

ORDINANCE NO. 2024-21

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF VAN METER, IOWA, BY AMENDING PROVISIONS PERTAINING TO PEDESTRIANS' RIGHT-OF-WAY, ADULT ESTABLISHMENTS, BOND REQUIREMENTS, ELECTRONIC MEETINGS, FIRE OFFICIALS AUTHORITY TO CITE VIOLATIONS, OPERATING BUDGET PREPARATION, PUBLICATION OF MINUTES, AND SIDEWALK LIABILITY**

Be It Enacted by the City Council of the City of Van Meter, Iowa:

**SECTION 1. SECTION MODIFIED.** Section 60.02 of the Code of Ordinances of the City of Van Meter, Iowa, is repealed and the following adopted in lieu thereof:

**60.02 DEFINITIONS.** Where words and phrases used in the Traffic Code are defined by State law, such definitions apply to their use in said Traffic Code and are hereby adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, have the following meanings:

1. "Business District" means the territory contiguous to and including a highway when 50 percent or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.  
(Code of Iowa, Sec. 321.1(7))
2. "MPH" means miles per hour.
3. "Parade" means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.
4. "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
5. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
6. "Pedestrian" means a person afoot or a person using a pedestrian conveyance.  
(Code of Iowa, Sec. 321.1(51))
7. "Pedestrian conveyance" means any human-powered device by which a pedestrian may move other than by walking or by which a pedestrian may move another person, including but not limited to a wheelchair, stroller, skateboard, scooter, or other similar device. Pedestrian conveyance also includes an electric personal assistive mobility device and any other device used to move a person sitting or standing on the device regardless of whether the device is powered by an electric motor, so long as the electric motor produces less than 750 watts. Pedestrian conveyance does not include a bicycle.  
(Code of Iowa, Sec. 321.1(51A))
8. "Residence district" means the territory contiguous to and including a highway not comprising a business, suburban, or school district, where 40 percent or more of the frontage on such a highway for a distance of 300 feet or more is occupied by dwellings or by dwellings and buildings in use for business.  
(Code of Iowa, Sec. 321.1(63))
9. "School district" means the territory contiguous to and including a highway for a distance of 200 feet in either direction from a schoolhouse.  
(Code of Iowa, Sec. 321.1(70))
10. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

11. "Stop" means when required, the complete cessation of movement.
12. "Stop" or "stopping" means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.
13. "Suburban district" means all other parts of the City not included in the business, school, or residence districts.  
(Code of Iowa, Sec. 321.1(78))
14. "Traffic control device" means all signs, signals, markings, and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning, or guiding traffic.
15. "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway. Vehicle does not include:
  - A. Any device moved by human power, including a low-speed electric bicycle.
  - B. Any device used exclusively upon stationary rails or tracks.
  - C. Any personal delivery device operated pursuant to Chapter 321O of the Code of Iowa.
  - D. Any integral part of a truck tractor or road tractor which is mounted on the frame of the truck tractor or road tractor immediately behind the cab and which may be used to transport persons and property, but which cannot be drawn upon the highway by the truck tractor or another motor vehicle.
  - E. Any steering axle, dolly, auxiliary axle, or other integral part of another vehicle which in and of itself is incapable of commercially transporting any person or property but is used primarily to support another vehicle.  
(Code of Iowa, Sec. 321.1(90))

**SECTION 2. SECTION MODIFIED.** Section 65.05 of the Code of Ordinances of the City of Van Meter, Iowa, is repealed and the following adopted in lieu thereof:

**65.05 PEDESTRIANS' RIGHT-OF-WAY.** Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to so yield to a pedestrian or a person riding a bicycle crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

(Code of Iowa, Sec. 321.327)

**SECTION 3. NEW SECTION.** Chapter 50 of the Code of Ordinances of Van Meter, Iowa, is amended by adding a new Section 50.08 entitled, ADULT ESTABLISHMENTS, which is hereby adopted to read as follows:

**50.08 ADULT ESTABLISHMENTS.**

1. As used in this section, "adult establishment" means any business that provides nude or topless dancing or operates any other adult-oriented business.
2. A public safety nuisance exists when it is established by clear and convincing evidence that an owner, manager, employee, contemporaneous patron, or guest of an adult establishment commits any of the following acts either on the premises or in any parking lots or areas, including but not limited to public rights-of-way, adjacent to the premises:
  - A. Unlawfully discharges a firearm or uses an offensive weapon, as defined in Section 724.1 of the Code of Iowa, regardless of whether it inflicts injury or death.

B. Assaults another person with a dangerous weapon as defined in Section 702.7 of the *Code of Iowa* resulting in injury or death.

C. Engages in a riot as defined in Section 723.1 of the *Code of Iowa* on three or more dates within a 12-month period to which the police respond and disperse a crowd. The participants need not be the same persons for each incident.

3. When the City Attorney believes a serious threat to the public safety exists, the City Attorney or any other attorney on behalf of the City Attorney, may file a suit in equity in the district court without bond seeking abatement of the public safety nuisance arising from an adult establishment.

(*Code of Iowa, Sec. 657.12*)

**SECTION 4. SECTION MODIFIED.** Section 5.02 of the Code of Ordinances of the City of Van Meter, Iowa, is repealed and the following adopted in lieu thereof:

**5.02 BONDS.** Surety bonds are provided in accordance with the following:

1. Required. The Council shall provide by resolution for a surety bond or blanket position bond running to the City and covering the Mayor, Clerk, Treasurer, and such other officers and employees as may be necessary and advisable except as allowed in Subsection 5.

(*Code of Iowa, Sec. 64.13*)

2. Bonds Approved. Bonds shall be approved by the Council.

(*Code of Iowa, Sec. 64.19*)

3. Bonds Filed. All bonds, after approval and proper record, shall be filed with the Clerk.

(*Code of Iowa, Sec. 64.23(6)*)

4. Record. The Clerk shall keep a book, to be known as the "Record of Official Bonds" in which shall be recorded the official bonds of all City officers, elective or appointive.

(*Code of Iowa, Sec. 64.24(1)(a)*)

5. Insurance Policy in Lieu of Bond. In lieu of a bond, a public officer required to obtain a bond pursuant to Chapter 64 of the *Code of Iowa* may obtain an insurance policy in an amount not less than the amounts required of a bond.

(*Code of Iowa, Sec. 64.3*)

**SECTION 5. SECTION MODIFIED.** Section 5.06 of the Code of Ordinances of the City of Van Meter, Iowa, is repealed and the following adopted in lieu thereof:

**5.06 MEETINGS.** All meetings of the Council, any board or commission, or any multi-membered body formally and directly created by any of the foregoing bodies shall be held in accordance with the following:

1. Definitions. The following terms are defined for use in this section.

A. "Closed session" means a meeting to which all members of the public do not have access as allowed by Section 21.5 of the *Code of Iowa*.

B. "Hybrid meeting" means a meeting involving both remote participation and in-person participation by members.

(*Code of Iowa, Sec. 21.8(4)(a)*)

C. "Open session" means a meeting to which all members of the public have access.

(*Code of Iowa, Sec. 21.2(3)*)

D. "Remote participation" means real-time participation by a remotely located individual in a meeting which is being held in a different physical location using integrated audio, video, and other digital tools.

(Code of Iowa, Sec. 21.8(4)(b))

E. “Reasonable notice” means advising the news media who have filed a request for notice with the governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if not such office exists, at the building in which the meeting is to be held.

(Code of Iowa, Sec. 21.4(1))

F. “Teleconference participation” means participation using audio conference tools involving multiple participants in at least two separate locations.

(Code of Iowa, Sec. 21.8(4)(c))

G. “Virtual meeting” means a meeting involving real-time interaction using integrated audio, video, and other digital tools, in which participants do not share a physical location.

(Code of Iowa, Sec. 21.8(4)(d))

2. Notice of Meetings. Reasonable notice of the time, date, and place of each meeting and its tentative agenda shall be given.

(Code of Iowa, Sec. 21.4)

3. Meetings Open. All meetings shall be held in open session unless closed sessions are held as expressly permitted by State law.

(Code of Iowa, Sec. 21.3)

4. Minutes. Minutes shall be kept of all meetings showing the date, time, and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.

(Code of Iowa, Sec. 21.3)

5. Closed Session. A closed session may be held only by affirmative vote of either two-thirds of the body or all of the members present at the meeting and in accordance with Chapter 21 of the Code of Iowa.

(Code of Iowa, Sec. 21.5)

6. Cameras and Recorders. The public may use cameras or recording devices at any open session.

(Code of Iowa, Sec. 21.7)

7. Electronic Meetings. A governmental body shall provide for hybrid meetings, teleconference participation, virtual meetings, remote participation, and other hybrid options for the members of the governmental body to participate in official meetings. A governmental body conducting a meeting pursuant to this subsection shall comply with all of the provisions of Chapter 21 of the Code of Iowa.

(Code of Iowa, Sec. 21.8)

**SECTION 6. SECTION MODIFIED.** Section 35.13 of the Code of Ordinances of the City of Van Meter, Iowa, is repealed and the following adopted in lieu thereof:

**35.13 AUTHORITY TO CITE VIOLATIONS.** Fire officials acting under the authority of Chapter 10A, Subchapter V, Part 2 of the Code of Iowa, may issue citations in accordance with Chapter 805 of the Code of Iowa, for violations of Chapter 10A, Subchapter V, Part 2 of the Code of Iowa or a violation of a local fire safety code.

(Code of Iowa, Sec. 100.41)

**SECTION 7. SECTION MODIFIED.** Subsection 4 of Section 7.05 of the Code of Ordinances of the City of Van Meter, Iowa, is repealed and the following adopted in lieu thereof:

4. Annual Statement.  
(Code of Iowa, Sec. 24.2A(2))

A. On or before 4:00 p.m. on March 5 of each year, the City shall file, with the Department of Management, a report containing all necessary information for the Department of Management to compile and calculate amounts required to be included in the statement mailed under Paragraph B.

B. Not later than March 15, the County Auditor, using information compiled and calculated by the Department of Management shall send to each property owner or taxpayer within the County, by regular mail, an individual statement containing all of the required information as provided under Section 24.2(2)(B)(1-10) of the *Code of Iowa*.

C. The Department of Management shall prescribe the form for the report required under Paragraph A, the statements to be mailed under Paragraph B, and the public hearing notice required under Paragraph D.

D. The Council shall set a time and place for a public hearing on the City's proposed property tax amount for the budget year and the City's information included in the statements under Paragraph B. The proposed property tax hearing shall be set on a date on or after March 20 of the budget year immediately preceding the budget year for which the tax is being proposed. At the hearing, the Council shall receive oral or written testimony from any resident or property owner of the City. This public hearing shall be separate from any other meeting of the Council, including any other meeting or public hearing relating to the City's budget, and other business of the City that is not related to the proposed property tax amounts and the information in the statements shall not be conducted at the public hearing. After all testimony has been received and considered, the governing body may decrease, but not increase, the proposed property tax amount to be included in the City's budget.

(1) Notice of the public hearing shall be published not less than 10 nor more than 20 days prior to the hearing, in a newspaper published at least once weekly and having general circulation in the City. However, if the City has a population of 200 or less, publication may be made by posting in three public places in the City.

(2) Notice of the hearing shall also be posted and clearly identified on the City's internet site for public viewing beginning on the date of the newspaper publication and shall be maintained on the City's internet site with all such prior year notices.

(3) Additionally, if the City maintains a social media account on one or more social media applications, the public hearing notice or an electronic link to the public hearing notice shall be posted on each such account on a date no later than the date of publication of the notice.

(4) Failure of a newspaper to publish a required notice under this paragraph shall not be considered a failure of a political subdivision to provide required notice under this paragraph if all of the following conditions are met:

a. Notice of the public hearing was provided to each property owner and each taxpayer within the political subdivision in statements required under Subsection 2, Paragraph B.

b. The political subdivision can demonstrate to the county auditor that the political subdivision provided sufficient time for the newspaper to publish the notice.

**SECTION 8. SECTION MODIFIED.** Section 18.03 of the Code of Ordinances of the City of Van Meter, Iowa, is repealed and the following adopted in lieu thereof:

**18.03 PUBLICATION OF MINUTES.** Within 15 days following a regular or special meeting of the Council, the Clerk shall cause the minutes of the proceedings of the Council, including the total expenditure from each City fund, to be delivered to a newspaper of general circulation in the City for publication. The publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claims.

*(Code of Iowa, Sec. 372.13(6))*

**SECTION 9. SECTION MODIFIED.** Section 136.04 of the Code of Ordinances of the City of Van Meter, Iowa, is repealed and the following adopted in lieu thereof:

**136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE.** The abutting property owner shall maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes.

*(Code of Iowa, Sec. 364.12(2)(c))*

**SECTION 10. 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 11. WHEN EFFECTIVE.** When Effective. This Ordinance shall in full force and effect from and after its passage and publication as provided by law for all services provided on and after September 9, 2024.

1<sup>st</sup> Reading – September 9, 2024

2<sup>nd</sup> Reading – Waived

3<sup>rd</sup> Reading - Waived

Passed by the City Council and approved the 9<sup>th</sup> day of September 2024.

\_\_\_\_\_  
Mayor, Joe Herman

Attest:

\_\_\_\_\_  
City Clerk

I certify that the foregoing was published as Ordinance No. 2024-21 on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
City Clerk

## **Ordinance #2024-21 2024 Legislative Update Summary**

### **Section 1:**

Updates definitions by adding MPH, adding Parades, updating Park or Parking, adding Pedestrian, adding Pedestrian Conveyance, updating Vehicles to Section 60.02

### **Section 2:**

Repeals and replaces Section 65.05 – Yield to Pedestrians in Crosswalks

Updates to Section 65.05 – Pedestrians Right of Way and includes languages regarding “a person riding a bicycle”

### **Section 3:**

Adds 50.08 Adult Establishments and criteria for qualification as a nuisance

### **Section 4:**

Repeals and replaces Section 5.02 – Bonds

updates to 1. Requirements and adds 5. Insurance Policy in Lieu of Bond

### **Section 5:**

Repeals and replaces Section 5.06 – Meetings

Adds 1. Definitions

### **Section 6:**

Repeals and replaces Section 35.13 – Authority to Cite Violations

Updates the Code of Iowa sections that the city code refers to

### **Section 7:**

Repeals and replaces Section 7.05 Subsection 4– Operating Budget Preparation

Adds specifications on the Annual Statement including a timeline & process

### **Section 8:**

Repeals and replaces Section 18.03 – Publication of Minutes

Keeps the 15 day publication rule but adds more specific requirements regarding posting of claims

### **Section 9:**

Repeals and replaces Section 136.04 - Property Owner's Responsibility for Maintenance

Removes the language stating that the property owner abutting a city sidewalk may be liable for damages caused by failure to maintain the sidewalk