★ **Roll Call Number**

Agenda Item Number
48

Date October 10, 2016

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 1-2, 26-605, 118-61, 118-62, 118-63, 118-64 and 118-72, and by repealing Sections 2-64 and 2-167 relating to deletion of references to the board of health",

which was considered and voted upon under Roll Call No. 16-1636 of September 26, 2016; again presented.

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

(Second of three required readings)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
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

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CITY ATTORNEY
Jeffrey D. Lester

DEPUTY CITY ATTORNEYS
Lawrence R. McDowell
Carol J. Moser
Kathleen Vanderpool

SENIOR LITIGATORS
John O. Haraldson
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Jessica D. Spoden
Lisa A. Wieland

CITY OF DES MOINES
LEGAL DEPARTMENT

September 26, 2016

HONORABLE MAYOR AND MEMBERS
OF THE DES MOINES CITY COUNCIL

RE: Ordinance Amending Sections of the Municipal Code to Delete References to the Board of Health

As a result of changes to State law, the City does not effectively operate its health related functions within the City through a board of health. On May 23, 2016 by Roll Call No. 16-0860, the City Council approved the 28E Agreement with Polk County regarding health functions and enforcement wherein such health related functions and programs within the City will be administered under the City's home rule powers and other State code authority by City departments and the City Council as opposed to by a City board of health.

As a result of the changes made to State law and the prior City Council action, an ordinance has been prepared to amend sections of the Municipal Code to delete all references to the City board of health.

Respectfully submitted,

Lawrence R. McDowell
Deputy City Attorney

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 1-2, 26-605, 118-61, 118-62, 118-63, 118-64 and 118-72, and by repealing Sections 2-64 and 2-167 relating to deletion of references to the board of health.

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 1-2, 26-605, 118-61, 118-62, 118-63, 118-64 and 118-72, and by repealing Sections 2-64 and 2-167 relating to deletion of references to the board of health, as follows:

Sec. 1-2. Definitions and rules of construction.

In the construction of this Code and of all ordinances of the city, the following definitions and rules of construction shall be observed, unless they are inconsistent with the intent of the city council or the context clearly requires otherwise:

~~*Board of health.* The term "board of health" means the board of health of the city, as provided for in section 2-64 of this Code.~~

Sec. 2-64. ~~Board of health.~~ (Repealed by Ord. No. 15,---)

~~(a) The council may contract with another public agency pursuant to I.C. ch. 28E for that agency to assume jurisdiction over and perform such public health functions as the city and that agency shall determine.~~

~~(b) The members of the council shall constitute and act as the local board of health of the city in regard to those public health related functions which the city determines to retain.~~

~~(c) The city retains jurisdiction over the following public health related functions:~~

~~(1) The city sewage treatment plant.~~

~~(2) Solid waste collection and disposal as authorized by section I.C. §§ 137.7(4) and 455.301 et seq.~~

~~(3) The city water works.~~

~~(4) Housing inspection as regulated by article IV of chapter 26 of this Code.~~

~~(5) The city environmental health department, as authorized by I.C. § 137.7(1), as follows:~~

~~a. Investigation of nuisance complaints.~~

~~b. Inspection of landfills and solid waste transfer stations.~~

~~c. Carbon monoxide testing upon request.~~

~~d. Percolation testing for private sewage disposal systems.~~

~~e. Ambulance inspections.~~
~~f. Swimming and wading pools in city parks or in multiple-housing units.~~
~~g. Rat control.~~
~~h. Mosquito control.~~
~~i. Control of private sewer systems.~~
~~j. Control of wells.~~
~~k. Nuisance odor control.~~

Sec. 2-167. ~~Chair of board of health.~~(Repealed by Ord. No. 15,---)

~~The mayor shall be chair of the local board of health and shall possess all of the powers and perform all of the duties pertaining to such office as may be required by the laws of the state, this Code and other city ordinances.~~

Sec. 26-605. Authority of building official.

The building official is responsible for the enforcement of the plumbing code, city and county ordinances and the rules and regulations of the ~~local~~ city, county boards of health and state board of public health governing plumbing. When used in this article, the term "administrative authority" shall mean the building official or his or her duly authorized representative.

When it is impossible or impractical to install plumbing in strict compliance with the provisions of the plumbing code or any other applicable law, ordinance, rule or regulation, the building official may, with the approval of the state department of public health, permit minor variations which are safe and reasonable.

Sec. 118-61. Removal and disuse of outside water closet.

The ~~board of health~~ city council, whenever it deems it necessary for the preservation of the public health or welfare that any outside water closet, privy, privy vault or septic tank system be abandoned and removed, where there is a sanitary sewer in the street or alley abutting the property upon which an outside water closet, privy, privy vault or septic tank system is located, may order that it be abandoned and removed and that a sanitary toilet and toilet facilities or sanitary sewer connection be installed and connected with the sanitary sewer.

Sec. 118-62. Notice of order to remove outside water closet.

When the ~~board of health~~ city council shall order the removal and disuse of any outside water closet, privy, privy vault or septic tank system and shall order that a sanitary toilet and toilet facilities or sanitary sewer connection be installed on any property and connected with the sanitary sewer or water, notice thereof shall be served upon the owner of such property personally or, if the owner cannot be found, by mailing a copy of the notice by registered mail to his or her last known address and posting a copy thereof on the property affected.

Sec. 118-63. Condemnation and penalty for failure to comply with order to remove outside water closet.

If the order referred to in section 118-61 of this division is not complied with within 30 days from the service of notice thereof, the ~~board of health~~ city council may order the property condemned for human habitation, and any person thereafter using it or authorizing its use for human habitation, until such time as the order is complied with, shall be guilty of a misdemeanor, punishable by fine or imprisonment as provided in section 1-15 of this Code.

Sec. 118-64. Installation of toilet and toilet facilities by city when owner unable to pay.

After the service of notice provided in section 118-62 of this division, if upon application by a property owner, the ~~board of health~~ city council shall determine that he or she is unable to pay for the installation of a sanitary toilet and toilet facilities, including water and sewer connections, the city council may have the necessary toilet installed and assess the cost against the property benefitted, which shall be a special assessment and collection made as provided in I.C. ch. 364.

Sec. 118-72. Cleaning of privy vaults by city.

If, within three days after service of the notice referred to in section 118-70 of this division, the privy vault or cesspool has not been cleaned, the environmental health officer shall report the condition to the ~~board of health~~ city council. Thereafter, the ~~board of health~~ city council may cause the privy vault or cesspool to be cleaned and certify the cost thereof to the county treasurer for the purpose of assessing it against such property to be collected as other taxes.

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

FORM APPROVED:

Lawrence R. McDowell
Deputy City Attorney