

ORDINANCE NO. 15,093

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by repealing Section 26-319, and enacting a new Section 26-319 regarding the insurance requirements for an obstruction permit for the temporary use of public property.

BE IT ORDAINED by the City Council of the City of Des Moines, Iowa:

Sec 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as amended by Ordinance No. 14,981 passed December 20, 2010, be and is hereby amended by repealing Section 26-319, and enacting a new Section 26-319 regarding the insurance requirements for an obstruction permit for the temporary use of public property, as follows:

**Sec. 26-319. Obstruction permit, bond, and insurance.**

- (a) No person shall use any portion of public property as described in Section 3308 of the International building code without first obtaining an obstruction permit which shall state the following:
  - (1) The name of the owner of the property abutting the public property to be used.
  - (2) The name of the person applying for the obstruction permit.
  - (3) An accurate description of the public property to be obstructed or occupied.
  - (4) The length of time such obstruction or occupancy shall exist.
  - (5) An agreement to comply in all respects with the provisions and requirements of the building code, this article and other city ordinances relating to the use of streets and alleys and to indemnify and save and keep harmless the city from any and all costs, expense or liability for damages or injuries to persons or property or liability of any kind whatsoever, arising from or growing out of the use and occupancy of such street or growing out of the deposit of such material or any failure to properly pile, deposit, guard, light or care for such.
  - (6) Such additional requirements as may be deemed necessary for the protection of the city and its inhabitants.
- (b) Before an obstruction permit shall be issued, there shall be placed on file in the office of the building official proof of liability insurance and, if required, a surety bond as follows:
  - (1) The amount and type of liability insurance required in each instance shall be determined by the city's finance director or the finance director's designee. The insurance requirements are hereby made a part of the permit application form. The insurance shall remain in full force and

effect through the obstruction permit expiration date or such extended time as may be granted by the city.

- (2) If the city engineer or the city engineer's designee determines in their sole discretion that an obstruction permit applicant's proposed use of the right-of-way poses a risk of damage to the right-of-way, the city engineer or the city engineer's designee may require such applicant to post a surety bond before the obstruction permit is issued. Such bond, if required, shall be approved by the city engineer or the city engineer's designee; shall be in the minimum amount of \$5000.00 or such other amount determined by the city engineer or the city engineer's designee to be sufficient to cover the anticipated cost of damage to the right-of-way; and shall be conditioned to ensure removal of the obstruction and restoration of the right-of-way and all public improvements thereon by or before the expiration date of such obstruction permit or such extended time as may be granted by the building official.
- (c) No person shall, under any permit, occupy more area than is stated in the obstruction permit.
- (d) The fee for an obstruction permit shall be as set forth in the Schedule of Fees adopted by the city council by resolution.
- (e) This section shall not apply to street maintenance and actions by the city and its employees and contractors.

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Roger K. Brown, Assistant City Attorney

T. M. Franklin Cownie, Mayor

Attest:

I, Diane Rauh, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 12-0412), passed by the City Council of said City at a meeting held March 12, 2012 signed by the Mayor on March 12, 2012 and published as provided by law in the Business Record on March 30, 2012. Authorized by Publication Order No. 7901.

Diane Rauh, City Clerk