

ORDINANCE NO. 1421

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to public safety and drug-related loitering, and amending DMMC 9.28.100 to reduce the crime of "Loitering with the intent of engaging in drug-related activity" from a gross misdemeanor to a misdemeanor.

WHEREAS, Ordinance No. 1364 added a new section to the Des Moines Criminal Code, chapter 9.28 DMMC, entitled "Loitering with the intent of engaging in drug-related activity-Penalty", and

WHEREAS, the penalty for a violation to DMMC 9.28.100 is currently a gross misdemeanor and should be amended to a simple misdemeanor in order to be consistent with similar provisions under state law, i.e., prostitution loitering, and

WHEREAS, the definition of "known drug user, possessor, or seller" should be made less broad by adding a time limit to the definition, and

WHEREAS, the City Council finds that it is in the best interest of the public health, safety, and general welfare to establish comprehensive, uniform, and current provisions for the City's criminal code; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. DMMC 9.28.100 and section 8 of Ordinance No. 1364 are amended to read as follows:

Loitering with the intent of engaging in drug-related activity - Penalty.

(1) It is unlawful for a person to loiter in or near a public or private place in a manner and under circumstances manifesting the intent to engage in drug-related activity contrary to the provisions of chapters 69.41, 69.50, or 69.52 RCW.

(2) Among the circumstances which may be considered in determining whether such intent is manifested are:

(a) Such person is a known unlawful drug user, possessor, or seller. For purposes of this chapter, a "known unlawful drug user, possessor, or seller" is a person who, within the past ten (10) years, has been convicted in any court within this state of any violation involving the use, possession, or sale of any of the substances referred to in chapters 69.41, 69.50, and 69.52 RCW, or substantially similar laws of any political subdivision of this state or of any other state; or a person who displays physical characteristics of drug intoxication or usage, such as "needle tracks"; or a person who possesses drug paraphernalia as defined in this chapter;

(b) Such person is currently subject to an order prohibiting his or her presence in a high drug activity geographic area;

(c) Such person behaves in such a manner as to raise a reasonable suspicion that he or she is about to engage in or is then engaged in an unlawful drug-related activity, including, by way of example only, such person acting as a "lookout";

(d) Such person is physically identified by the officer as a member of a "gang," or association which has as its purpose illegal drug activity;

(e) Such person transfers small objects or packages for currency in a furtive fashion;

(f) Such person takes flight upon the appearance of a police officer;

(g) Such person manifestly endeavors to conceal himself or herself or any object which reasonably could be involved in an unlawful drug-related activity;

(h) The area involved is by public repute known to be an area of unlawful drug use and trafficking;

(i) The premises involved are known to have been reported to law enforcement as a place suspected of drug activity pursuant to chapter 69.52 RCW;

(j) The vehicle involved is registered to a known unlawful drug user, possessor, or seller, or a person for whom there is an outstanding warrant for a crime involving drug-related activity.

(3) A person who violates the provisions of this section is guilty of a misdemeanor.

Sec. 2. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

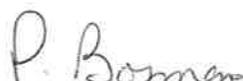
(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this ordinance is deemed to control.

Sec. 3. Effective date. This ordinance shall take effect and be in full force thirty (30) days after its passage and approval in accordance with law.

PASSED BY the City Council of the City of Des Moines this 6th day of December, 2007 and signed in authentication thereof this 6th day of December, 2007.


M A Y O R

APPROVED AS TO FORM:



City Attorney

ATTEST:



City Clerk

Published: December 31, 2007

Effective Date: January 5, 2008

LEGAL NOTICE

SUMMARY OF ADOPTED ORDINANCE

CITY OF DES MOINES

ORDINANCE NO. 1421, Adopted December 6, 2007.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This ordinance relates to public safety and drug-related loitering, and amends DMMC 9.28.100 to reduce the crime of "Loitering with the intent of engaging in drug-related activity" from a gross misdemeanor to a misdemeanor.

The full text of the ordinance will be mailed without cost upon request.

Denis Staab
City Clerk

Published: December 31, 2007