

★ Roll Call Number

Agenda Item Number

52A

Date August 20, 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",

which was considered and voted upon for the first time under Roll Call No. 07-1431 of July 23, 2007, and considered and voted upon for the second time under Roll Call No. 07-1540 of August 6, 2007, again presented.

Moved by _____ that this ordinance do now pass.

ORDINANCE NO. _____

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



Council
Communication
 Office of the City Manager

Date July 23, 2007

Agenda Item No. ~~39A&B~~
 Roll Call No. 07-1431
 Communication No. 07-424
 Submitted by: Phillip C. Vorlander,
 Chief of the Fire Department

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 M. 1548

AGENDA HEADING:

Amending Chapter 46 of the Municipal Code regarding Fire Prevention and Protection.

SYNOPSIS:

Approval of these Ordinances amends Sections 46-61, 46-63, 41-64 and 46-3 of Chapter 46, Fire Prevention and Protection, of the Municipal Code of the City of Des Moines. The first ordinance as it pertains to Chapter 46, Section 46-61 replaces the 2003 edition of the International Fire Code by adopting the more recent and applicable 2006 edition of the International Fire Code. The code changes to Chapter 46, Sections 46-63 and 46-64, are primarily intended to amend and add to the International Fire Code, 2006 edition. The additions to Section 46-3 as listed in the second ordinance provide the Fire Department with supplemental options for enforcement of the Fire Prevention Code.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

In its current form, the Municipal Code of the City of Des Moines, Section 46-61 adopts and incorporates the International Fire Code, 2003 edition, as published by the International Code Council, Inc. The International Fire Code has been revised and updated in a 2006 edition to include more recent and applicable requirements governing fire prevention and protection. The proposed ordinance thus replaces the outdated 2003 edition by adopting and enacting the 2006 edition of the International Fire Code.

Municipal Code Section 46-63 allows for amendments and additions to the requirements of the International Fire Code. In conjunction with the adoption of the 2006 edition of the International Fire Code, the amendments and additions must also be updated to correlate with the new edition. The proposed ordinance to amend Section 46-63 and add Sections 46-66, 46-67, 46-68, 46-69, 46-70, and 46-71 enacts new language to supplement the 2006 Code regulations and address various fire prevention measures determined to be necessary by the Fire Department, including regulations of open flame cooking devices, liquefied petroleum gas-fueled cooking devices, access roads for fire equipment, limited access gates/locks and lock boxes, and single- and multiple-station smoke alarms.

Open Flame Cooking Devices

These devices have been regulated through a written policy, but not an ordinance. The proposed amendment would state that charcoal burners and other ash or ember producing devices shall not be operated on combustible balconies and/or decks or within 10 feet of combustible construction. The exception would be one and two family dwellings.

Liquefied Petroleum Gas Fueled Cooking Devices

The proposed amendment would state that liquid propane (LP) gas burners having more than one nominal 20 pound or larger capacity cylinder shall not be operated on balconies and/or decks or within 10 feet of structures. No LP cylinders shall be stored inside any multi-family structure. The exception would be one and two family dwellings.

Access Roads for Fire Equipment

The proposed amendment would add "Grass pavers or similar type products that are not readily distinguishable as a road surface shall not be used" to the existing code. This is important so that in the case of an emergency the fire department can readily identify the road, the road can be maintained in year round as required, and the road is more stable in inclement weather for driving on or setting up an aerial with outriggers. The amendment further states that fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be of a continuous hard surface such as concrete, asphalt, rock, or other continuous hard surface material so as to provide all-weather maintenance and driving capabilities.

Limited Access Gates, Locks, and Lock Boxes

This will readily allow the fire department access into a building or complex. The proposed change states that an approved lock box that operates with the existing lock box key used by the Des Moines Fire Department shall be installed on all new construction and existing structures that go through the plan review process. Exceptions would be:

- 1) Group R-3 and unsecured group R-2 occupancies.
- 2) Facilities with onsite security 24 hours a day and having access to all areas of the building.

Limited Access Gates and Locks

All developments, communities, structures, facilities, or property similar in nature that has controlled access points requiring a key, key card, coded key pad, or similar device to limit access shall have a lock box with keys, key cards, codes, or similar device to gain access or shall have a lock box key activated opening device. All lock boxes or lock box key activated devices shall be operable with the existing lock box key used by the Des Moines Fire Department. The exception would be controlled access points that have security present 24 hours a day.

Single and Multiple Station Smoke Alarms

Currently these smoke detectors are the standard 120v/battery back up type that sound in the living unit only and would require the occupant or someone in the hallway to hear them before any other action takes place. This amendment would require new construction smoke detectors to be monitored by a supervisory signal. By doing so this would send a signal to the alarm panel indicating a problem which would cause someone to check into the problem which could be a fire, malfunction, or someone tampering with the smoke detector. This would also eliminate batteries being removed to disarm the detector. The amended ordinance states that: "Listed single and multiple-station smoke alarms complying with UL 217 shall be installed in accordance with provisions of this Code and the household fire warning equipment provision of NFPA 72. Smoke alarms in dwelling units shall be addressable with sounder bases and monitored by the building fire alarm system as a supervisory signal only. Mini horns in dwelling units are not required if notification from a building fire alarm system is through the smoke alarms with sounder bases." Note: Section 907.2.10 only applies to R-1, R-2, R-4 and I-1.

Appeals

The current language of Section 46-64 describes the appeals process for Fire Department orders or notices requiring compliance with International Fire Code provisions, including amendments and

additions thereto, as adopted in the Municipal Code of the City of Des Moines, Section 46-61. Pursuant to the current Section 46-64, persons receiving said orders or notices can appeal to the Fire Chief. The proposed amendment to Section 46-64 provides for an additional appeal of the Fire Chief's decision regarding such orders or notices to the Licensing and Appeals Board. This ordinance is presented for approval in conjunction with the proposed amendments to Sections 26-120, 26-121, 26-122 and 26-123 of the Municipal Code to permit a decision of the Fire Chief, in the administration of the Fire Code, to be appealed to the Licensing and Appeals Board. This would allow an appeal of the fire code to a board instead of the Fire Chief being the final authority.

Enforcement/Penalties

Municipal Code Section 46-3 generally addresses violations of Chapter 46, the Fire Prevention and Protection Code. The proposed ordinance to add Sections 46-3.05 and 46-3.07 enacts additional enforcement mechanisms including municipal infractions, administrative penalties and corrective action orders to allow the Fire Department to more efficiently and effectively enforce the Fire Prevention and Protection code requirements. The Fire Department will propose a schedule of administrative penalties to supplement new Section 46-3.07 and that schedule will be on the Council agenda for adoption at the time of the third reading of this amendment. Currently there is no penalty for unpaid permits or operating without a permit. This change brings permitting in line with other administrative penalties such as false alarms.

PREVIOUS COUNCIL ACTION(S):

Date: August 8, 2005

Roll Call Number: 05-1932

Action: Final consideration of ordinance amending Sections 46-61 and 46-63 of Chapter 46 of the Municipal Code regarding Fire Prevention and Protection, requires 6 votes. Moved by Brooks that this ordinance be placed upon its final passage and that the ordinance do now pass, #14,473. Motion Carried 7-0.

Date: June 3, 2002

Roll Call Number: 02-1416

Action: Final consideration of ordinance amending Sections 46-61 and 46-63 of Chapter 46 of the Municipal Code regarding Fire Prevention and Protection, requires 6 votes. Moved by Hensley that this ordinance be placed upon its final passage and that the ordinance do now pass, #14,093. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Second, third, and final consideration of the ordinance.

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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

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- 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:


Glenna K. Frank
Assistant City Attorney