



**Roll Call Number**

**Agenda Item Number**

51

**Date** July 13, 2009

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, by amending Section 2-68 and adding and enacting a new Section 94-360 thereof, relating to emergency repair of public improvements",

which was considered and voted upon under Roll Call No. 09- 1113 of June 22, 2009; again presented.

Moved by \_\_\_\_\_ that this ordinance be considered and given second vote for passage.

(Second of three required readings)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
<b>TOTAL</b>				
MOTION CARRIED			APPROVED	
_____ Mayor				

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_ City Clerk

09-1113  
451

**CITY ATTORNEY**  
Bruce E. Bergman

**DEPUTY CITY ATTORNEYS**  
Mark Godwin  
Lawrence R. McDowell  
Kathleen Vanderpool

**ASSISTANT CITY ATTORNEYS**

Angela T. Althoff  
Roger K. Brown  
Ann M. DiDonato  
David A. Ferree  
Glenna K. Frank  
Gary D. Goudelock, Jr.

Michael F. Kelley  
Mary A. Laughlin  
Vicky L. Long Hill  
Steven C. Lussier  
Katharine J. Massier  
Carol J. Moser  
Douglas P. Phillip



June 17, 2009

HONORABLE MAYOR AND MEMBERS  
OF THE DES MOINES CITY COUNCIL

Re: Changes to the Municipal Code for Emergency Repair of Public Improvements

After the flooding emergencies experienced by cities last year, changes were sought to the Iowa Code to grant authority to the Mayor, as Chief Official, and the City Manger, as Chief Officer, to deal with the emergency repairs of public improvements. The prior statute was very difficult to deal with when an emergency repair of a public improvement presented itself, as it required council action to declare a finding of necessity. Often staff had to begin emergency repairs to broken sanitary sewers and levies immediately to prevent further damage or cost to the city. The revised statute gives the ability to the Mayor or Manager to act so that staff are proceeding with requisite authority for emergency repair of public improvements. Revised Section 384.103 of the Iowa Code gives the Mayor or the City Manager the ability to make a finding of necessity to institute emergency repairs when the delay of advertising and a public letting might cause serious loss or injury to the city and a competent licensed professional engineer or registered architect certifies that emergency repairs are necessary. Section 384.103 provides as follows:

“When emergency repair of a public improvement is necessary and the delay of advertising and a public letting might cause serious injury to the city, the chief officer or official of the governing body of the city or the governing body shall make a finding of the necessity to institute emergency proceedings under this section, and shall procure a certificate from a competent licensed professional engineer or registered architect, certifying that emergency repairs are necessary.

In the event the chief officer or official of the governing body or the governing body may accept, enter into, and make payment under a contract for emergency repairs without holding a public hearing and advertising for bids, and the provisions of chapter 26 do not apply.”

The suggested changes to the Municipal Code simply recognize this authority given to the Manager and Mayor.

Respectively submitted,

A handwritten signature in dark ink, appearing to read "Kathleen Vanderpool", is written over a faint, larger version of the signature.

Kathleen Vanderpool  
Deputy City Attorney

091113  
4651

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, by amending Section 2-68 and adding and enacting a new Section 94-360 thereof, relating to emergency repair of public improvements.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, is hereby amended by amending Section 2-68 and adding and enacting a new Section 94-360 relating to emergency repair of public improvements, as follows:

**Sec. 2-68. Making of contracts.**

No contract made by other than the council, the mayor or by the city manager or the city manager's designee pursuant to state law and this Code shall bind the city.

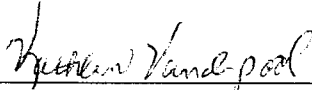
**ARTICLE XIII. EMERGENCY REPAIR OF  
PUBLIC IMPROVEMENTS**

**Sec. 94-360. Contracts for Emergency Repair of Public Improvements**

When emergency repair of a public improvement is necessary and the delay of advertising and a public letting might cause serious loss or injury to the city, the mayor, as the chief official of the city, or the city manager, as the chief officer of the city, shall each have authority to make a finding of the necessity to institute emergency proceedings under I.C. § 384.103 and shall procure a certificate from a competent licensed professional engineer or registered architect, certifying that emergency repairs are necessary. The mayor and the city manager shall each have authority to accept, enter into and make payment under a contract for emergency repairs without holding a public hearing and advertising for bids in accordance with I.C. § 384.103.

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

  
\_\_\_\_\_  
Kathleen Vanderpool  
Deputy City Attorney