



Roll Call Number

Agenda Item Number

70

Date..... September 16, 2024

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, is hereby amended, by adding Article VI, Sections 102-406, 102-407, 102-408, 102-409, 102-410, relating to prohibited camping”,

which was considered and voted upon for the first time under Roll Call No. 24-1030 of July 22, 2024, and considered and voted upon for the second time under Roll Call No. 24-1098 of August 5, 2024, again presented.

Moved by _____ that this ordinance do now pass. Second by _____.

ORDINANCE NO. _____

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|----------|------|------|--------|
| BOESEN | | | | |
| SIMONSON | | | | |
| VOSS | | | | |
| COLEMAN | | | | |
| WESTERGAARD | | | | |
| MANDELBAUM | | | | |
| GATTO | | | | |
| TOTAL | | | | |
| MOTION CARRIED | APPROVED | | | |

CERTIFICATE

I, LAURA BAUMGARTNER, 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.

_____ Mayor

_____ 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, is hereby amended, by adding Article IV, Section 102-406, 102-407, 102-408, 102-409, 102-410, relating to prohibited camping.

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 adding Article IV, Section 102-406, 102-407, 102-408, 102-409, 102-410, as follows:

Article IV – Prohibited Camping

Sec. 102-406 Definitions.

Unless the context requires otherwise the following definitions apply to this Article.

- (a) “To Camp” means to set up or to remain in or at a campsite.
- (b) “Campsite” means any place where bedding, sleeping bag, or other material used for bedding purposes, or any stove or fire is placed, established, or maintained for the purpose of maintaining a temporary place to live, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof.
- (c) “Local agency” means an organization skilled and experienced in services to the homeless and associated human services. The City is not restricted to working with one local agency.
- (c) “Personal property” means any item reasonably recognizable as belonging to a person and having apparent utility or monetary value.

Sec. 102-407 Sleeping on Sidewalks, Streets, Alleys or Doorways Prohibited.

- (a) No person may sleep on public sidewalks, streets, alleys, doorways at any time as a matter of individual and public safety.
- (b) No person may sleep in any pedestrian or vehicular entrance to public or private property abutting a public sidewalk.
- (c) In addition to any other remedy provided by law, any person found in non-compliance of this section may be immediately removed from the premises.

Sec. 102-408 Camping Prohibited

No person may occupy a campsite in or upon any sidewalk, street, alley, lane, public right of way, park, bench, or any other publicly owned property or under any bridge or viaduct, unless authorized by the City Manager or their designee or otherwise specifically authorized by section 74-101.

Sec. 102-409 Removal of Campsite on Public Property

Upon discovery of a campsite on public property, removal of the campsite by the city may occur under the following circumstances:

- (a) Prior to removing the campsite, the city shall post a notice at the campsite. The notice shall state the name, address and telephone number of the department director; that the campsite is in violation of the requirements of this article; that the owner or user is ordered to cause immediate removal from the public property, which date of removal shall be no less than 24-hours after the date the notice was posted.
- (b) At the time a 24-hour notice is posted, the city shall inform a local agency of the location of the campsite.
- (c) After the 24-hour notice period has passed, the city is authorized to remove the campsite and all personal property related thereto.

Sec. 102-410 Offense and Fine

- (a) It is the City Council's intent that this Article shall be utilized for compliance purposes to discourage non-compliant behavior and not as a general enforcement mechanism.
- (b) A person who is not a minor and who fails to comply with sections 102-407 or 102-408 commits a simple misdemeanor, punishable by a fine of \$15.00 and specifically excludes imprisonment.
- (c) For any criminal offense under sections 102-407 or 102-408, it shall be an affirmative defense if space is unavailable or impracticable in a shelter within the City of Des Moines or the person cannot afford the fine.
- (d) For any person who fails to comply with sections 102-407 or 102-408, prior to carrying out those sections, a police officer shall offer a one-time transport as time allows to the shelter location or provide directions to the shelter location. A person who refuses to accept the shelter space offered and fails to comply with this Article shall be deemed to be in non-compliance of sections 102-407 or 102-408 as applicable.

Sec. 102-411 Disposition and Release of Personal Property

- (a) At the time of removal, items having no apparent utility or monetary value and items in an unsanitary condition may be immediately discarded. Weapons, drug paraphernalia, items appearing to be stolen, and evidence of a crime may be retained as evidence by the city until an alternate disposition is determined.
- (b) All personal property removed from the campsite which is not disposed of, or retained as evidence pursuant to subsection (a) above, shall be stored by the city for no less than 30 days in accordance with city policy.
- (c) The owner of personal property which is not disposed of or retained as evidence pursuant to subsection (a) above, may request return of the property in accordance with city policy. The owner of personal property may appeal a decision by the city not to return property stored pursuant to subsection (b) above pursuant to the administrative appeal process set forth in chapter 3 of this Code by filing a written notice of appeal with the city clerk within 30 days commencing on the date of posting the notice of removal of the personal property.

Failure to timely file a written notice of appeal shall constitute a waiver of any right to contest such decision. The administrative hearing officer's authority on appeal shall be limited to ordering personal property that is stored pursuant to subsection (b) above to be provided to the appellant.

Sec. 406-412—102.455. Repealed by Ord. No. 16,005.

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

FORM APPROVED:

/s/ Thomas G. Fisher Jr.
Thomas G. Fisher Jr.
Deputy City Attorney