

ORDINANCE NO. 13,758

AN ORDINANCE to amend the Municipal Code of Des Moines, 1991, adopted by Ordinance No. 11,651, passed April 15, 1991, and amended by Ordinance No. 13,518, passed August 18, 1997, and amended by Ordinance No. 13,587, passed March 23, 1998, and amended by Ordinance No. 13,718, passed June 21, 1999, by repealing Section 17-1.01 thereof and enacting a new Section 17-1.01, relating to nuisances.

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, and amended by Ordinance No. 13,518, passed August 18, 1997, and amended by Ordinance No. 13,587, passed March 23, 1998, and amended by Ordinance No. 13,718, passed June 21, 1999, is hereby amended by repealing Section 17-1.01 thereof and enacting a new Section 17-1.01, relating to nuisances, 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:

(a) Depositing any poisonous material or thing on any real estate, so as to allow access to it by any animal or person;

(b) Depositing or storing of flammable junk on any real estate, including but not limited to old rags, rope, cordage, rubber, bones, and paper, by dealers in such articles, unless it be in a building of fireproof construction;

(c) Depositing or storing outside a completely enclosed building, items that constitute a threat to the public health, safety or

welfare, including but not limited to the following: old or scrap rope, rags, batteries, paper, trash, rubber debris, tires, waste, used lumber or salvaged wood, inoperable machinery or appliances or parts of such machinery or appliances, vehicular component parts, iron, steel, old or scrap household goods or hardware, cut brush or wood, including dead or decaying plant material except as contained in a compost pile or orderly stacked firewood if cut in lengths of four feet or less;

(d) Discarding or abandoning of refrigerators, iceboxes or similar containers equipped with an airtight door, lid with a snap, lock or other device which can not be released from the inside, whether the same is abandoned or discarded outside any building or dwelling, or within any unoccupied or abandoned building, dwelling or other structure;

(e) Depositing or storing of litter, garbage or organic waste on any real estate, provided, however, that this subchapter shall not prohibit the storage of litter, garbage or organic waste in authorized private receptacles for collection;

(f) Trees infected with Dutch elm disease or oak wilt, or any dead or dying tree, shrub, brush, or wood, or any tree, shrub, brush, wood or debris infected with any disease, so as to constitute a threat to the public health, safety or welfare;

(g) Any tree or shrub whose foliage extends over the city right-of-way in violation of section 27-14 or section 25-12 of this code;

(h) Graffiti as is defined in chapter 17, subsection 5, when placed on any surface not primarily intended for such use except as specifically permitted therein;

(i) Any motor vehicle which is unlicensed, unsafe or inoperable found upon public or private real estate, and the contents therein, which is not stored within an enclosed building. This subchapter shall not apply to legitimate businesses operating in a lawful place and manner provided, however, that such outside areas are screened from public view and do not constitute a threat to the public health, safety or welfare.

(j) Obstructing or encroaching by motor vehicles or otherwise upon any public or private, road, street, highway, or right-of-way which causes traffic to cross the marked centerline or leave the usual traveled portion of roadway to travel around the obstruction or encroachment. This subchapter shall not apply to emergency vehicles and official government or utility vehicles in the performance of their duties, nor to other vehicles while legally maneuvering into position, or momentarily engaged in receiving or discharging passengers, loading or unloading of merchandise or in obedience to traffic regulations, signs or signals or an involuntary stopping of the vehicle by reason

of causes beyond the control of the operator.

(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.

(1)No person shall
abandon, or allow the
abandonment, of property
in any public right-of-
way abutting real estate
owned or under control
of such person. Property
left in the public right
of way of any road or
alley, including but not

limited to any personal
and household items,
furniture, appliances,
machinery, equipment,
building materials or
other items shall be
deemed abandoned.

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

FORM APPROVED:

Vicky Long-Hill

Assistant City Attorney

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Attest:

I, Donna Boetel-Baker, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 99-3238), passed by the City Council of said City at a meeting held October 18, 1999, signed by the Mayor on October 18, 1999, and published as provided by law in the Business Record on November 1, 1999. Authorized by Publication Order No.6310.

Donna Boetel-Baker, CMC/AAE, City Clerk