>	<i>1 space per 4 fixed seats</i>

Section 3. Repealer. All ordinances of parts of ordinances in conflict with the provisions 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, Section 1 of the City Code of the City of West Des Moines, Iowa.

Section 6. 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 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 AND APPROVED by the City Council on _____, 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.