

★ Roll Call Number

Agenda Item Number  
39A

Date July 23, 2007

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, is hereby amended by adding and enacting new Sections 46-3.05 and 46-3.07 thereof, relating to the fire protection and prevention code",

presented.

(Council Communication No. 07-424)

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

FORM APPROVED:

(First of three required readings)

Glenna K. Frank  
 Glenna K. Frank  
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

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

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, is hereby amended by adding and enacting new Sections 46-3.05 and 46-3.07 thereof, relating to the fire protection and prevention code.

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 adding and enacting new Sections 46-3.05 and 46-3.07 thereof relating to the fire protection and prevention code, as follows:

**Sec. 46-3.05. Municipal infractions.**

- (a) The first violation of chapter 46 within the calendar year shall be deemed the first offense punishable by a civil penalty not to exceed \$750.00, plus inspection fees where applicable. The second and each subsequent violation of Chapter 46 within a calendar year shall be a repeat offense, punishable by a civil penalty not to exceed \$1,000.00, plus inspection fees where applicable.
- (b) When enforcement is sought through a municipal infraction proceeding, the fire chief or the chief's authorized representative may enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with the person responsible for the violation. Such orders will include specific action to be taken by the person responsible for the violation to correct said violation within a time period specified by the order.

**Sec. 46-3.07. Notice of violation--administrative penalties--corrective action order.**


- (a) The fire department is authorized to issue a notice of violation imposing administrative penalties upon any person who fails to perform an act required by chapter 46 of this code or who commits an act prohibited by said chapter.
- (b) Such notice shall include a statement of the administrative penalties imposed. Such notice may include a corrective

action order requiring compliance with the violated code section within thirty (30) days.

- (c) The administrative penalty for such violations shall be as provided in the schedule of administrative penalties adopted by the city council by resolution.
- (d) Notice of violation, with the applicable penalty for such violation noted thereon, shall be issued to and served upon the violator. Service of the notice upon the violator may be by regular mail or by delivery in person.
- (e) Penalties assessed pursuant to notice of violation shall be paid by the violator in full as directed in the notice within thirty (30) days of its issuance. Corrective action as required pursuant to notice of violation shall be completed by the violator as directed in the notice within thirty (30) days of its issuance.
- (f) The administrative penalties set out in the schedule of administrative penalties shall be charged in lieu of the fines and penalties provided for in section 46-3 and 46-3.05, unless the violator refuses to correct the violation and pay the scheduled administrative penalty, or the fire chief or the chief's authorized representative determines that immediate enforcement action by misdemeanor or municipal infraction prosecution pursuant to section 46-3 and 46-3.05 is, in view of the particular circumstances of the case, necessary to achieve compliance with the requirements of Chapter 46. The fire department shall maintain a record of all violations, administrative penalties charged or other enforcement actions taken.

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

FORM APPROVED:

  
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 Glenna K. Frank  
 Assistant City Attorney