CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

Date: May 04, 2020

ITEM: Amendment to City Code – Amend Title 4 (Health and Safety Regulations), Chapter 4 (Nuisances), Section 10 (Specified Crime Property; Declaration and Abatement) to clarify the process regarding disorderly and nuisance property violations.

Ordinance: Approval of First Reading

FINANCIAL IMPACT: Undetermined.

BACKGROUND: The City of West Des Moines requests an amendment to the noted chapter and section of Title 4 (Health and Safety Regulations), Chapter 4 (Nuisances), Section 10 (Specified Crime Property; Declaration and Abatement) to clarify the process regarding disorderly and nuisance property violations.

- Title 4 (Health and Safety Regulations)
  - Chapter 4 (Nuisances), 10 (Specified Crime Property; Declaration and Abatement), Subsection A, D, J, K and L

These amendments will enable the City to work with property owners through a "Good Neighbor Agreement" to ensure the abatement of specified crime to help maintain safe and enjoyable properties. This amendment authorizes the City to place a public warning placard at properties which failed to complete the abatement process, and pursue judicial action.

OUTSTANDING ISSUES: There are no outstanding issues.

RECOMMENDATION: City Staff recommends the City Council approve the first reading to amend City Code, Title 4 (Health and Safety Regulations), Chapter 4 (Nuisances), Section 10 (Specified Crime Property; Declaration and Abatement).

Lead Staff Member: Jessica D. Spoden, Assistant City Attorney

STAFF REVIEWS:

Department Director	Chris Scott, Chief of Police
Appropriations/Finance	
Legal	Richard Scieszinski, City Attorney
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	
Date(s) Published	
Letter sent to surrounding property owners	

SUBCOMMITTEE REVIEW (if applicable)

Committee	Public Safety		
Date Reviewed	December 6, 2019		
Recommendation	Yes X	No ☐	Split ☐

ATTACHMENTS:

Exhibit I Proposed Ordinance

Exhibit I

ORDINANCE NO. _____
AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2019, BY AMENDING TITLE 4, (HEALTH AND SAFETY REGULATIONS), CHAPTER 4, (NUISANCES), SECTION 10 (SPECIFIED CRIME PROPERTY; DECLARATION AND ABATEMENT).

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

SECTION 1. AMENDMENT. Title 4 (Health and Safety Regulations), Chapter 4 (Nuisances), Section 10 (Specified Crime Property; Declaration and Abatement), Subsection A is hereby amended by deleting the highlighted strike-thru text and adding the bold italic text:

> ***GOOD NEIGHBOR AGREEMENT: Agreement between the owner and the City requiring the owner to implement or continue to manage items to improve the property to foster a safe business and good relationship with the community.***
>
> SPECIFIED CRIME PROPERTY: Any structure, including the real property upon which it is situated, in which activity involving the unauthorized delivery, possession or manufacture of a controlled substance***;***~~,~~ illegal gambling***;***~~,~~ bootlegging***;***~~,~~ prostitution***;***~~,~~ pimping or pandering***;*** ~~,~~ ***two or more disorderly and nuisance property violations in a twelve (12) month period;*** or disorderly conduct is occurring.

SECTION 2. AMENDMENT. Title 4 (Health and Safety Regulations), Chapter 4 (Nuisances), Section 10 (Specified Crime Property; Declaration and Abatement), Subsection D is hereby amended by deleting the highlighted strike-thru text and adding the bold italic text:

> D. When the chief of police or his or her designee has a reasonable belief that a structure is being used or maintained in violation of this section, the chief of police may notify the owner of record in writing that the structure has been declared to be a specified crime property.
>
> A reasonable belief that a structure is being used as specified crime property may be found from, but is not limited to, evidence of drug paraphernalia in or around the structure; an increase in vehicular or pedestrian traffic in or around the structure; observations of the exchange of money; ~~verified citizen complaints of bootlegging;~~ unauthorized delivery or manufacture of a controlled substance; illegal gambling, bootlegging, prostitution, pimping or pandering, disorderly conduct; ***two or more disorderly and nuisance properties violations***; and any other activity which leads a police officer to reasonably believe a violation(s) exist.

SECTION 3. AMENDMENT. Title 4 (Health and Safety Regulations), Chapter 4 (Nuisances), Section 10 (Specified Crime Property; Declaration and Abatement), Subsection J is hereby amended by deleting the highlighted strike-thru text and adding the bold italic text:

J. Subsequent to the declaration and notice that there exists a specified crime property, an owner shall have the opportunity to abate the illegal activity ***by complying with a good neighbor agreement within*** ~~ten (10) days~~ ***the time specified in the agreement.*** If a landlord/tenant relationship exists on the specified crime property, the owner/landlord may be deemed to have abated the activity upon demonstration that he or she has taken legal action as allowed by Iowa Code chapter 562A to terminate the rental agreement and continues in good faith to follow abatement procedures and provides the chief of police with copies of all notices served in accordance with Iowa Code chapter 562A.

SECTION 4. AMENDMENT. Title 4 (Health and Safety Regulations), Chapter 4 (Nuisances), Section 10 (Specified Crime Property; Declaration and Abatement), Subsection K is hereby amended by deleting the highlighted strike-thru text and adding the bold italic text and re-numbering subsequent paragraphs:

K. If ~~after twenty (20) days~~ the chief of police determines that a specified crime property has not been abated ***by complying with the good neighbor agreement as specified,*** ~~a notice of fine and an order of abatement shall be filed in compliance with Iowa Code section 364.22, and the chief of police shall notify the chief building official of the failure to abate~~ ***the City may seek judicial action pursuant to this section.***

In addition, the chief of police may cause a placard to be posted in clear view declaring the structure a "Specified Crime Property." It shall be unlawful to remove the posting until the chief of police determines that the specified crime property has been abated. Removal of the posting, or failure of the owner to notify the chief of police the placard has been removed, is punishable as a municipal infraction pursuant to this section.

SECTION 5. AMENDMENT. Title 4 (Health and Safety Regulations), Chapter 4 (Nuisances), Section 10 (Specified Crime Property; Declaration and Abatement), Subsection L is hereby amended by deleting the highlighted strike-thru text and adding the bold italic text:

L. In addition to the provisions of subsection K of this section, the chief building official may revoke, refuse to renew or deny a pending application for a rental certificate for a specified crime property that has not been abated ~~within twenty (20) days~~ ***as specified in this section*** by written notice to the owner or owner's agent by regular mail sent to the owner's or owner's agent's address as provided on the rental certificate application. Said revocation

shall take effect twenty (20) days after the date the notice is mailed. The owner may appeal the revocation to the municipal code hearing officer as provided by subsections 4-4-9E, F and G of this chapter by filing a written request for hearing with the city clerk prior to the date the revocation takes effect. The burden to prove that abatement has occurred shall be on the property owner by a preponderance of the evidence. If no such appeal is taken, or if the municipal hearing officer finds during said appeal that the specified crime property has not been abated, then the rental permit shall be revoked and reapplication shall not be considered until such property is abated. The hearing officer may provide in the appeal corrective action that must occur before the property shall be abated.

SECTION 6. REPEALER. All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

SECTION 7. SAVINGS CLAUSE. If any section, provision, sentence, clause, phrase or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

SECTION 8. VIOLATIONS AND PENALTIES. Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in Title 1, Chapter 4, Section 1 and 2 of the City Code of the City of West Des Moines, Iowa.

SECTION 9. OTHER REMEDIES. In addition to the provisions set out in the Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

SECTION 10. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed by the City Council on the _____ day of _____, 2020, and approved this _____ day of _____, 2020.

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan T. Jacobson , City Clerk

The foregoing Ordinance No. _____ was adopted by the Council for the City of West Des Moines, Iowa, on _____, 2020, and was published in the Des Moines Register on _____, 2020.

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Ryan T. Jacobson, City Clerk