

★ Roll Call Number

Agenda Item Number

52

Date September 14, 2015

An Ordinance entitled, "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 amending Sections 102-126.07, 102-132 and 102-133, relating to snow and ice removal",


(Council Communication No. **15-493**)

presented.

Moved by _____ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)


Ann DiDonato
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

ORDINANCE NO. _____

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 amending Sections 102-126.07, 102-132 and 102-133, relating to snow and ice removal.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended by amending Sections 102-126.07, 102-132 and 102-133 relating to snow and ice removal, as follows:

Sec. 102-126.07. Administrative hearing.

- (a) A person to whom a notice of administrative penalty has been issued for violation of section 102-124 and 102-126 may request an administrative hearing for review of the finding that a violation occurred pursuant to and in conformance with chapter three of this code.
- (b) A request for hearing on a notice of administrative penalty shall be made in writing and filed with the city clerk within ten (10) calendar days of the date of issuance of the notice. Such request shall include the address of the violator and state the basis for the appeal.
- ~~(c) The hearing shall be scheduled to be held as soon as practicable and no later than fourteen (14) days after the request for hearing was filed with the city clerk. The person requesting the hearing shall be notified in writing or by telephone of the date and place of such hearing at least three days in advance thereof. At such hearing the department and the person requesting the hearing may be represented by counsel, examine witnesses, and present evidence as necessary.~~
- ~~(d) The hearing officer shall determine whether or not the violation occurred.~~
- ~~(e) The determination of the hearing officer is a final administrative decision.~~
- ~~(f) Failure to request a hearing within ten days of the date of issuance of the notice shall be considered a waiver of the right to a hearing and it will be thereafter conclusively presumed that the violator is responsible for the violation.~~

Sec. 102-132. Notice of right to hearing regarding assessments.

- (a) When the city removes snow or ice pursuant to section 102-129, a notice shall be given of the right to a hearing regarding costs of the removal. The notice shall contain the following information:
 - (1) A description, to the extent possible, of the violation of section 102-124 or 102-126;
 - (2) A description of the location where snow or ice was removed;
 - (3) An indication of the date and time that the city caused the removal, and that the costs of the removal will be assessed against the real estate abutting the sidewalk from which the removal occurred, or against the real estate owned by the person removing

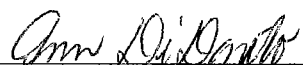
- or depositing such snow or ice or causing such deposit, for collection in the same manner as a property tax, or to be collected as a personal judgment;
- (4) An itemization of the costs incurred by the city in the removal of the snow or ice;
 - (5) That the person notified, or the person's duly authorized agent, may file a written request for hearing as set forth in this division; and
 - (6) That failure to make a written request for a hearing within ten calendar days of receipt of the notice shall be considered a waiver of the right to a hearing and it will be thereafter conclusively presumed that the violation and removal occurred and costs will be assessed against the abutting real estate without further notice.
- (b) Service of the notice provided for in subsection (a) hereof shall be by regular mail and certified mail, addressed to the owner of the real estate abutting the sidewalk upon which the violation occurred for violations under sections 102-124 or 102-126.

Sec. 102-133. Administrative hearing for assessment of costs for removal of snow or ice.

- (a) Any person in receipt of a notice of right to hearing regarding assessment for removal of snow or ice by the city may have, upon request, an appeal hearing with a hearing officer to determine if the assessment shall be placed against the subject real estate.
- (b) A request for hearing shall be made in writing and filed with the city clerk within ten calendar days of the receipt of the notice.
- (c) Each request for hearing shall contain the address of the person requesting the hearing and to which all further notices shall be mailed or served and shall state the basis for the appeal.
- (d) The hearing shall be held pursuant to and in conformance with chapter three of this code. ~~scheduled to be held as soon as practicable and no later than 14 days after the request for hearing was filed with the city clerk. The person requesting the hearing shall be notified in writing or by telephone of the date and place of such hearing at least three days in advance thereof. At such hearing the department and the person requesting the hearing may be represented by counsel, examine witnesses, and present evidence as necessary.~~
- (e) ~~The hearing officer may find that the violation existed and that the city caused the removal of the snow or ice in accordance with this division, or may find that the violation did not exist on the subject real estate, or may uphold the assessment for costs of abatement, or may uphold or reduce or waive the costs of the assessment, as appropriate.~~
- (f) ~~The determination of the hearing officer is a final administrative decision.~~

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

FORM APPROVED:



 Ann DiDonato
 Assistant City Attorney