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) by adding Section 11 (Disorderly and Nuisance Properties) to the City Code.

Ordinance: Approval of First Reading

FINANCIAL IMPACT: Undetermined.

BACKGROUND: The City of West Des Moines requests an amendment to the noted chapter of Title 4 (Health and Safety Regulations), Chapter 4 (Nuisances) to add Section 11 (Disorderly and Nuisance Properties) for the purpose of ensuring safe neighborhoods and commercial areas free of disorderly and nuisance properties.

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) by adding Section 11 (Disorderly and Nuisance Properties) to the City Code.

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) BY ADDING SECTION 11 (DISORDERLY AND NUISANCE PROPERTIES).

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) by adding Section 11 (Disorderly and Nuisance Properties) in its entirety:

A. Disorderly and nuisance property defined. For the purpose of this section, the term "disorderly and nuisance property" shall mean and include any building, house, enclosure or place upon which occurs any of the following:

1. Disorderly conduct as defined in Section 723.4 of the Iowa Code;
2. Any noise in violation of the provisions set forth in Title 4, Chapter 7 of this Code;
3. Dispensing, selling, or consumption of an alcoholic beverage in violation of Chapter 123 of the Iowa Code or in violation of the provisions set forth in Title 3, Chapter 2 of this Code;
4. The open storage, use or consumption of a controlled substance as defined in Chapter 124 of the Iowa Code, under which possession of such substance would be an offense;
5. The outdoor urination or defecation in a public place or other place open to the public view or public use in violation of Title 5, Chapter 2, Section 19 of this Code;
6. Gambling in violation of Chapter 99B of the Iowa Code;
7. The unlawful deposit of litter or refuse;
8. The damage or destruction of property without the consent of the property owner or person in control of the premises;
9. Unlawful pedestrian or vehicular traffic; standing or parking of vehicles that obstructs the free flow of traffic on the public streets and sidewalks or that impedes the ability to render emergency services;
10. Acts of prostitution, pimping, or pandering as defined in Chapter 725 of the Iowa Code;
11. Or any other conduct or condition that is injurious to the senses, or an obstruction to the free use of property, so as essentially to interfere with the comfortable enjoyment of life or property; or threatens injury to persons or damage to property.

B. Duty to Control Premises. Any person who is an owner, occupant, tenant, renter, proprietor, lessee, or otherwise having any possessory control, individually or jointly with others, of any premises who either sponsors, conducts, hosts, invites, maintains, operates, or permits a disorderly house as defined in subsection (A) above will be deemed to be in violation of this section.

C. Authority to Restore Order and Disperse; Failure to Disperse. Upon issuance of a citation for a violation of this section, any peace officer of the city shall have the authority to restore order upon the subject premises, up to and including ordering the dispersal of person(s) from the subject premises. Any person who fails or refuses to obey and abide by such an order shall be guilty of a violation of this section.

D. Penalty. Commission of any act declared unlawful and in violation of the provisions of this chapter shall constitute a simple misdemeanor punishable as provided in Iowa Code section 903.1. Failure to comply with the provisions of this chapter shall also constitute a municipal infraction, punishable pursuant to Title 1, Chapter 4, Section 1 of this code.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

SECTION 3. 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 4. 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, Sections 1 and 2 of the City Code of the City of West Des Moines, Iowa.

SECTION 5. 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 6. 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