

**CITY OF WEST DES MOINES
PLAN AND ZONING COMMISSION**

Meeting Date: July 18, 2016

Item: Ordinance Amendment – Amend Title 9 (Zoning), Chapter 2 (Zoning Rules and Definitions), Section 2 (Definitions); Amend Title 9 (Zoning), Chapter 5 (Agriculture/open Space and Residential Zoning District), Section 8 (Open Space/Agricultural and Residential Use Regulations); and Amend Title 9 (Zoning), Chapter 10 (Performance Standards), Section 4 (Specific Use Regulations), to add regulations and performance standards pertaining to scoreboards as part of stadium and recreational facilities – City Initiated – AO-003136-2016

Request Action: Approval of an amendment to the ordinance

Case Advisor: Lynne Twedt

Applicant’s Request: Amend Title 9 (Zoning), Chapter 2 (Zoning Rules and Definitions), Section 2 (Definitions) to add definitions for Recreational Facility, Scoreboard, and Stadium; Title 9 (Zoning), Chapter 5 (Agriculture/Open Space and Residential Zoning District), Section 8 (Open Space/Agricultural and Residential Use Regulations) to identify scoreboards associated with Elementary and Secondary Schools as a Permitted (P) use in the residential zoning districts; and Amend Title 9 (Zoning), Chapter 10 (Performance Standards), Section 4 (Specific Use Regulations) to add a section containing regulations and performance standards for scoreboards.

This request stems from the desires of the WDM School District to modify the existing scoreboard within Valley Stadium to implement a video board component and in the future to potentially add a video board at the high school at the south end of the existing track.

City Council Subcommittee: This item was presented at the June 27, 2016 Development and Planning City Council Subcommittee meeting as an informational item only. The Subcommittee was supportive of the implementation of a video board at Valley Stadium.

Staff Review and Comment: There are no outstanding issues. Staff would note the following:

In the past there have been numerous discussions relating to the video board and whether or not it would be regulated under the City’s Sign Code. City Code defines a ‘moving sign’ as: *“Any sign or part of a sign that changes physical position or light intensity by any movements or rotation or that gives the visual impression of such movements or rotation.”* While a video board obviously has visible movement, City Code defines a ‘sign’ as *Every sign or advertisement ... used to advertise, promote, or draw attention to the interests of any person or firm when the same is placed out of doors in view of the general public.* Staff believes there are key components of the definition of a sign (highlighted in the definition) that do not apply to a video board and thus separates the video board from being regulated under the Sign Code. Staff is of the opinion that that a video board associated with stadium or recreational facilities does not meet the common definition of ‘advertisement’ as defined by either Dictionary.com: *a paid announcement, as of goods for sale, in newspapers or magazines, on radio or television, etc.; a public notice, especially in print; or the action of making generally known or a calling to the attention of the public,* or Oxford Dictionary which defines advertisement as *a notice or announcement in a public medium promoting a product, service, or event or publicizing a job vacancy.* The video board is intended to provide information and replays related to the sporting event or other activities (e.g., band competitions) and specific event occurring within the stadium (not advertise the interests of any person or firm), and that the video board is intended for viewing by those in the facility whom have an interest in the event occurring within the stadium structure or recreational facility (not geared towards viewing by the general public).

Staff acknowledges that the City still has concerns that moving signs are a distraction to drivers. Numerous studies have been done in the past by various agencies in attempt to identify how long a view of a moving or changing sign must be to constitute a distraction to drivers. While eight seconds has been commonly mentioned, some studies indicate as little as 3 seconds is the point in which your mind stays focused on the sign in order to complete the task

or see the end of the message or display. These studies generally looked at advertisement signs placed in plain view and intended to draw the attention of the general public. The proposed ordinance imposes performance standards on the operation of the scoreboard unless adequate screening is in place to limit its view to the general public. Adequate screening is presumed to be screening that allows a continuously unobstructed view to the general public to no more than five seconds.

Overall the scoreboard/video board is proposed to be 32' high and in its current location. The top six feet is the existing metal arched element. A static "V" for Valley will be added into this area. The next eight feet are dedicated to the score element itself similar to the existing board. The lower 18' is the video board component. Staff requested the School District locate the video board portion as low as possible to minimize views from Mills Civic Parkway. The School District accommodated this request and has indicated that to drop the board any lower would start limiting who in the stadium could see it. Staff analyzed views of the current scoreboard to gain an understanding of the degree that the new video portion of the board would be visible to vehicles on Mills Civic Parkway. It was determined that the current berming and vegetation negated the majority of views leaving very few instances in which there were uninterrupted views of a more than 2-3 seconds in which the video board component is openly visible. Those areas in which there are more open and/or longer views of the video board are situated at the corners of the stadium in which no berming and very little landscape plantings exist. The Parks Department did a quick study to identify where berming and additional plantings could be incorporated to break up views. Staff is comfortable that berming and landscape vegetation could be implemented in these areas as well to effectively achieve uninterrupted views of no greater than 2-3 seconds. However, should upon completion of berming and landscaping, or during times when the existing vegetation is not in full leaf, the performance standards would limit the amount of use of the video board portion to only those times in which a competition event is occurring: not allowed during practices or events with limited spectator attendance.

Comprehensive Plan Consistency: The project has been reviewed for consistency with the Comprehensive Plan. Based upon that review, a finding has been made that the proposed project is consistent with the Comprehensive Plan in that the project is consistent with all of the goals and policies of the Comprehensive Plan and the land use map of the Comprehensive Plan.

Noticing Information: On July 8, 2016, notice of the July 18, 2016 Plan and Zoning Commission and July 25, 2016 City Council public hearings for this project was published in the *Des Moines Register*. No mail notices are required of City Code amendments.

Staff Recommendation and Conditions of Approval: Staff recommends the Plan & Zoning Commission approve a resolution recommending to the City Council approval of the ordinance amendments.

Attachments:

Attachment A - Resolution

Exhibit A – Proposed Ordinance

RESOLUTION NO. PZC-16-042

A RESOLUTION OF THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES, RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE AN ORDINANCE TO AMEND TITLE 9 (ZONING), CHAPTER 2 (ZONING RULES AND DEFINITIONS), SECTION 2 (DEFINITIONS); AMEND TITLE 9 (ZONING), CHAPTER 5 (AGRICULTURE/OPEN SPACE AND RESIDENTIAL ZONING DISTRICT), SECTION 8 (OPEN SPACE/AGRICULTURAL AND RESIDENTIAL USE REGULATIONS); AND AMEND TITLE 9 (ZONING), CHAPTER 10 (PERFORMANCE STANDARDS), SECTION 4 (SPECIFIC USE REGULATIONS), TO ADD REGULATIONS AND PERFORMANCE STANDARDS PERTAINING TO SCOREBOARDS AS PART OF STADIUM AND RECREATIONAL FACILITIES

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, Development Services staff requests an amendment to Title 9 (Zoning), Chapter 2 (Zoning Rules and Definitions), Section 2 (Definitions) to add definitions for Recreational Facility, Scoreboard, and Stadium; and

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, Development Services staff requests an amendment to Title 9 (Zoning), Chapter 5 (Agriculture/Open Space and Residential Zoning District), Section 8 (Open Space/Agricultural and Residential Use Regulations) to identify scoreboards associated with Elementary and Secondary Schools as a Permitted (P) use in the residential zoning districts; and

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, Development Services staff requests an amendment to Amend Title 9 (Zoning), Chapter 10 (Performance Standards), Section 4 (Specific Use Regulations) to add a section containing regulations and performance standards for scoreboards;

WHEREAS, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

WHEREAS, this Commission held a duly-noticed hearing to consider the application for an amendment to the ordinance;

NOW, THEREFORE, THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. The findings for approval in the staff report dated July 18, 2016, or as amended orally at the Plan and Zoning Commission public hearing are adopted.

SECTION 2. AMENDMENT TO ORDINANCE (AO-003136-2016) is recommended to the City Council for approval, as stated in the staff report or as amended in the attached Exhibit A.

PASSED AND ADOPTED on July 18, 2016.

Craig Erickson, Chairperson
Plan and Zoning Commission

ATTEST:

Recording Secretary

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 July 18, 2016, by the following vote:

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

ATTEST:

Recording Secretary

ORDINANCE NO.

TO AMEND TITLE 9 (ZONING), CHAPTER 2 (ZONING RULES AND DEFINITIONS), SECTION 2 (DEFINITIONS); AMEND TITLE 9 (ZONING), CHAPTER 5 (AGRICULTURE/OPEN SPACE AND RESIDENTIAL ZONING DISTRICT), SECTION 8 (OPEN SPACE/AGRICULTURAL AND RESIDENTIAL USE REGULATIONS); AND AMEND TITLE 9 (ZONING), CHAPTER 10 (PERFORMANCE STANDARDS), SECTION 4 (SPECIFIC USE REGULATIONS), TO ADD REGULATIONS AND PERFORMANCE STANDARDS PERTAINING TO SCOREBOARDS AS PART OF STADIUM AND RECREATIONAL FACILITIES

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

Section 1. Amendment. DON'T HAVE AN ELECTRONIC COPY OF THE PROPOSED ORDINANCE TO INSERT ...

Section 4. Repealer. All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

Section 5. 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 6. Violations and Penalties. Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in Section 1-4-1 of the City Code of the City of West Des Moines, Iowa.

Section 7. 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 8. 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 _____, 2016, and approved this _____ day of _____, 2016.

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 _____, 2016, and was published in the Des Moines Register on _____, 2016.

Ryan T. Jacobson, City Clerk

SECTION 3: Title 9, Chapter 10, Section 4, “SPECIFIC USE REGULATIONS” is hereby amended by adding the following underlined text:

A. The following standards shall apply to all zoning districts unless noted otherwise in this Title:

19. Scoreboards: Scoreboards are accessory to the primary use of a stadium or recreational facility. The current technology available for scoreboards with video display capabilities creates concern for public safety due to the potential distraction to the motoring public viewing the scoreboard from adjacent roadways and the potential intrusion of light and sound into adjacent properties. Every effort should be made in the design and placement of the scoreboard to limit and screen the view of any video display component of the scoreboard from the general public. If the scoreboard cannot be screened to adequately limit its view to patrons of the stadium or recreational facility, presumed to be screening which does not prevent a continuously unobstructed view to the general public of more than five seconds, the following performance standards shall apply:

- a. Full use of all capabilities of the scoreboard shall be allowed only when an event is in progress within the stadium or recreational facility.
- b. Full use of all capabilities of the scoreboard during the day of an event shall be limited to pre-game warm ups, game duration and post-game postings.
- c. Use of the scoreboard during athletic practices and activities with limited spectator involvement shall be limited to score and timing functions and shall not utilize any video display that may be a part of the scoreboard’s capabilities.

SECTION 4. REPEALER. All Ordinances or parts of Ordinances in conflict with the provision of this Ordinance are hereby repealed.

SECTION 5. 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 6. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, adoption, and publication as required by law.

PASSED AND APPROVED this ____ day of _____, 2016.

Steven K. Gaer, Mayor

ATTEST:

Ryan T. Jacobson, City Clerk