

ITEM #: 17
DATE: 07-18-23
DEPT: Police

COUNCIL ACTION FORM

SUBJECT: URINATION AND DEFECATION MUNICIPAL CODE ORDINANCE AMENDMENT

BACKGROUND:

At the July 11, 2023 City Council meeting, the Council referred to staff a memo from Police Chief Huff concerning Section 11.4 of Municipal Code. Recently, staff became aware of a “loophole” in this code section, which addresses the places and circumstances where it is unlawful for a person to urinate or defecate. The spirit of the code is to prohibit urinating and defecating in a public place. The current code section reads:

Sec. 11.4. URINATION AND DEFECATION.

No person shall urinate or defecate onto any sidewalk, street, alley, or other public way or onto the floor, hallway, steps, stairway, doorway or window of any public or private building. (Ord. No. 777, Sec. 14; Code 1956, Sec. 57-14; Ord. No. 2490, Sec. 2, 11-26-74; Ord. No. 3003, Sec. 10, 2- 23-88; Ord 4132, Sec. 11.4, 11-27-12)

This current code language is very specific, and therefore requires that the observed urination or defecation must meet one of the listed areas in order to be prohibited. Staff does not believe the current language is clear enough to prosecute an instance where an individual urinates or defecates on private property in plain view of the public. This instance is sometimes the reason an officer may stop at a nuisance party where neighbors have made complaints about the party.

Staff has reviewed similar code sections used in other communities and believes that the issue would be resolved if Section 11.4 was amended to include the clause: “[...] and other places reasonably viewed by the public, provided this subsection shall not apply to restrooms or public facilities designated for such purpose.”

ALTERNATIVES:

1. Approve first reading of the attached ordinance to amend Sec. 11.4 of Municipal Code.
2. Do not approve the proposed ordinance.

CITY MANAGER'S RECOMMENDED ACTION:

The public urination and defecation section of Municipal Code is very specific, and does not clearly prohibit some acts that the public expects to be prohibited. This section is also connected to the nuisance party provisions in Municipal Code. Therefore, it is important that the urination and defecation code be clearly outlined if it is used to make a

determination as to whether a nuisance party is taking place. Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, as described above.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY AMENDING SECTION 11.4 THEREOF, FOR THE PURPOSE OF PROHIBITING URINATION AND DEFECATION IN PUBLIC; REPEALING ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; PROVIDING A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ENACTED, by the City Council for the City of Ames, Iowa, that:

Section One. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by amending Section 11.4 Urination and Defecation as follows:

“Sec. 11.4. URINATION AND DEFECATION.

No person shall urinate or defecate onto any sidewalk, street, alley, or other public way or onto the floor, hallway, steps, stairway, doorway, or window of any public or private building or other place open to public view or public use, provided that this section shall not apply to private restrooms or public facilities designated for such purpose.”

Section Two. Violation of the provisions of this ordinance shall constitute a municipal infraction punishable as set out by law.

Section Three. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent of such conflict, if any.

Section Four. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

Passed this _____ day of _____, 2023.

Renee Hall, City Clerk

John A. Haila, Mayor