

April 20, 2009

The Honorable Mayor
and
Members of the City Council
City of Des Moines, Iowa

Dear Mayor and Council Members:

The following are answers in response to the questions raised at the March 9, 2009 Council Workshop.

Question: Can a policy be established regarding regulation of advertising, as far as what we can and can't regulate from a legal standpoint?

The City already does regulate advertising on bus benches, but the ordinance can be improved. Municipal Code Sec. 102-424 is shown below, with suggested revisions that would aid the City's efforts to maintain advertising standards that are acceptable to the community. Please note that no definition of the word "obscene" appears in Chapter 70. It was probably removed when someone realized that the determination of obscenity is a legal conclusion grounded in First Amendment jurisprudence and that it does not define a category of expression, as does the word "pornography." The final sentence regarding where on the bench advertising must be placed must be revised if we should approve Creative Outdoor Advertising's design.

Sec. 102-424. Advertising.

Only such advertising matter shall be placed on benches that is ordinarily displayed in other advertising media. No bench shall display pornographic or obscene statements, words or images. No tobacco products, beer or alcoholic beverages, adult entertainment businesses, or nightclubs or taverns shall be advertised. No signs or words which may confuse or distract traffic shall be placed on any bench. Advertising shall only be placed on the backrest of the bench, facing the street, and not on the ends of the bench nor the property side of the backrest.

(C42, § 88-38; O.4976; C54, C62, § 54-206; O.8454; C62, § 54-212; C75, C79, C91, § 23-193; O.14,095)

Question: How will the RFP be set up in regards to how often, or under what conditions, the cement base is placed?

We will place in the RFP a maintenance and replacement conditions clause for the concrete pads. It will be worded so that the City Engineer has the discretion of requiring a concrete pad to be repaired or replaced.

Please let me know if I can provide further information.

Sincerely,



Richard A. Clark
City Manager



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