★ **Roll Call Number**

Agenda Item Number 51

Date September 11, 2017

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 1-15, 2-70, 10-13, 18-13, 18-53, 18-101, 22-12, 22-55, 26-142, 26-156, 26-159, 30-260, 42-190, 42-217, 42-312, 42-406, 42-432, 42-465, 42-493, 50-36, 62-104, 70-1, 78- 11, 98-79, 102-3, 102-617, 106-14, 106-201, 114-482, 114-617, 118-63, 122-26, 130- 111 and 134-31, and by repealing Sections 22-58, 102-127, 102- 1136, 102-1181, 114- 634, relating to revised criminal and civil penalties for violation of City ordinances",

which was considered and voted upon under Roll Call No. 17-1496 of August 28, 2017; 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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17-1496
51

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 1-15, 2-70, 10-13, 18-13, 18-53, 18-101, 22-12, 22-55, 26-142, 26-156, 26-159, 30-260, 42-190, 42-217, 42-312, 42-406, 42-432, 42-465, 42-493, 50-36, 62-104, 70-1, 78- 11, 98-79, 102-3, 102-617, 106-14, 106-201, 114-482, 114-617, 118-63, 122-26, 130- 111 and 134-31, and by repealing Sections 22-58, 102-127, 102-1136, 102-1181, 114- 634, relating to revised criminal and civil penalties for violation of City ordinances.

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 1-15, 2-70, 10-13, 18-13, 18-53, 18-101, 22-12, 22-55, 26-142, 26-156, 26- 159, 30-260, 42-190, 42-217, 42-312, 42-406, 42-432, 42-465, 42-493, 50-36, 62-104, 70-1, 78-11, 98-79, 102-3, 102-617, 106-14, 106-201, 114-482, 114-617, 118-63, 122-26, 130-111 and 134-31, and by repealing Sections 22-58, 102-127, 102-1136, 102-1181, 114-634, relating to revised criminal and civil penalties for violation of City ordinances., as follows:

Sec. 1-15. General penalty.

(a) Whenever in this Code or in any city ordinance any act is prohibited or is made or declared to be unlawful or an offense or whenever in this Code or in any city ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, if the act is not declared to be a misdemeanor or a municipal infraction and if no specific penalty is provided therefor, the violation of any such provision shall be deemed to be a misdemeanor punishable by a fine not to exceed the maximum amount of dollars ~~or imprisonment not to exceed the maximum number of days~~ as provided in Section 903.1, subsection 1, paragraph a of the Iowa Code.

(b) Whenever in this Code or in any city ordinance any act is prohibited and is declared to be a misdemeanor or whenever in this Code or in any city ordinance the doing of any act is required and the failure to do that act is declared to be a misdemeanor, the violation of any such provision shall be punishable by a fine not to exceed the maximum amount of dollars ~~or imprisonment not to exceed the maximum number of days~~ as provided in Section 903.1, subsection 1, paragraph a of the Iowa Code. <u>In addition to punishment by fine, a violation of any such provision contained in chapter 118, article III of this Code shall be punishable by imprisonment not to exceed the maximum number of days as provided in Section 903.1, subsection 1, paragraph a of the Iowa Code.</u>

(c) Whenever in this Code or in any city ordinance any act is prohibited and is declared to be a municipal infraction or whenever in this Code or in any city ordinance the doing of any act is required and the failure to do that act is declared to be a municipal infraction, the violation of any such provision shall be punishable by a civil penalty of not more than $750.00 for each violation or, if the infraction is a repeat offense, by a civil penalty of not more than $1,000.00 for each repeat offense. However, a municipal infraction which is classified as an environmental violation or which arises from noncompliance with a pretreatment standard or requirement, referred to in 40 CFR 403.8, by an industrial user may be punishable by a civil penalty of not more than $1,000.00 for each day a violation exists or continues. Each day a violation of a provision of this Code or of a city ordinance continues shall be considered a separate municipal infraction.

(d) In addition to seeking the imposition of a civil penalty as provided in this section, the city attorney may seek all other appropriate remedies allowed by law in regard to the abatement, correction, or discontinuance of activities which constitute municipal infractions.

(e) Municipal infractions may be initially brought upon simple notice and if the person charged admits the violation, upon payment of the penalty to the city treasurer and the performance of any other act required by law to be performed, such person shall not be further prosecuted or assessed any costs or other expenses for such violation, and the city shall retain all penalties thus collected. Where a municipal infraction is not admitted upon simple notice by the person charged or where the person charged fails to perform any other act required to be performed, or both, an action seeking a penalty shall be brought in the state district court. Any action seeking a penalty for a municipal infraction, with or without additional relief, may be initially brought in the state district court. This section does not impose a duty to initially charge all municipal infractions upon simple notice. Municipal infractions that are not brought upon simple notice may be brought pursuant to Section 364.22 of the Iowa Code, and the civil citation shall serve as notification that a civil offense has been committed.

(f) Notwithstanding subsections (c), ~~and~~ (d) and (e) of this section, a municipal infraction will not be initiated for any infraction classified as an environmental infraction and referred to in I.C. ch. 455B until an offer is made to participate in informal negotiations with the person. If the person accepts the offer, the city and the person shall participate in good faith negotiations to resolve issues alleged to be the basis for the violation. If the city is unable to contact the person or is unable to resolve the issues alleged to be the basis for the violation, a municipal infraction may be initiated against the person.

State law reference(s)--Penalties for violation of municipal ordinances, I.C. § 364.3(2), (6).

Sec. 2-70. Meetings.

(a) *Time, procedure.* Regular meetings of the council shall be held on the dates set forth in a schedule of meetings adopted by the council, at a time to be set by the council. Special meetings may be called from time to time by the mayor or a majority of the members of the council. Notice of the meeting shall be given personally or left at the usual place of residence of each member of the council, and a record of the service of notice shall be made by the clerk. All meetings of the council, whether regular or special, shall be held in

accordance with the state public meetings law, I.C. § 21.1 et seq., or other appropriate provision of state law. If, at any meeting, the presiding officer of the council is not present, the mayor pro tem shall act as the presiding officer pro tempore of the meeting, and the mayor pro tem's acts shall have the same force and legality as though performed by the regularly elected presiding officer of the council. In the absence of both, the council shall select a presiding officer for the meeting.

(b) *Holidays.* When any legal holiday shall fall on Sunday, Monday, or Tuesday, the regular meeting of the council shall be held at such time and place as may be designated by resolution of the council.

(c) *Rules of conduct.* The following rules are adopted for the conduct of those attending regular and special meetings of the city council in the council chamber in the city hall:

(1) No person shall be permitted to stand in the council chamber during council sessions between the audience seats and the councilmembers except the persons addressing the council, who shall do so from the speaker's stand, and except city officials and employees on city business.

(2) No person shall enter the raised area at the west end of the council chamber or the area used by the city clerk, except upon invitation of the council or a member thereof, and except city officials and employees on city business.

(3) No person shall enter the raised area at the east end of the council chamber except representatives or employees of the communications media.

(4) Any person desiring to address the council may do so when recognized by the presiding officer, but the council reserves the right to limit the speaker's time and the order in which the speakers may address the council.

(5) No person shall be interrupted while addressing the council except by a member of the council.

(6) No member of the public shall be permitted to sit or lean upon the council table during sessions of the council.

(7) No person shall use unreasonably loud or abusive language or any other language in the council chamber which disrupts or is intended to disrupt the peace, quiet, and good order of a council meeting.

(8) Those having business before the council shall have the right to speak to items as they appear on the council agenda, subject to the constraints in subsections (c)(1) through (7) of this section.

(9) Any person who violates any of the rules of conduct set out in this subsection shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

(10) The chief of police shall enforce this subsection and upon request shall provide sufficient officers therefor.

State law reference(s)--Open meetings, I.C. § 21.1 et seq.; authority to adopt rules of conduct, I.C. § 21.7.

Sec. 10-13. Penalties.

(a) Any person who fails to perform an act required by this chapter or who commits an act prohibited by this chapter shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of this Code.

(b) The conviction of any liquor control licensee, wine permittee, or beer permittee for a violation of any of the provisions of subsection 10-6(a), inclusive, shall, subject to subsection (c) of this section, be grounds for a civil penalty of up to $1,000.00 per violation and/or the suspension or revocation of the license or permit by the state department or the city. However, if any liquor control licensee is convicted of any violation of I.C. § 123.49(2)a., d. or e., or any wine or beer permittee is convicted of a violation of subsection (2), paragraphs a. or e. of such section of the state Alcoholic Beverage Control Act, the liquor control license, wine permit, or beer permit shall be revoked and shall immediately be surrendered by the holder, and the bond, if any, of the license or permit holder shall be forfeited to the state department.

(c) If any licensee, wine permittee, beer permittee, or employee of such licensee or permittee shall be convicted of a violation of subsection 10-6(a)(9) of this chapter or section 123.49(2)(h) of the Code of Iowa; or if a retail wine or beer permittee shall be convicted of a violation of subsection 10-6(a)(10) or section 123.49(2)(i) of the Code of Iowa, the city shall, unless the city makes a request for the Alcoholic Beverages Division of the Iowa Department of Commerce to enforce these state code sections, in addition to the other penalties fixed for such violations by this section or Chapter 123 of the code of Iowa, assess a civil penalty as follows:

(1) Upon a first conviction, the violator's license or permit shall be suspended for a period of fourteen days. However, if the conviction is for a violation of section 10-6(9) of this chapter or section 123.49(2)(h) of the Code of Iowa, the license or permit shall not be suspended, but the violating licensee or permittee shall be assessed a civil penalty in the amount of $500.00. Failure to pay the civil penalty as ordered will result in automatic suspension of the license or permit for a period of 14 days.

(2) Upon a second conviction within a period of two years, the violator's liquor control license, wine permit, or beer permit shall be suspended for a period of 30 days. However, if the conviction is for a violation of section 10-6(9) of this chapter or section 123-49(2)(h) of the Code of Iowa, the licensee or permittee shall also be assessed a civil penalty in the amount of $1,500.00.

(3) Upon a third conviction within a period of three years, the violator's liquor control license, wine permit, or beer permit shall be suspended for a period of 60 days. However, if the conviction is for a violation of section 10-6(9) of this chapter or section 123.49(2)(h) of the Code of Iowa, the licensee or permittee shall also be assessed a civil penalty in the amount of $1,500.00.

(4) Upon a fourth conviction within a period of three years, the violator's liquor control license, wine permit, or beer permit shall be revoked.

Sec. 18-13. Penalty.

Any person who fails to perform an act required by the provisions of this chapter or who commits an act prohibited by the provisions of this chapter shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

Sec. 18-53. Penalties.

(a) Notwithstanding any other section of this article, any dog owner who allows the rabies vaccination to lapse at any time during the licensing year shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

(b) Any person who removes a license tag from a dog prior to the expiration of the license shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

Sec. 18-101. Penalties.

(a) Notwithstanding any other section of this article, any owner who allows the rabies vaccination to lapse at any time during the licensing year shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of this ~~e~~Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

(b) The removal of a license tag or a spay/neuter tag from a cat prior to the expiration of that tag by any person who is not the owner thereof or the agent of such owner shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of this ~~e~~Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

Sec. 22-12. Enforcement.

(a) Except as herein provided, it shall be unlawful for any person to construct or alter any structure, use any land, or grow any tree in violation of the provisions of this article.

(b) Any person who ~~violates the provisions of~~ fails to perform an act required by this ~~article~~ chapter or who commits an act prohibited by this chapter shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

(c) The city may, pursuant to Section 329.5 of the Iowa Code, maintain an action in equity to restrain and abate as a nuisance the creation, establishment or maintenance of a non-compatible use, obstruction, or hazard, in violation of any provision established by this article.

Sec. 22-55. Legal effect of regulations adopted.

Regulations adopted by the board have the effect of law. In addition to any remedy provided by a regulation, any person who fails to perform an act required by such regulation or who commits an act prohibited by such regulation shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

Sec. 22-58. ~~Penalty~~ Repealed by Ord. No. 15,---.

~~Any person who fails to perform an act required by this chapter or who commits an act prohibited by this chapter shall be guilty of a misdemeanor punishable by fine or imprisonment as provided by section 1-15 or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15.~~

Sec. 26-142. Revocation, expiration and extension of permit.

(a) Any permit required by this chapter may be revoked by the building official upon the violation of any section of this article. In addition to the revocation of a permit a person ~~may~~ shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of ~~the city~~ this Code, or ~~may~~ shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of ~~the city~~ this Code.

(b) A willfully false statement in an application for a permit shall be sufficient cause for revocation.

(c) Every permit, except a demolition permit, issued by the building official under the provision of the building codes shall expire under any one of the following conditions:

(1) Failure to begin work authorized within 180 days after issuance of the permit.

(2) Suspension or abandonment of work for 120 days after commencement of the work. Time of occurrence of suspension or abandonment of work shall be computed from the date of the most recent inspection since which no progress has been made.

(3) Failure to complete work on a structure designed for residential uses within one year after issuance of a permit.

(4) Failure to complete work on a structure designed for commercial or industrial uses within two years after issuance of a permit. For permits with a valuation exceeding $10,000,000.00 work shall be completed within three years after issuance of a permit.

(d) Any permittee holding an unexpired permit may apply for an extension of the time within which the permittee may commence or continue work. The building official may give such extension of time at the building official's discretion as follows:

(1) For structures designed for residential uses, two extensions, each extension not exceeding 90 days.

(2) For structures designed for residential/ commercial uses, three extensions, each extension not exceeding 90 days.

(3) For structures designed for commercial or industrial uses, three extensions, each extension not exceeding 180 days.

(4) In all cases, when a renewal is granted the structure for which the permit is required shall comply with code requirements in effect at the time the permit is renewed.

(e) Any of the extensions in subsection (d) of this section may be further extended by action of the city council. An expired permit may not be reissued without a permit fee except by resolution of the city council.

Sec. 26-156. Civil violations and penalties.

(a) No person shall engage in or cause any activity to be done in violation of any provision of the building codes or state laws regulating contractor licensing.

(b) Persons who fail to perform an act required by the provisions of this chapter or who commit an act prohibited by the provisions of this chapter shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of ~~the city~~ this Code~~,~~ or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of ~~the city~~ this Code.

(c) The city may obtain injunctive relief to enforce the provisions of this chapter.

Sec. 26-159. Failure to Complete Work by Permit Expiration Date.

A person ~~may~~ shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of ~~the city~~ this Code~~,~~ or ~~may~~ shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of ~~the city~~ this Code for failing to complete permitted work by the permit expiration date. The city may also file a civil action in the district court seeking further relief that may include an order to complete permitted work.

Sec. 30-260. Conditions subject to abatement; penalties.

(a) If any salvage yard or junkyard is kept or operated in a way detrimental to the health and welfare of the public to the extent that a public or private nuisance exists or is kept or operated contrary to this division or if any salvage dealer fails to comply with the licensing sections of this division, the city shall notify in writing the owner of the land upon which such salvage yard or junkyard is kept or operated and, where applicable, the operator thereof of the detrimental or violative conditions, permitting a reasonable time, not less than ten days, to correct such conditions or violations. If the owner or operator fails to correct such conditions or to comply with this division within such time, the city may seek abatement of the nuisance or bring an action enjoining the violation. The abatement of a nuisance shall be considered of benefit to the owner of the land, and the costs of such corrective action shall be chargeable to the owner and, if not paid, shall constitute a lien upon the premises and shall be assessed in the manner of a special assessment and collected in the same manner as general taxes as is provided by law. The remedies provided in this section shall be in addition to the fines or penalties provided for in section 1-15 of this Code.

(b) Any person who fails to perform an act required by this division or who commits an act prohibited by this division shall be guilty of a misdemeanor punishable by fine ~~or~~

~~imprisonment~~ as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

Sec. 42-190. ~~Misdemeanor and municipal infraction~~ Criminal and civil penalties.

(a) Any person who fails to perform an act required by this article or who commits an act prohibited by this ~~division~~ article or who resists the enforcement of any section of this ~~division~~ article shall be guilty of a misdemeanor punishable by a fine ~~or imprisonment~~ as provided ~~in~~ by section 1-15 of this eCode. ~~The director, the city engineer, or any police officer is authorized to issue a criminal misdemeanor citation to anyone violating this article.~~

(b) Any person who fails to perform an act required by this article or who commits an act prohibited by this article or who resists the enforcement of any section of this article shall be ~~deemed to have committed~~ guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code. ~~The first violation of this article within a calendar year shall be deemed the first offense punishable by a civil penalty not to exceed $500. The second and each subsequent violations within a calendar year shall be a repeat offense, punishable by a civil penalty not to exceed $750.00. The director, or the city engineer, or any police officer is authorized to issue a civil citation for a municipal infraction pursuant to I.C. § 364.22(4) to anyone violating this article indicating such person is in violation of this article.~~

Sec. 42-217. Penalty.

Any person who fails to perform an act required by the provisions of this article, or who commits an act prohibited by the provisions of this article, shall be guilty of a misdemeanor punishable by fine as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

Sec. 42-312. Penalty.

Any person who fails to perform an act required by this article or who commits an act prohibited by this article commits an environmental violation and shall be guilty of a misdemeanor punishable by fine as provided by section 1-15 of this Code or shall be guilty of a municipal infraction, punishable by a civil penalty as provided by section 1-15 of this Code.

Sec. 42-406. Penalty.

Any person who fails to perform an act required by this article or who commits an act prohibited by this article shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

Sec. 42-432. Civil violations and penalties.

Any person~~, corporation or other legal entity~~ who violates or resists the enforcement of any of the provisions of this article shall be guilty of a misdemeanor punishable by fine as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.~~of not more than $500.00 for the initial offense and not more than $750.00 for each repeat offense. Each day that a municipal infraction occurs constitutes a separate offense. Any person, corporation or other legal entity who violates a provision of this article after having previously been found guilty of violating the same provision of this article at the same location or at a different location shall be guilty of a repeat offense. This municipal infraction penalty shall be in addition to the penalties provided for in section 1-15 of this Code.~~

~~Seeking a civil penalty as authorized in this section does not preclude the city from seeking alternative relief, including an order for abatement or injunctive relief, from the court in the same action or as a separate action.~~

Sec. 42-465. ~~Misdemeanor and municipal infraction~~ Criminal and civil penalties.

(a) Any person who fails to perform an act required by this division or who commits an act prohibited by this division ~~this article~~ or who resists the enforcement of any section of this division shall be guilty of a misdemeanor punishable by a fine ~~or imprisonment~~ as provided ~~in~~ by section 1-15 of this ~~c~~Code. ~~The director or any police officer is authorized to issue a criminal citation to anyone violating this division.~~

(b) Any person who fails to perform an act required by this division or who commits an act prohibited by this division or who resists the enforcement of any section of this division shall be ~~deemed to have committed~~ guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code. ~~The first violation of this division within a calendar year shall be deemed the first offense, punishable by a civil penalty not to exceed $500.00. The second and subsequent violation within a calendar year shall be a repeat offense, punishable by a civil penalty not to exceed $750.00 punishable by a civil penalty of $750.00. The director or any police officer is authorized to issue a civil citation for a municipal infraction pursuant to I.C. § 364.22(4) to anyone violating this division indicating such person is in violation of this division.~~

Sec. 42-493. Criminal and ~~C~~civil Penalties.

(a) Any person who fails to perform an act required by this ~~sub~~division or who commits an act prohibited by this ~~sub~~division shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

(b) Seeking a civil penalty as authorized in this section does not preclude the city from seeking alternative relief, including any order for abatement or injunctive relief, from the court in the same action or as a separate action.

Sec. 50-36. Penalties.

Any person who fails to perform an act required by this article or who commits an act prohibited by this article shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of this Code, or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

Sec. 62-104. Threat of force or intimidation; penalty.

(a) A person commits a public offense if the person, whether or not acting under color of law, by force or threat of force, intentionally intimidates or interferes with or attempts to interfere with a person under any of the following circumstances:

(1) Because of the person's race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status, and because the person is or has been selling, purchasing, renting, occupying, or financing, contracting for, or negotiating for the sale, purchase, rental or occupation of any dwelling, or applying for or participating in a service, organization, or facility relating to the business of selling or renting dwellings.

(2) Because the person is or has been doing any of the following:

a. Participating, without discrimination because of race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status, in an activity service, organization, or facility described in subsection (a)(1) of this section.

b. Affording another person the opportunity or protection to so participate.

c. Lawfully aiding or encouraging other persons to participate, without discrimination because of race, color, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status, in an activity, service, organization, or facility described in subsection (a)(1) of this section.

(b) Any person who fails to perform an act required by this section or who commits an act prohibited by this section shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

Sec. 70-1. Penalty.

Except as otherwise provided in this chapter, any person who fails to perform an act required by this chapter or who commits an act prohibited by this chapter shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

Sec. 78-11. ~~Civil violations and~~ Criminal and civil penalties.

(a) No person shall engage in or cause any activity to be done in violation of any provision of this chapter.

(b) Persons who fail to perform an act required by the provisions of this chapter or who commit an act prohibited by the provisions of this chapter shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of ~~the city~~ this Code, or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of ~~the city~~ this Code.

(c) The city may obtain injunctive relief to enforce the provisions of this chapter.

Sec. 98-79. Penalty.

Any person who fails to perform an act required by this ~~article~~ chapter or who commits an act prohibited by this ~~article~~ chapter shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of this Code or shall be ~~deemed to have committed~~ guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code. ~~The first offense within a calendar year shall be deemed the first offense punishable by a civil penalty not to exceed $250.00. The second and each subsequent offense within a calendar year shall be a repeat offense, punishable by a civil penalty not to exceed $500.00. The director of public works or his or her designated representative or any police officer is authorized to issue a civil citation pursuant to I.C. § 364.22(4) to anyone violating this article indicating such person is in violation of this article and is subject to the penalties provided for in this section.~~

Sec. 102-3. Penalties.

(a) Any person who fails to perform an act required by this chapter or who commits an act prohibited by this chapter or who violates or resists the enforcement of the provisions of this chapter shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

(b) In addition to the fines or penalties provided for in Section 102-3(a), violations of Section 102-2 constitute public ~~are~~ nuisances subject to abatement and enforcement pursuant to the procedures set forth in article VI of chapter 42 ~~as provided in Section 42-351~~ of this Code. ~~Notice shall be given as provided in Section 42-358 of this Code.~~

(c) Seeking a civil penalty as authorized in this section does not preclude the city from seeking alternative relief, including but not limited to any order for abatement or injunctive relief from the court in the same action or as a separate action.

Sec. 102-127. (Repealed by Ord. No. 15,---). ~~**Municipal infractions.**~~

~~(a) Any person who fails to perform an act required by this division or who commits an act prohibited by this division shall be deemed to have committed a municipal infraction. The first offense within the snow season shall be deemed the first offense punishable by a civil penalty not to exceed $250.00. The second and each subsequent offense within a snow season shall be a repeat offense, punishable by a civil penalty not to exceed $500.00.~~

~~(b) The director of public works or his or her designated representative or any police officer is authorized to issue a civil citation pursuant to I.C. § 364.22(4) to anyone violating this~~

~~division indicating such person is in violation of this division and is subject to the penalties provided for in section 102-127 of this division.~~

Sec. 102-617. Violations ~~and penalties~~ constitutes a public nuisance.

~~(a) Any person who violates the provisions of this article shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.~~

(~~b~~a) Every encroachment, the removal of which is required by this article, shall also constitute a public nuisance subject to abatement and enforcement pursuant to the procedures set forth in ~~A~~article VI of chapter 42 of this Code.

(~~e~~b) The processes set forth in this article are not exclusive remedies for the city and alternate relief may be sought pursuant to any other sections of this Code or Iowa law that may be applicable.

Sec. 102-1136. (Repealed by Ord. No. 15,---).~~Penalties.~~

~~Any person who violates or resists the enforcement of any of the provisions of this article shall be guilty of a simple misdemeanor or a municipal infraction punishable by a civil penalty of $500.00 for the initial offense and $750.00 for each repeat offense. Any person who violates a provision of this article after having previously been found guilty of violating the same provision of this article at the same location, shall be guilty of a repeat offense. Seeking a civil penalty as authorized in this section does not preclude the city from seeking alternative relief, including but not limited to any order for abatement or injunctive relief from the court in the same action or as a separate action.~~

Sec. 102-1181. (Repealed by Ord. No. 15,---).~~Penalties.~~

~~Any person who violates or resists the enforcement of any of the provisions of this article shall be guilty of a simple misdemeanor, or a municipal infraction punishable by a civil penalty of $500.00 for the initial offense and $750.00 for each repeat offense. Any person who violates a provision of this article after having previously been found guilty of violating the same provision of this article at the same location, shall be guilty of a repeat offense. Seeking a civil penalty as authorized in this section does not preclude the city from seeking alternative relief, including but not limited to any order for abatement or injunctive relief from the court in the same action or as a separate action.~~

Sec. 106-14. Enforcement, violations and penalties.

(a) It shall be the duty of the zoning enforcement officer to enforce this chapter and to bring to the attention of the city council any violations or lack of compliance with this chapter.

(b) Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of this chapter; to prevent unlawful construction; to recover damages; to restrain, correct, or abate a violation; and to prevent illegal occupancy of a building, structure or premises, and these remedies shall be in addition to the penalties described in section 1-15 of this Code.

(c) Any person who fails to perform an act required by this chapter or who commits an act prohibited by this chapter shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

Sec. 106-201. Stormwater management facilities enforcement.

(a) The department of public works or city engineer may enter at all reasonable times and as often as necessary in or upon any private property for the purpose of investigating stormwater management facilities which may be maintained in violation of this section and to determine compliance with section 106-136; including the right to take samples and examine and copy records and the performance of additional duties defined by state and federal laws. The requirements of this section shall be enforced by the department of public works or the city engineer. The director of public works or city engineer shall have full authority to declare a violation and issue notices provided for in this division and to take action as required and permitted by this division. The director of public works or city engineer shall have all powers and authority necessary to cause the abatement of violations under this article. The director shall have the authority to terminate access to the municipal storm water system of a person violating this division if such termination would abate a violation pursuant to 106-201 (d).

(b) The city engineer or public works director or his designee is authorized to issue a notice of violation imposing an administrative penalty upon any person or responsible party who fails to perform an act required by section 106-136.

(1) The administrative penalty for such violations shall be as provided in the schedule of administrative penalties adopted by the city council by resolution.

(2) Notice of violation, with the applicable penalty for such violation noted thereon, shall be issued to the violator by the director. Service of the notice may be by regular mail or delivery in person. Penalties shall be paid in full within thirty (30) days of the issuance of the notice.

(3) The administrative penalties set out in the schedule of administrative penalties shall be charged in lieu of the fines and penalties provided for in subsection 106-201, unless the violator refuses to correct the violation and pay the scheduled administrative penalty, or the director determines that immediate prosecution pursuant to misdemeanor or municipal infraction prosecution pursuant to section 1-15 is, in view of the particular circumstances of the case, necessary to achieve compliance with the requirements of this division.

(c) Failure to maintain stormwater management facilities in violation of section 106-136 or the Stormwater Facility Maintenance Agreement are deemed to constitute a public nuisance.

(d) If the public works director determines that a violation of section 106-136 or the covenant and easement agreement has occurred or is occurring, the director shall give notice of the existence of the nuisance pursuant to section 106-201 (d) (5) and order abatement of such nuisance. The city may correct a violation by performing all necessary work to place the stormwater management facilities in proper working condition after providing the responsible party with notice of the need to abate such nuisance, that if not abated the city

will cause such abatement, the costs of abatement and that the city will assess the costs for such abatement. Service of the abatement notice shall be by certified mail, addressed to the responsible party and/or owner of the benefited property, or by posting on the property if the address of the owner is unknown. The notice shall provide at least a twenty-four (24) hour period for abatement of the nuisance prior to the city's abatement action and notice of the right to a hearing on the finding of a public nuisance and the costs of abatement pursuant to subsection (5) below.

(1) Provided, however, that the city may cause such abatement without prior notice in the event that such failure to repair presents an imminent risk of harm to person or property, and the director declares an emergency on account thereof.

(2) When the city abates a nuisance pursuant to section 106-201 (d), the city may assess the actual costs of abatement to the Benefitted Property owner(s) or the property owners or parties responsible for the maintenance in accordance with the Stormwater Facility Maintenance Agreement for the cost of repair work, in addition to taking any other action provided for in this division.

(3) Upon adoption by the city council, the schedule of assessments for the abatement and the resolution approving such shall be certified by the city clerk to the county auditor for collection in the manner provided by law.

(4) The cost of abating a violation under this chapter shall be paid from the proper fund and when collected shall be credited to that fund.

(5) When the city makes a finding of a public nuisance pursuant to section 106-201(d), notice shall be given to the owner of the property subject to assessment of the right to an administrative hearing regarding the existence of and responsibility for the public nuisance, and regarding the costs of the abatement. The notice shall contain the following information:

a. A description, to the extent possible, of the public nuisance;

b. A description of the location where the nuisance was abated;

c. An indication of the date and time that the city caused the abatement, and that the costs of the abatement have been or will be assessed against the real estate from which the abatement occurred;

d. An itemization of the costs incurred by the city in the abatement of the nuisance;

e. That the person notified, or the person's duly authorized agent, may file a written request for hearing as set forth in this section; and

f. That failure to make a written request for a hearing to the city clerk within ten days the date of the notice shall be considered a waiver of the right to a hearing and it will be thereafter conclusively presumed that the nuisance and abatement occurred and costs will be assessed against the real estate without further notice.

g. Service of the notice provided for in subsection (a) hereof shall be by certified mail, addressed to the Benefitted Property owner(s) or the property owners or parties responsible for the maintenance in accordance with the Stormwater Facility Maintenance agreement for the cost of repair work, or shall be by posting upon such property on which the stormwater runoff control facilities are located if the address of any of the above are unknown.

h. Any person in receipt of such notice may have, upon written request made in writing and filed with the city clerk within ten (10) days of the date of issuance of the notice, an administrative hearing before the city manager, or before a hearing officer appointed by the city manager, to determine if a public nuisance has occurred, to determine if the amount to be assessed is reasonable and if the assessment shall be placed against the subject property.

i. A request for hearing shall:(1) contain the address of the person requesting the hearing and to which all further notices shall be mailed or served; and (2) shall state the basis for the appeal.

j. The hearing shall be scheduled to be held as soon as practicable and no later than 14 days after the request for hearing was filed with the city clerk. The person requesting the hearing shall be notified in writing or by telephone of the date and place of such hearing at least three days in advance thereof.

k. At such hearing the department and the person requesting the hearing may be represented by counsel, examine witnesses, and present evidence as necessary.

l. The city manager or hearing officer may determine whether or not a public nuisance occurred, who is responsible for the nuisance, whether the city caused the abatement of the nuisance in accordance with this chapter, and whether the assessment for costs of abatement is reasonable or should be reduced or waived, as appropriate.

m. The determination of the hearing officer is a final administrative decision.

n. Failure to request a hearing within ten days of the date of issuance of the notice shall be considered a waiver of the right to a hearing and it will be thereafter conclusively presumed that the property owner is responsible for the public nuisance.

(e) Any person who fails to perform an act required by this chapter or who commits an act prohibited by section 106-136 or who resists the enforcement of any section of this ~~division~~ chapter shall be guilty of a misdemeanor punishable by a fine ~~or imprisonment~~ as provided in section 1-15 of this ~~c~~Code. ~~The director or any police officer is authorized to issue a criminal citation to anyone violating this division~~.

(f) Any person who fails to perform an act required by this ~~division~~ chapter or who commits an act prohibited by this ~~division~~ chapter or who resists the enforcement of any section of this ~~division~~ chapter shall be ~~deemed to have committed~~ guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code. ~~The first violation of this chapter within a calendar year shall be deemed the first offense, punishable by a civil penalty not to exceed $500.00. The second and subsequent violation within a calendar year shall be a repeat offense, punishable by a civil penalty not to exceed $750.00. The director or any police officer is authorized to issue a civil citation for a municipal infraction pursuant to I.C. § 364.22(4) to anyone violating this division indicating such person is in violation of this chapter.~~

(g) The city engineer may enter at all reasonable times in or upon any or public private property to inspect and investigate work being done which is not in compliance with the requirements of this section and to inspect and investigate conditions and practices which

may be a violation of this section. The city engineer shall have the authority to issue an order in writing to the owner of the property and/or any person engaged in such activities on the property, ordering such person or persons to cease and desist from construction activities due to failure to implement or maintain the Stormwater Runoff Control Plan or to maintain any stormwater runoff control facilities therein identified. The order shall be delivered by personal service unless any of the above cannot be found within the city, in which event notice shall be by ordinary mail addressed to the person's last known address and by posting a copy of the notice in a conspicuous place at the construction site.

(1) Construction activities shall cease on the date stated in the city engineer's order and shall not recommence without the prior written approval of the city engineer.

(2) The person to whom the notice is directed may make a written request to the city engineer for a reconsideration and hearing on the cease and desist order and/or abatement order within ten (10) days from the issuance of the order, provided, however, that work on such property shall cease pending the outcome of the hearing.

(3) The request for hearing shall (1) contain the address of the person requesting the hearing and to which all further notices shall be mailed or served, and (2) shall state the basis for the appeal.

(4) The hearing shall be scheduled to be held as soon as practicable and no later than fourteen (14) days after the request for hearing was filed with the city engineer. The person requesting the hearing shall be notified in writing or by telephone of the date and place of such hearing at least three (3) days in advance thereof. At such hearing the city engineer and the person requesting the hearing may be represented by counsel, examine witnesses, and present evidence as necessary.

(5) If the city engineer determines that the violation has created a public nuisance, the city engineer may order abatement of the nuisance by whatever means the city engineer may determine appropriate.

(6) The determination of the city engineer shall be a final administrative decision.

(7) In the event that the abatement as ordered by the city engineer is not performed, the city engineer may cause the abatement of the nuisance and assess the costs of abatement to the property.

(h) The city is not precluded from seeking alternative relief from the court, including an order for abatement or injunctive relief, in the event that the city files a misdemeanor citation, notice of administrative penalty, and/or files a municipal infraction for the same violation of this chapter.

ARTICLE XII. CRIMINAL AND CIVIL RESPONSIBILITY

Sec. 114-482. Penalties.

Any person who fails to perform an act required by this chapter or who commits an act prohibited by this chapter shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

State law reference(s)--Similar provisions, I.C. § 321.482.

Sec. 114-617. Handicapped parking spaces required; penalty.

(a) The city and any other political subdivision which provides on-street parking areas within a business district shall by ordinance define and establish a business district and shall designate not less than two percent of the total parking spaces within each business district as handicapped parking spaces. A new nonresidential facility in which construction has been completed on or after July 1, 1991, providing parking to the general public shall provide handicapped parking spaces as follows:

Total Parking Spaces in Lot or Facility	*Required Minimum Number of Handicapped Parking Spaces*
10 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
1,001 and over	20 plus 1 for each 100 over 1,000

(b) A person may also set aside handicapped parking spaces on the person's property, provided each parking space is clearly and prominently designated as a parking space. The use of a handicapped parking space by a motor vehicle not displaying such a handicapped identification device or by a motor vehicle displaying such a device but not being used by a handicapped person, as operator or passenger, shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

Sec. 114-634. (Repealed by Ord. No. 15,---).~~**Penalty.**~~

~~Any person who fails to perform an act required by this division or who commits an act prohibited by this division shall be guilty of a misdemeanor punishable by fine or imprisonment as provided by section 1-15 of this Code.~~

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 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 or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

Sec. 122-26. Penalties.

Any person who fails to perform an act required by this chapter or who commits an act prohibited by this chapter shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

Sec. 130-111. Penalty.

Any person who fails to perform an act required by this ~~article~~ chapter or who commits an act prohibited by this ~~article~~ chapter shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

Sec. 134-31. Penalty.

Any person who fails to perform an act required by this chapter or who commits an act prohibited by this chapter shall be guilty of a misdemeanor punishable by fine ~~or imprisonment~~ as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

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