

## CITY OF WEST DES MOINES STAFF REPORT COMMUNICATION

**Meeting Date:** June 24, 2024

**ITEM:** Ordinance Amendment, Amend Title 5 (Police Regulations) and Title 9 (Zoning) to align various Titles, Chapters and Sections in City Code to accommodate “Homesteader Farm”, allow the sale of horticultural specialty crops at produce stands, allow public parking lots with no primary structure, allow museums in the Agricultural/Open Space zoning district, and to modify code references in the land use tables - City Initiated – AO-006468-2024

### **RESOLUTION: Approval of Ordinance Amendment**

**Background:** On April 15, 2024, the City Council approved an ordinance amendment related to allowed uses in the Agricultural/Open Space Zoning District and Amusement and Recreational Service uses in non-residential zoning districts. Development Services Staff is initiating amendments to the titles, chapters and sections in city code as listed below to align the approved open space changes with other titles and chapters in code. More specifically,

- Add definitions for Homesteader Farm and Agritourism; and
- Align animal control and zoning definitions and number and type of animals with Homesteader Farm use provisions included in the land use table as part of SIC 029: General Farms, Primarily Livestock and Animal Specialties; and
- Expand allowances to be able to sell horticultural specialties (e.g., flowers) along with vegetables/produce grown on site under a Temporary Use Permit for Produce Stands; and
- Modify land use table to designate Museums as a Permitted Use in Agricultural/Open Space zoning district.

Additionally, staff is proposing the clean-up of incorrect references to other code sections for certain specific uses and to allow public parking lots without a primary structure.

Specifically, the following changes are proposed with this request:

- Title 5: Police Regulations,
  - Chapter 3: Animal Control, Section 2: Definitions to provide references in Agricultural Production Animals, Personal and Agricultural Production Animals, Commercial to define types of animals that are agricultural or animal specialty; and
  - Chapter 3: Animal Control, Section 18: Keeping of Certain Animals Prohibited to allow the keeping of agricultural animals and animal specialties when part of a Homesteader Farm; and
  - Chapter 3, Article A: Dogs and Cats Section 15: Limited Number of Animals Allowed to accommodate the allowed number of animals for Homesteader Farm; and
- Title 9: Zoning,
  - Chapter 2: Zoning Rules and Definitions, Section 2: Definitions to add a definition for Homesteader Farm and Agritourism and remove a definition for Agriculture Production, Livestock And Animal Specialties to avoid confusion with Agricultural Production Animals, Personal or Commercial and Homesteader Farm. Additionally, to provide

references in Agricultural Production Animals, Personal and Agricultural Production Animals, Commercial to define types of animals that are agricultural or animal specialty; and,

- Chapter 5: Agricultural/Open Space and Residential Zoning District, Section 8: Open Space/Agricultural and Residential Use Regulations, Table 5.2 Agricultural and Animal Keeping adding language separating out and confirming marijuana cultivation is not allowed under SIC 01: Agricultural, Crops; confirm the maximum number of animals allowed under Agricultural Production Animals, Personal; and to establish that Homesteader Farm are not allowed in the Residential Estate Zoning District; and,
- Chapter 6: Commercial, Office and Industrial Zoning District, Section 6: Commercial, Office and Industrial Use Regulations to correct inaccurate references to other code sections indicated for specific land uses and clarify titles of certain specific land uses; and,
- Chapter 6: Commercial, Office and Industrial Zoning District, Section 6: Commercial, Office and Industrial Use Regulations to allow Public Parking Lots in Valley Junction Historic Business District without a primary structure or use; and,
- Chapter 6: Commercial, Office and Industrial Zoning District, Section 6: Commercial, Office and Industrial Use Regulations to designate Museums as a permitted use by right in the Agricultural /Open Space district; and,
- Chapter 16: Temporary Use Permits, Section 7: Specific Requirements to modify Temporary Use provisions to accommodate the sale of agricultural crops and horticultural specialties grown on-site as part of a produce or roadside stand and add a reference to Title 3, Chapter 14 for temporary retail fireworks stands.

### **Staff Review & Comment:**

- **Key Aspects of Proposed Amendment:** It was noted in the April 15, 2024, staff report for the City Council's adoption of the proposed allowed use changes for the Agricultural/Open Space zoning district that Staff would be bringing forward subsequent code amendments to align allowances for Homesteader Farm with other titles, chapters and sections of city code, as well as to modify code for Temporary Use Permit to expand agriculture produce stands to also allow the sale of flowers and other product grown within the site upon which the stand is located. Since that time, staff has identified incorrect or missing references to other code sections applicable to certain specific uses, and with the submittal of a Master Plan for the city's Legacy Woods Arboretum project are recommending permitting museums by right in the Agricultural/Open Space district. Additionally, staff noted during the review of the land use table for the Agricultural/Open Space amendment that parking lots which do not contain a primary structure or use are not allowed in any zoning district. This means that the city parking lots in Valley Junction are technically illegal. Staff proposes as part of this amendment to allow city owned public parking lots in the Valley Junction Historic Business (VJHB) zoning district. All of the changes are detailed previously within this report and are included in the included ordinance.
- **Authority over City Code:** The Planning and Zoning Commission has been granted the power to provide recommendations to the City Council for amendments to Title 9, Zoning. The Commission does not have authority over what is or is not included in any other title within City Code other than Title 9. The proposed ordinance amendment in its entirety has been provided to the Commission for context; however, the recommendation contained in the resolution will only apply to the changes to Title 9. The Commission can make suggestions for the Council to consider; however, the Council has ultimate authority over what is adopted as City Code.

**Outstanding Issues:** There are no outstanding issues.

**Planning and Zoning Commission Action:**

Date: June 24, 2024  
Vote: 6-0 for approval with Commissioner Crowley absent  
Recommendation: Approval of Amendment

**City Council First Reading:**

Date: June 3, 2024  
Vote: 4-0 for approval; Council Member Trevillyan absent

**City Council Second Reading:**

Date: June 17, 2024  
Vote: 5-0 for approval

**Recommendation:** Approve the Ordinance Amendment to city code

**Lead Staff Member:** Lynne Twedt

**Approval Meeting Dates:**

Planning & Zoning Commission	June 24, 2024
City Council: First Reading	June 3, 2024
City Council: Second Reading	June 17, 2024
City Council: Third Reading & Adopt	

**Staff Report Reviews**

Planning & Zoning Commission	<input 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 (if applicable)**

Published In:	Des Moines Register Community Section
Date(s) Published	6/13/24
Date(s) of Mailed Notices	Not Required

**Council Subcommittee Review (if applicable)**


Subcommittee	Development & Planning			
Date Reviewed	6/3/24 as Upcoming Project			
Recommendation	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Split <input type="checkbox"/>	No Discussion <input checked="" type="checkbox"/>

## Comments Received

[EXT] Comment on Homesteader Farms and Agritourism



Shelby Ortner <ortner.shelby@gmail.com>

To  Lynne Twedt

Retention Policy Email Retention (7 years)

Expires 6/16/2031



6:56 PM

Lynne,

Not sure how this whole thing works so I'm just kind of poking at it. Just checking to make sure that public comments that get submitted actually do get read. Not sure what info you need but since other people start with name/address that sounds like a good place:

Shelby Ortner  
6500 EP True Parkway Apt. 6303

As for the actual comment portion:

This sounds cool. I'm for it.

End comment portion.

If you need anything else, or if you just generally read the whole email so I shouldn't include the other rambling parts let me know and I can just send a new one that you can forward on to whoever keeps track of them.

Thanks!

Shelby Ortner

**A RESOLUTION OF THE PLANNING AND ZONING COMMISSION**  
**NO. PZC-24-015**

**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 align various Titles, Chapters and Sections in City Code to define and establish provisions for Homesteader Farm and Agritourism, allow the sale of horticultural specialty crops at produce stands, allow public parking lots with no primary structure, allow museums in the Agricultural/Open Space zoning district and modify code references in the land use tables.

- Chapter 2: Zoning Rules and Definitions, Section 2: Definitions to add a definition for Homesteader Farm and Agritourism and remove a definition for Agriculture Production, Livestock And Animal Specialties to avoid confusion with Agricultural Production Animals, Personal or Commercial and Homesteader Farm. Additionally, to provide references in Agricultural Production Animals, Personal and Agricultural Production Animals, Commercial to define types of animals that are agricultural or animal specialty; and,
- Chapter 5: Agricultural/Open Space and Residential Zoning District, Section 8: Open Space/Agricultural and Residential Use Regulations, Table 5.2 Agricultural and Animal Keeping adding language separating out and confirming marijuana cultivation is not allowed under SIC 01: Agricultural, Crops; confirm the maximum number of animals allowed under Agricultural Production Animals, Personal; and to establish that Homesteader Farm are not allowed in the Residential Estate Zoning District; and,
- Chapter 6: Commercial, Office and Industrial Zoning District, Section 6: Commercial, Office and Industrial Use Regulations to correct inaccurate references to other code sections indicated for specific land uses and clarify titles of certain specific land uses; and,
- Chapter 6: Commercial, Office and Industrial Zoning District, Section 6: Commercial, Office and Industrial Use Regulations to allow Public Parking Lots in Valley Junction Historic Business District without a primary structure or use; and,
- Chapter 6: Commercial, Office and Industrial Zoning District, Section 6: Commercial, Office and Industrial Use Regulations to designate Museums as a permitted use by right in the Agricultural /Open Space district; and,
- Chapter 16: Temporary Use Permits, Section 7: Specific Requirements to modify Temporary Use provisions to accommodate the sale of agricultural crops and horticultural specialties grown on-site as part of a produce or roadside stand and add a reference to Title 3, Chapter 14 for temporary retail fireworks stands.

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

**NOW THEREFORE**, the Planning and Zoning Commission of the City of West Des Moines recommends the City Council approve the Ordinance Amendment (AO-006468-2024).

**PASSED AND ADOPTED** on June 24, 2024.

\_\_\_\_\_  
Tina Shaw, Chair  
Planning and Zoning Commission

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Planning and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on June 24, 2024, by the following vote:

- AYES:
- NAYS:
- ABSTENTIONS:
- ABSENT:

ATTEST:

\_\_\_\_\_  
Recording Secretary

Prepared by: Lynne Twedt, 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

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## ORDINANCE NO.

**AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2024, TITLE 5 (POLICE REGULATIONS) CHAPTER 3 (ANIMAL CONTROL) AND CHAPTER 3, ARTICLE A (DOGS AND CATS) AND AMENDING 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), AND CHAPTER 16 (TEMPORARY USE PERMITS) TO ALIGN VARIOUS TITLES, CHAPTERS AND SECTIONS OF CODE**

**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 underlined, bold, italicized text. All other text in the section shall remain as is.

AGRICULTURAL PRODUCTION ANIMALS, COMMERCIAL: Any livestock animal as defined by Code of Iowa, Sec. 717.1, **or included under Standard Industrial Classification (SIC) 02: Agricultural Production – Livestock and Animal Specialties** 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 **or included under Standard Industrial Classification (SIC) 02: Agricultural Production – Livestock and Animal Specialties** 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. **See Homesteader Farm as defined in Title 9.**

**Section 2. Amendment.** Title 5: *Police Regulations*, Chapter 3: *Animal Control*, Section 18: *Keeping of Certain Animals Prohibited*, Subsection B: *Agricultural Animals Prohibited* is hereby amended by deleting the strike-thru highlighted text and inserting the underlined, bold, italicized text. All other text in the section shall remain as is.

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~~ **except as otherwise allowed as a Homesteader Farm defined and regulated in Title 9** or except as otherwise required by law.

**Section 3. 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 inserting the underlined, bold, italicized text:

Except as otherwise allowed by Code, **including but not limited to allowances as provided in Title 9**, it shall be unlawful for an owner to harbor, house or confine 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 4. Amendment.** Title 9: *Zoning*, Chapter 2: *Zoning Rules and Definitions*, Section 2: *Definitions*, is hereby amended by deleting the strike-thru highlighted text and inserting the underlined, bold, italicized text in alphabetical order. All other text in the section shall remain as is.

AGRICULTURE: The use of land for agricultural purposes, including animal husbandry, apiculture, dairying, farming, floriculture, forestry, groves, horticulture, orchards, poultry husbandry, ranching, viticulture, and the necessary accessory uses for packing, treating or sorting the produce; however, the operation of the accessory uses shall be subordinate to that of the normal agricultural activities.

AGRICULTURAL PRODUCTION ANIMALS, COMMERCIAL: Any livestock animal as defined by Code of Iowa, Sec. 717.1 **or included under Standard Industrial Classification (SIC) 02: Agricultural Production – Livestock and Animal Specialties** 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 **or included under Standard Industrial Classification (SIC) 02: Agricultural Production – Livestock and Animal Specialties** 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. **See Homesteader Farm as defined in this title.**

AGRICULTURE PRODUCTION, CROPS: An ~~commercial~~ establishment (farms, orchards, greenhouses, nurseries) primarily engaged in the production of crops (grains, fruits, and vegetables), plants, vines, and trees for sale or for the production of other products. **Commercial production shall not be allowed in residential districts except as a legally established non-conforming use.**

**AGRICULTURE PRODUCTION, LIVESTOCK AND ANIMAL SPECIALTIES:** A commercial establishment (farms, ranches, dairies, feedlots, egg production or broiler facilities, hatcheries, and apiaries) primarily engaged in the keeping of animals for sale or for the production of animal products.

**AGRITOURISM:** *The act of visiting a working farm or any horticultural or agricultural operation for the purpose of enjoyment, education, or active involvement in the activities of the farm or operation that also adds to the economic viability of the site.*

**HOMESTEADER FARM:** *A type of Agricultural Production Animals, Personal, for the raising of a limited number of animals as defined by Code of Iowa, Sec. 717.1, or included under Standard Industrial Classification (SIC) 02: Agricultural Production – Livestock and Animal Specialties, for the primary purpose of self-sufficiency. The number of animal(s) sold commercially versus consumed by the operator(s) of a Homesteader Farm shall generally be limited to a fraction (approximately a quarter (1/4)) of the overall animal production). Homesteader Farm can also include the growing of crops, including horticultural specialties (e.g., flowers). Any retail sale of crops or horticultural specialties from the property upon which they are grown shall only occur as a city approved produce stand (aka roadside stand) as provided elsewhere in this title.*

**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: Agricultural and Animal Keeping is hereby amended by inserting the underlined, bold, italicized text. All other items in table not reflected below shall remain as is.

<b>Table 5.2 - Agricultural and Animal Keeping</b>		Zoning District							
P = Permitted / Pc = Permitted Conditional / Blank Cell = Prohibited		RE	RS	R-1	SF-CR	SF-VJ	MH	RM	RH
SIC #	Classification title / Use description								
01	Agricultural Production - Crops outdoors								
011	Cash Grains	P	P	P	P	P	P	P	P
<b><u>018</u></b>	<b><u>Cultivation of marijuana with or without a license as a medical cannabidiol manufacturer</u></b>								
02	Agricultural Production, Livestock and Animal Specialties								
	- Concentrated Animal Feeding Operations (AFO) - open air and/or confined within a structure (CAFO)								
	- Agricultural Production Animals, Personal - lot size less than forty thousand (40,000) square foot								
	- Agricultural Production Animals, Personal - lot size of forty thousand (40,000) square foot or greater – <b><u>maximum eight (8) animals, including dogs and cats</u></b>	Pc	Pc	Pc	Pc	Pc	Pc		
	- <b><u>Homesteader Farm</u></b>								
	- Agricultural Production Animals, Commercial								



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	Pc													
0279-9901	Apiary (beekeeping, bee farm, bee yard or honey farm) - no minimum lot size See 9-10-4.19 for specific regulations related to beekeeping	P	P	P	P	P	P								
0752	Animal Specialty Services, except veterinary - horse only	Pc													

**Section 6. 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* is hereby amended by deleting the highlighted strike-thru text and inserting the underlined, bold, italicized text accordingly in each Division table. All other items in a table not reflected below shall remain as is.

<b>Division A - Agriculture, Forestry and Fishing</b>																
P = Permitted / Pc = Permitted Conditional / Blank Cell = Prohibited																
SIC #	Classification title / Use description	Zoning District														
		RC	CMC	NC	CVC	SC	VJC	VJHB	WR	BP	VJLI	LI	GI	OF	PCP	OS
0742	Veterinary services for animal specialties - see 9-10-4.A.19 <del>20</del> in code															
	- no outdoor runs	Pc	Pc	Pc		Pc	Pc		Pc				P			P
	- with outdoor runs															Pc
0751	Livestock Services, except veterinary															
0752	Animal Specialty Services, except veterinary, grooming and boarding services <b>see 9-10-4.A.20</b>															Pc

<b>Division E - Transportation, Communication and Public Utilities</b>																
P = Permitted / Pc = Permitted Conditional / Blank Cell = Prohibited																
SIC #	Classification title / Use description	Zoning District														
		RC	CMC	NC	CVC	SC	VJC	VJHB	WR	BP	VJLI	LI	GI	OF	PCP	OS
4225	General Warehousing and Storage, except Mini warehousing/self-storage; storage of fireworks; and storage of explosives and explosive materials - must abide by 9-10-4.A.8															
	- with no outdoor storage yard	Pc	Pc	Pc					P	P	P	P	P			
	- with paved outdoor storage yard											Pc	P			
	- with gravel outdoor storage yard											P				
4225	Mini Warehousing / Self-Service Storage Facility - must abide by 9-10-4.A.8 and 9-10-4.A.16.a															
	- exterior unit access with no outside storage yard								P		Pc	P	P			



**Section 7. Amendment.** Title 9: *Zoning*, Chapter 16: *Temporary Use Permits*, Section 5: *Uses Permitted with a Temporary Use Permit*, Subsection A is hereby amended by inserting the underlined, bold, italicized text accordingly. All other items in section not reflected below shall remain as is.

A. The following uses are eligible for a temporary use permit, provided they satisfy the following criteria specified in section 9-16-7 of this chapter:

Drive-in theater, seasonal.

Grand openings and planned events held on private properties that do not create anticipated significant impacts to City property or right-of-way.

Group assembly activities (e.g., carnivals, fairs, rodeos, sport events, concerts, worship services, and shows).

Parking lot sales, sidewalk sales (private sidewalks only), clearance sales, or other temporary uses which, in the opinion of the Director of Development Services or designee, are similar to the uses listed in this section. Parking lot sale of fireworks is not permitted under a temporary use permit ***(see Title 3, Chapter 14)***.

Retail sales of Christmas trees.

Retail sales of landscape nursery material.

Retail sales of pumpkins.

Stands for the sale of agricultural produce ***and crops, including agricultural specialties***.

Temporary concrete and asphalt mixing and storage facilities in accordance with regulations elsewhere in this chapter.

Temporary food and beverage uses not regulated as a mobile food unit under the provisions of title 3, "Business And Licensing", of this Code.

Other temporary uses which, in the opinion of the Director of Development Services or designee, are similar to the uses listed in this section.

**Section 8. Repealer.** All ordinances of parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 9. 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 10. 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 11. 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 12. 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 July 15, 2024.

\_\_\_\_\_  
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 \_\_\_\_\_, 2024, and published in the Des Moines Register on \_\_\_\_\_, 2024.