

ORDINANCE NO. 1740

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to public safety, defining additional crimes of domestic violence, and adding new sections to chapter 9.68 DMMC.

WHEREAS, Article XI Section 11 of the Washington State Constitution authorizes Cities to establish such crimes as necessary to protect the public safety, health, and welfare, so long as said crimes do not conflict with state law, and

WHEREAS, the Legislature has authorized Code Cities such as Des Moines to adopt and enforce misdemeanors and gross misdemeanors as appropriate to good government of the City through RCW 35A.11.020, and

WHEREAS, Title 9 of the Des Moines Municipal Code identifies certain criminal violations designed to provide for public health, welfare and safety within the City, and

WHEREAS, domestic violence offenses are among the most significant criminal violations of City code in terms of both seriousness and impact to the victims and community, and

WHEREAS, crimes of domestic violence can result in short- and long-term negative effects suffered by not just the direct victims but also the child witnesses, and

WHEREAS, children witnessing acts of domestic violence have been shown to suffer near-term effects such as anxiety, guilt, isolation, low self-esteem, and behavioral issues, and

WHEREAS, the short- and long-term psychological effect on children who witness acts of domestic violence makes those children additional victims of the violence, which merits treatment as a separate crime, and

WHEREAS, assault by strangulation may result in immobilization of a victim, may cause a loss of consciousness, injury, or even death, and has been a factor in a significant number of domestic violence related assaults and fatalities, and

WHEREAS, assault by strangulation is often knowingly inflicted upon an intimate partner with the intent to commit physical injury, or substantial or great bodily harm, which experts say is a tactic of control, and

WHEREAS, research into domestic violence fatalities shows that an abuser's attempt to strangle the victim can be a dramatic predictor of future lethality in intimate partner violence cases, including a Center for Disease Control study that found that 43% of domestic violence homicide victims had been strangled by the perpetrator within the prior twelve months, and

WHEREAS, strangulation not rising to felony assault is an act of brutality, control, intimidation, and reckless disregard for human life that has a separate character, purpose, and intent from assault in the fourth degree, and

WHEREAS, the City Council of the City of Des Moines finds that adopting the crime of exposing children to domestic violence and the crime of domestic violence involving strangulation are necessary to protect the public safety, health, and welfare; now therefore,

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

Sec. 1. Findings. The recitals to this Ordinance are hereby incorporated by reference, as if fully set forth herein.

Sec. 2. A new section is added to chapter 9.68 DMMC to read as follows:

Exposing children to domestic violence.

(1) A person commits the crime of exposing children to domestic violence when he or she:

(a) Commits a crime of domestic violence, as defined in RCW 10.99.020; and

(b) The crime is committed in the immediate presence of, or is witnessed by, the person's or the victim's minor child, stepchild, or a minor child residing within the household of the person or victim.

(2) For the purposes of this section, "witnessed" shall mean if the crime is seen or directly perceived in any other manner by the child.

(3) Exposing children to domestic violence is a gross misdemeanor.

(4) Every person who, in the commission of a crime of domestic violence, commits a violation of this section, may be punished therefor as well as for the crime of domestic violence, and may be prosecuted for each crime separately.

Sec. 3. A new section is added to chapter 9.68 DMMC to read as follows:

Strangulation.

(1) A person is guilty of strangulation if, under circumstances not amounting to a felony, he or she assaults another by means of strangulation.

(2) "Strangulation" shall mean intentionally impeding normal breathing or circulation of the blood by applying pressure on the throat or neck or by obstructing the nose or mouth of another person.

(3) Strangulation is a gross misdemeanor.

(4) Every person who, in the commission of a crime of domestic violence, commits a violation of this section, may be punished therefor as well as for the crime of domestic violence, and may be prosecuted for each crime separately.

Sec. 4. 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. 5. 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 22nd day of October, 2020 and signed in authentication thereof this 22nd day of October, 2020.


MAYOR

APPROVED AS TO FORM:

/s/ Timothy George
City Attorney

ATTEST:


City Clerk

Published: October 27, 2020

Effective Date: November 21, 2020