

Staff Report

PROPOSAL TO MODIFY LITTERING ORDINANCE

November 10, 2014

BACKGROUND:

Efforts to maintain the appearance of the Ames community occasionally rely on enforcement actions to deter littering. Several recent incidents illustrate aspects of this behavior that are not covered by the current Municipal Code or the Iowa Code.

Iowa Code Section 321.369 prohibits putting debris on a highway. While the specific description of material is comprehensive in that it includes glass bottles, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, the fact that this is limited to the highway means that sidewalks and parks are not covered.

Municipal Code Section 17.10 prohibits depositing paper, cards, advertisements, handbills, and similar items. Property covered by this ordinance includes streets, alleys or other public places.

There are a number of littering behaviors not covered by either the Iowa Code or the Ames ordinance. For example, under a strict interpretation of these laws, officers cannot cite an individual who throws a bottle onto a sidewalk. A sidewalk is not a roadway, so it is not covered by the Iowa code; and it is not paper, so it is not covered by the Ames ordinance. Nearly any non-paper material deposited on the sidewalk, on the grounds of public buildings, or in the parks would not be covered by our current ordinance.

Another aspect of this problem occurs when yard waste and other plant materials are intentionally moved to or deposited in the street. Although Iowa Code Section 321.369 is relevant to some of these actions, depositing yard waste on other public properties does not appear to be addressed by the current ordinance.

In the current ordinance, this offense can be charged as a municipal infraction with a civil penalty of \$100 for a first offense and \$200 for a subsequent offense, or as a simple misdemeanor.

STAFF COMMENTS:

There are a growing number of instances where citizens have called City departments seeking help in preventing littering from occurring in their neighborhoods. Unfortunately, because of the current language in the Ames Municipal Code, staff is not able to address the situation to the satisfaction of our citizens.

Successful enforcement requires an appropriate ordinance. **The most direct remedy to this situation would be a revision of the Municipal Code Section 17.10 to prohibit more types of material from being deposited on public property.** The

impact of implementing this new ordinance is likely to result in fewer cases being dismissed and, ultimately, better compliance with the law.

If the City Council would like to address this issue, as suggested by the City staff, the appropriate action would be to refer this matter to the City Attorney to work with staff to develop revised language for Section 17.10, and for staff to bring the proposed revision back to the City Council for consideration at a future meeting.

Current City Ordinance 17.10

Sec. 17.10. DEPOSITING PAPER ON STREETS, IN VEHICLES.

(1) It is unlawful for any person to throw or deposit or cause to be thrown or deposited, any paper, cards, advertisements, handbills or the like, into any street, alley or other public place or places, or in or upon any motor vehicles while parked on public property.

(2) Violation of this Section shall be a municipal infraction punishable by a penalty of \$50 for a person's first violation and \$100 for each repeat violation.

(3) Alternatively, a violation of this section can be charged by a peace officer of the City as a simple misdemeanor.

(Ord. No. 812, Sec. 1; Code 1956, Sec. 76-69; Ord. No. 3003, Sec. 20, 2-23-88; Ord. No. 3497, Sec. 19, 8-25-98; Ord. No. 3551, 3-7-00)

Current Iowa Code Section 321.369

321.369 PUTTING DEBRIS ON HIGHWAY.

A person shall not throw or deposit upon a highway any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris. A person shall not throw or deposit upon a highway a substance likely to injure any person, animal, or vehicle upon the highway. A person who violates this section or section 321.370 commits a misdemeanor punishable as a scheduled violation under section 805.8A, subsection 14, paragraph "d".