

CITY OF WEST DES MOINES STAFF REPORT COMMUNICATION

Meeting Date: June 13, 2022

ITEM: Ordinance Amendment, Amend Title 9 (Zoning) to modify regulations pertaining to allowed zoning districts for fireworks sales - City Initiated – AO-005600-2022

RESOLUTION: Approval of Ordinance Amendment

Background: Development Services Staff is initiating an amendment to the chapters and sections identified below in Title 9 (Zoning) to modify regulations pertaining to allowed zoning districts for fireworks sales as currently regulated 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 5999, Miscellaneous Retail Stores – Fireworks in additional industrial and retail zoning districts to comply with the recent update to State law relating to the ability of City jurisdictions to control the location of fireworks sales.

Staff Review & Comment:

- Ordinance Amendment Intent: This amendment modifies City Code, specifically Chapter 6 (Commercial, Office and Industrial Zoning District, Section 6: Commercial Office and Industrial Use Regulations) of Title 9 (Zoning), to expand the allowance of fireworks sales into additional industrial and retail zoning districts to comply with recently adopted State code requirements.

In April of this year, Governor Reynolds signed Senate File 2285, an act relating to zoning by counties and cities that prevents a city from adopting or enforcing any regulation or restriction that prohibits the location of permanent buildings or temporary structures used for the sale of consumer fireworks in any location zoned for commercial or industrial purposes.

The State did not modify the dates that fireworks sales are allowed or the ability for local jurisdictions to restrict the use of consumer grade fireworks in this legislative session.

- Key Aspects of Proposed Amendment: Until enabled by the State in 2017, the sale and use of consumer grade fireworks was not allowed in Iowa. In response to the 2017 state law change allowing these uses, the City responded by amending several sections of the City code, including allowing the use of SIC 5999, Miscellaneous Retail Stores – Fireworks only in General Industrial Zoning Districts.

After Senate File 2285 was signed by the Governor, City staff evaluated the existing industrial and commercial zoning district descriptions and intent statements for alignment with the requirements in the act. The following zoning districts do meet the commercial or

industrial criteria that would support the addition of the use of SIC 5999, Miscellaneous Retail Stores – Fireworks per the act:

- Regional Commercial
- Community Commercial
- Neighborhood Commercial
- Convenience Commercial
- Valley Junction Commercial
- Warehouse Retail
- Light Industrial
- Valley Junction Light Industrial
- Business Park

The City does have a couple of commercial zoning districts and several planned unit developments (PUD's) that are intended to have a mix of commercial and residential uses. Fireworks sales will not be accommodated in those zoning districts or PUDs because of the residential component. Should an existing non-conforming use exist on a site within a zoning district that would otherwise allow the sale of consumer fireworks, that non-conforming use would need to be discontinued to allow firework sales on that site.

A permitting process for fireworks sales was established by the City in 2017. Permit applicants for the sale of consumer fireworks are also required to obtain a permit from the State Fire Marshal's office. With this amendment, applicants will be required to provide the City a copy of the State license along with any submittal information for that license prior to implementing the use. Any City code requirements not related to the location of permanent buildings or temporary structures used for the sale of consumer fireworks (including but not limited to the sign code, parking requirements, building and fire code requirements) will still apply to the use.

Outstanding Issues: There are no outstanding issues. Because the legislation is already in effect, Staff will be requesting the City Council conduct all necessary readings and adopt this amendment at their June 20th meeting.

Plan and Zoning Commission Action:

Date:

Vote:

Recommendation:

Recommendation: Approve the Ordinance Amendment to City Code.

Lead Staff Member: Linda Schemmel

Approval Meeting Dates:

Plan & Zoning Commission	June 13, 2022
City Council: First Reading	
City Council: Second Reading	
City Council: Third Reading	

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	June 3, 2022

Subcommittee Review (if applicable)

Committee	Development & Planning		
Date Reviewed	June 6, 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-22-055**

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 regulations pertaining to allowed zoning districts for fireworks sales 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-005600-2022).

PASSED AND ADOPTED on June 13, 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 June 13, 2022, by the following vote:

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

ATTEST:

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), PERTAINING TO ALLOWED ZONING DISTRICTS FOR FIREWORKS SALES

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
5999 Miscellaneous retail stores, NEC (e.g., no outdoor sales or storage, <i>unless otherwise specifically noted</i>)															
- Fireworks - must obtain State license* and City permit: outdoor sales allowed with proper permit <i>Inoor Sales: Fire Department and Building Division approval required</i> <i>Outdoor Sales: Fire Department, Building and Planning Division approval required</i> <i>*Copy of State license and submittal information must be provided to City</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>		<i>P</i>		<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>			

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 20, 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.