

CITY ATTORNEY'S FIRST DRAFT 4/26/2023

DRAFT ORDINANCE NO. 23-024

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to controlled substances, prohibiting the use of controlled substances in public places, prohibiting the use of drug paraphernalia in public places, and adding two sections to chapter 9.28 DMMC.

WHEREAS, the use of controlled substances without prescription can lead to severe consequences for physical and mental health, and

WHEREAS, such use can lead to addiction and resulting damage to interpersonal relationships and disruption to the lives of the addicted and their family and friends, and

WHEREAS, the public use of controlled substances makes the negative effects of such use more acute for the user as well as contributing to public disorder, and

WHEREAS, public use of controlled substances contributes to both a perceived atmosphere of lawlessness as well as actual criminal behavior, and

WHEREAS, public use of controlled substances and the utilization of implements of consumption negatively affect children and youth and normalizes the use of controlled substances without prescription, and

WHEREAS, the provisions of this Ordinance are necessary and proper to promote public safety, health, and welfare; now therefore,

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

Sec. 1. A new section is added to chapter 9.28 DMMC to read as follows:

Use of a Controlled Substance in a Public Place.

(1) It is unlawful for any person to knowingly inject, ingest, inhale, or otherwise introduce into the human body a controlled substance other than cannabis in a public place unless the controlled substance has been lawfully prescribed to the person using it.

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

(3) For the purposes of this chapter, a "public place" means an area generally visible to public view and includes streets, sidewalks, alleys, parking lots, playgrounds, school grounds, recreation grounds, parks, vehicles (whether moving or not), and buildings open to the general public including those which serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

Sec. 2. A new section is added to chapter 9.28 DMMC to read as follows:

Possession of Drug Paraphernalia in a Public Place.

(1) It is unlawful for any person to knowingly use or attempt to use drug paraphernalia in a public place to store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance other than cannabis.

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

Sec. 3. 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. 4. 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 ____ day of _____, 2023 and signed in authentication thereof this ____ day of _____, 2023.

Ordinance No. ____
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M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published:

Effective Date: