

ORDINANCE NO. 13,587

AN ORDINANCE to amend the Municipal Code of Des Moines, 1991, adopted by Ordinance No. 11,651, passed April 15, 1991, as heretofore amended, by adding and enacting thereto a new subsection (k) of Section 17-1.01, and subsection (10) of Section 17-5, all relating to the regulation of businesses the operation of which constitutes a nuisance in the neighborhood in which they are located.

BE IT ORDAINED by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of Des Moines, 1991, adopted by Ordinance No. 11,651, passed April 15, 1991, as amended by Ordinance No. 13,518 passed August 18, 1997, and by Ordinance No. 13,558 passed January 15, 1998, be and is hereby amended by adding and enacting thereto a new subsection (k) of Section 17-1.01, and subsection (10) of Section 17-5, all relating to the regulation of businesses the operation of which constitutes a nuisance in the neighborhood in which they are located, as follows:

17-1.01. NUISANCES ENUMERATED - SUBJECT TO ENFORCEMENT BY ADMINISTRATIVE HEARING PROCEDURE OR CIVIL ACTION.

The following are nuisances which may be enforced through the administrative hearing process as set forth in this subchapter:

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(k) Businesses, the operation or maintenance of which adversely impacts nearby residential or commercial uses and which:

(1) Jeopardizes or endangers the public health or safety, or the health or safety of persons residing or working on the premises or in the surrounding area; or,

(2) Has resulted in or facilitated any of the following activities: disturbances of the peace, illegal drug activity including sales or possession thereof, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, illegal parking, excessive noise (particularly between the hours of 11:00 p.m. and 7:00 a.m.), noxious smells or fumes, traffic violations, or police detention, citations or arrests; or,

(3) Violates any other provision of this subchapter or any other City, state or federal regulations, ordinance or statute.

17-5. HEARING.

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(10) Notwithstanding the foregoing, in the event of an alleged violation of subsection 17-1.01(k), then:

(a) The hearing shall be held not later than twenty-one (21) days after the request for hearing was filed.

(b) Notice of the date and place of such hearing shall be given in writing at least ten (10) days in advance thereof to the person requesting the hearing and shall be mailed to the owners of record of all property within 250 feet of the subject property at their address as shown by the records of the Polk County Auditor.

(c) In determining what action is reasonably necessary to abate the nuisance, the hearing officer shall give priority to any physical improvement or change in procedures or operations offered by the property owner or person responsible for the property which is reasonably calculated to remedy the nuisance. The hearing officer may afford the property owner or person responsible for the property a reasonable time within which to demonstrate that actions proposed by such owner or person will actually remedy the nuisance.

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

FORM APPROVED:

Roger K. Brown

Assistant City Attorney