

**CITY OF WAUKEE, IOWA
CITY COUNCIL MEETING COMMUNICATION**

MEETING DATE: August 16, 2021

AGENDA ITEM: Consideration of approval of an ordinance amending the Code of Ordinances of the City of Waukee, Iowa, by amending provisions pertaining to 2021 legislative changes [second, third (final) readings]

FORMAT: Ordinance

SYNOPSIS INCLUDING PRO & CON:

FISCAL IMPACT INCLUDING COST/BENEFIT ANALYSIS:

COMMISSION/BOARD/COMMITTEE COMMENT:

STAFF REVIEW AND COMMENT: City staff recommends approval of the second reading of the ordinance in title only and waiver of the third reading. The Code of Iowa requires a vote of not less than three-fourths of all the members of the council (or 4 out of 5, in Waukee's case) in order to waive readings of an ordinance.

RECOMMENDATION: Approve the second reading of the ordinance in title only, waive the third reading and place the ordinance on final passage.

ATTACHMENTS: I. Proposed Ordinance

PREPARED BY: Becky Schuett

REVIEWED BY:

PUBLIC NOTICE INFORMATION –

NAME OF PUBLICATION:

DATE OF PUBLICATION:

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WAUKEE, IOWA, BY AMENDING PROVISIONS PERTAINING TO 2021 LEGISLATIVE CHANGES

Be It Enacted by the City Council of the City of Waukee, Iowa:

SECTION 1. SECTION MODIFIED. Section 6.02 of the Code of Ordinances of the City of Waukee, Iowa, is repealed and the following adopted in lieu thereof:

6.02 NOMINATIONS BY PETITION. Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than 75 eligible electors, residents of the City.

(Code of Iowa, Sec. 45.1)

SECTION 2. SECTION MODIFIED. Section 40.03 of the Code of Ordinances of the City of Waukee, Iowa, is repealed and the following adopted in lieu thereof:

40.03 DISORDERLY CONDUCT. No person shall do any of the following:

1. Fighting. Engage in fighting or violent behavior in any public place or in or near any lawful assembly of persons, provided that participants in athletic contests may engage in such conduct that is reasonably related to that sport.

(Code of Iowa, Sec. 723.4[1a])

2. Noise. Make loud and raucous noise in the vicinity of any residence or public building which intentionally or recklessly causes unreasonable distress to the occupants thereof.

(Code of Iowa, Sec. 723.4[1b])

3. Abusive Language. Direct abusive epithets or make any threatening gesture that the person knows or reasonably should know is likely to provoke a violent reaction by another.

(Code of Iowa, Sec. 723.4[1c])

4. Disrupt Lawful Assembly. Without lawful authority or color of authority, disturb any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.

(Code of Iowa, Sec. 723.4[1d])

5. False Report of Catastrophe. By words or action, initiate or circulate a report or warning of fire, epidemic, or other catastrophe, knowing such report to be false or such warning to be baseless.

(Code of Iowa, Sec. 723.4[1e])

6. Disrespect of Flag. Knowingly and publicly use the flag of the United States in such a manner as to show disrespect for the flag as a symbol of the United States, with the intent or reasonable expectation that such use will provoke or encourage another to commit trespass or assault. As used in this subsection:

(Code of Iowa, Sec. 723.4[1f])

- A. “Deface” means to intentionally mar the external appearance.
 - B. “Defile” means to intentionally make physically unclean.
 - C. “Flag” means a piece of woven cloth or other material designed to be flown from a pole or mast.
 - D. “Mutilate” means to intentionally cut up or alter so as to make imperfect.
 - E. “Show disrespect” means to deface, defile, mutilate, or trample.
 - F. “Trample” means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.
7. Funeral or Memorial Service. Within 1,000 feet of the building or other location where a funeral or memorial service is being conducted, or within 1,000 feet of a funeral procession or burial:
- A. Make loud and raucous noise that causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.
 - B. Direct abusive epithets or make any threatening gesture that the person knows or reasonably should know is likely to provoke a violent reaction by another.
 - C. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

This subsection applies to conduct within 60 minutes preceding, during, and within 60 minutes after a funeral, memorial service, funeral procession, or burial.

(Code of Iowa, Sec. 723.5)

SECTION 3. SECTION MODIFIED. Section 41.06 of the Code of Ordinances of the City of Waukee, Iowa, is repealed and the following adopted in lieu thereof:

41.06 INTERFERENCE WITH OFFICIAL ACTS. No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, jailer, emergency medical care provider under Chapter 147A of the *Code of Iowa*, medical examiner, or firefighter, whether paid or volunteer, or a person performing bailiff duties pursuant to Section 602.1303[4] of the *Code of Iowa*, in the performance of any act that is within the scope of the lawful duty or authority of that officer, jailer, emergency medical care provider, medical examiner, or firefighter, or person performing bailiff duties, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms “resist” and “obstruct” as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

(Code of Iowa, Sec. 719.1)

SECTION 4. SECTION ADDED. The Code of Ordinances of the City of Waukee, Iowa, is amended by adding a new Section 41.17 which is hereby adopted to read as follows:

41.17 FAILURE TO ASSIST. A person who reasonably believes another person is suffering from a risk of serious bodily injury or imminent danger of death shall, if the person is able, attempt to contact local law enforcement or local emergency response authorities, if doing so does not place the person or other person at risk of serious bodily injury or imminent danger of death. No person shall without lawful cause violate the provisions of this section. A person shall not be required to contact local law enforcement or emergency response authorities if the person knows or reasonably believes that the other person is not in need of help or assistance.

(Code of Iowa, Sec. 727.12)

SECTION 5. SUBSECTIONS ADDED. Section 62.01 of the Code of Ordinances of the City of Waukee, Iowa, is amended by adding new subsections which are hereby adopted to read as follows:

161. Section 321.235B – Low-speed electric bicycles.

162. Section 321.366 – Acts prohibited on fully controlled-access facilities.

SECTION 6. SECTIONS MODIFIED. Sections 80.03 and 80.04 of the Code of Ordinances of the City of Waukee, Iowa, are repealed and the following adopted in lieu thereof:

80.03 NOTICE BY MAIL.

1. A police authority or private entity that takes into custody an abandoned vehicle shall send notice by certified mail that the vehicle has been taken into custody no more than 20 days after taking custody of the vehicle. Notice shall be sent to the last known address of record of the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle.

2. Notice shall be deemed given when mailed. The notice shall include all of the following:

A. A description of the year, make, model, and vehicle identification number of the vehicle.

B. The location of the facility where the vehicle is being held.

C. Information for the persons receiving the notice of their right to reclaim the vehicle and personal property contained therein within 10 days after the effective date of the notice. Persons may reclaim the vehicle or personal property upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice required pursuant to this section.

D. A statement that failure of the owner, lienholders, or claimants to exercise their right to reclaim the vehicle or personal property within

the time provided shall be deemed a waiver by the owner, lienholders, and claimants of all right, title, claim, and interest in the vehicle or personal property.

E. A statement that failure to reclaim the vehicle or personal property is deemed consent for the police authority or private entity to sell the vehicle at a public auction or dispose of the vehicle to a demolisher and to dispose of the personal property by sale or destruction.

3. If the abandoned vehicle was taken into custody by a private entity without a police authority's initiative, the notice shall state that the private entity may claim a garage keeper's lien as described in Section 321.90, Subsection 1, of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle.

4. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters.

5. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the 10-day reclaiming period, the owner, lienholders, or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property.

6. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders, or claimants after the expiration of the 10-day reclaiming period.

7. If it is impossible to determine with reasonable certainty the identities and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Subsection 2 of this section. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Subsection 2 of this section.

(Code of Iowa, Sec. 321.89[3])

80.04 RECLAMATION OF ABANDONED VEHICLES. Prior to driving an abandoned vehicle away from the premises, a person who received or who is reclaiming the vehicle on behalf of a person who received notice under Section 80.03 shall present to the police authority or private entity, as applicable, the person's valid driver's license and proof of financial liability coverage as provided in Section 321.20B of the *Code of Iowa*.

(Code of Iowa, Sec. 321.89[3a])

SECTION 7. SUBSECTION MODIFIED. Subsection 2 of Section 120.05 of the Code of Ordinances of the City of Waukee, Iowa, is repealed and the following adopted in lieu thereof:

2. Sell or dispense any alcoholic beverage on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a liquor control license or retail wine or beer permit granted the privilege of selling alcoholic liquor, wine, or beer on Sunday may sell or dispense alcoholic liquor, wine, or beer between the hours of 6:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a Class "B" beer permit may sell or dispense alcoholic liquor, wine, or beer for consumption on the premises between the hours of 6:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 6:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

(Code of Iowa, Sec. 123.49[2b] and 123.150)

SECTION 8. SUBSECTION ADDED. Section 122.15 of the Code of Ordinances of the City of Waukee, Iowa, is amended by adding a new subsection which is hereby adopted to read as follows:

8. Minor Businesses. An on-site transactional business traditionally operated exclusively by a person under the age of 18, operated on an occasional basis for no more than 89 calendar days in a calendar year.

(Code of Iowa, Sec. 364.3[13])

SECTION 9. SEVERABILITY CLAUSE. If any section, provision 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 section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 10. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council on the _____ day of _____, _____, and approved this _____ day of _____, _____.

Courtney Clarke, Mayor

Attest:

Rebecca D. Schuett, City Clerk