

★ **Roll Call Number**

Agenda Item Number

44

Date February 28, 2011

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, as heretofore amended, by amending Sections 18-41, 18-47, 74-100 and 102-330, relating to the ownership and use of service dogs and service animals",

presented.

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

(Council Communication No. 11-126)

FORM APPROVED:

(First of three required readings)

Ann DiDonato
Ann DiDonato
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
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, as heretofore amended, by amending Sections 18-41, 18-47, 74-100 and 102-330, relating to the ownership and use of service dogs and service animals.

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, as heretofore amended, is hereby amended by amending Sections 18-41, 18-47, 74-100 and 102-330 relating to the ownership and use of service dogs and service animals, as follows:

Sec. 18-41. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Chief of police means the legally designated chief of the police department or a designated representative.

Director of public health means the county health center director or a designated representative acting in behalf of the city.

Dog means and includes both male and female animals of the canine species.

Owner means any person owning, keeping or harboring a dog.

Service dog or service animal means a dog that is individually trained to do work or perform tasks for the benefit of a person with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being or companionship do not constitute work or tasks for the purposes of this definition.

Vicious dog means:

- (1) Any dog which has attacked a human being or domestic animal one or more times, without provocation;

- (2) Any dog with a history, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or domestic animals;
- (3) Any dog that snaps, bites, or manifests a disposition to snap or bite;
- (4) Any dog that has been trained for dog fighting, animal fighting or animal baiting or is owned or kept for such purposes;
- (5) Any dog trained to attack human beings, upon command or spontaneously in response to human activities, except dogs owned by and under the control of the police department, a law enforcement agency of the state or of the United States or a branch of the armed forces of the United States;
- (6) Staffordshire terrier breed of dog;
- (7) The American pit bull terrier breed of dog;
- (8) The American Staffordshire terrier breed of dog; or
- (9) Any dog which has the appearance and characteristics of being predominately of the breeds of Staffordshire terrier, American pit bull terrier, American Staffordshire terrier.

Sec. 18-47. Service dogs.

A person with a disability who owns a service dog specially trained at a recognized training facility to assist a person with such a disability shall be issued a dog license for such dog without charge, upon application stating and proof of such disability and that the dog is required because of a disability and describing what work or task the dog has been trained to perform. ~~has been so trained, be issued a dog license for such dog without charge.~~

Sec. 74-100. Dogs.

No dog shall be allowed to run at large in any public park. Any dog shall be deemed to be found running at large, unless the owner carries such dog or leads such dog by a chain, strap or rope not exceeding six feet in length or keeps any such dog confined in an automobile in compliance with section 18-55 of this Code. However, a service dog, as defined in section 18-41 of this Code, I.C. § 216C.11, especially trained to assist a blind or partially blind person and accompanying such person shall not be

deemed to be running at large, even though restraints as described in this section are not used. Such person shall keep the service dog under control and shall be liable for any damage done to the premises or facilities by the dog. Vicious dogs must be on a leash in compliance with section 18-56 of this Code. ~~The park supervisor or any person in the city's employ shall remove and impound any dog running at large in any public park.~~

Sec. 102-330. Standards of usage.

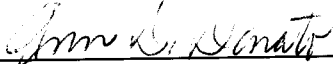
- (a) The skywalk corridors and skywalk bridges shall be open for public pedestrian travel between the hours of 6:00 a.m. and 2:00 a.m. seven days a week, except that the skywalk corridors and skywalk bridges or portions thereof shall be open for such additional hours as the skywalk committee may approve in accordance with subsection 102-322(4) of this article and except that portions of the skywalk corridors and skywalk bridges shall be open for such reduced hours as the skywalk committee may approve in accordance with subsection 102-324 of this article. The vertical access facilities shall be open during the regular building or business hours of the building or business in which they are located, but not in excess of the hours the skywalk corridors they serve are open.
- (b) During the hours when a portion of the skywalk system is open, it shall be available for use by the general public without restriction as to age, sex, religion, race, national origin or physical disability. During the hours when a portion of the skywalk system is open, no private property interest whose property is traversed by that portion of the skywalk system shall block or close that portion of the skywalk system designated as open.
- (c) It shall be unlawful for persons to collect, assemble or group together and after being so collected, assembled or grouped together to stand or loiter on any portion of the skywalk system to the hindrance or obstruction of free passage of any person passing on or along such skywalk system.
- (d) It shall be unlawful for persons to congregate, stand, loaf or loiter in or in front of any doorway, passage or entrance to any portion of the skywalk system so as to obstruct the doorway, passage or entrance or to hinder or prevent persons walking along or into or out of the skywalk system or attempting or desiring to do so.
- (e) Groups of three or more persons who do not immediately leave the vicinity or disperse when asked to do so by any member of the public or by a police officer shall be presumed to have congregated, stood, loafed or loitered in violation of subsection (c) or (d) of this section, but it shall not be necessary to request such people to move, leave the vicinity or disperse in order to prove a violation of subsection (c) or (d) of this section.

- (f) No more than two persons at any one time shall use a skywalk bridge as a locus for peaceful picketing, public speaking, leafleting, or other lawful expressions of opinion not in contravention of other laws, and no person shall conduct such activities in any portion of the skywalk system except on a skywalk bridge. It shall be unlawful to conduct such activities in such a manner as to block, obstruct or hinder any use of the skywalk system or normal activities in the adjacent buildings or properties.
- (g) No person shall bring, allow or permit an animal to be in the skywalk system, except that, ~~as provided by I.C. § 216C.11,~~ a person with a disability or a person training ~~an assistive~~ a service animal has the right to be accompanied by a service dog or an assistive animal, as defined in section 18-41 of this Code and as provided by 28 CFR 35, which is under control.
- (h) Other than wheelchairs, motorized wheelchairs or electric scooters used by handicapped persons and vehicles used in operating, maintaining and repairing the skywalk system, no person shall use or operate a motor vehicle, moped, bicycle, skateboard or roller skates in the skywalk system.
- (i) No person shall play a radio, tape recorder, or other sound-amplifying device in the skywalk system so as to permit the sound from the radio, tape player or other sound-amplifying device to be audible to another person, except that peace officers and security personnel may play radios tuned to official police or security frequencies and except that persons in those businesses along the skywalk system may continue to play radios, tape recorders or other sound-amplifying devices as is usual in the course of business.
- (j) No person shall stand or sit on any radiator or other fixture in the skywalk system, except on a bench or seat provided in that portion of a nodal area outside the skywalk corridor.
- (k) No person shall erect any advertising or signs, other than official skywalk system signs approved by the skywalk committee, in any skywalk corridor or skywalk bridge, except that store or building name signs or building directories may be permitted by the skywalk committee on the sidewalls of skywalk corridors, and except that temporary street banner signs announcing a public event or service attached to the exterior of skywalk bridges may be permitted providing that specific approval is granted under regulations established by the city council. No person shall erect any sign on property adjacent to the skywalk system that is so similar to an official skywalk sign or graphics as to cause confusion.
- (l) No person shall be upon or remain upon any skywalk corridor or skywalk bridge roof without the authorization of the skywalk committee unless use of such roof is for a bona fide maintenance activity or emergency.
- (m) No person shall use or consume alcoholic liquor, wine or beer in any skywalk corridor or skywalk bridge during the hours

- when such skywalk corridor or skywalk bridge is open for public pedestrian travel.
- (n) No person shall enter upon any portion of the skywalk system, its skywalk bridges or corridors and conduct activities thereon in disregard of signs or posted notices as promulgated or authorized by the skywalk committee.
 - (o) No person shall willfully fail or refuse to comply with any lawful order or direction of a peace officer invested by law with authority to patrol the skywalk system and its skywalk bridges and corridors.
 - (p) Violation of this section shall be punishable as a simple misdemeanor.

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

FORM APPROVED:



Ann DiDonato
Assistant City Attorney