



Roll Call Number

Agenda Item Number

73

Date September 12, 2022

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 Chapter 42, Article VIII, Sections 42-426 and 42-427 and repealing Sections 42-427.2, 42-428, 42-429, 42-430, 42-431, and 42-432, relating to the disposal of snow",

presented.

(Council Communication No. 22-393)

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

FORM APPROVED:

(First of three required readings)

/s/ Glenna K. Frank
Glenna K. Frank
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
SHEUMAKER				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	

CERTIFICATE

I, LAURA BAUMGARTNER, 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.

Mayor

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 Chapter 42, Article VIII, Sections 42-426 and 42-427 and repealing Sections 42-427.2, 42-428, 42-429, 42-430, 42-431, and 42-432, relating to the disposal of snow.

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 Chapter 42, Article VIII, Sections 42-426 and 42-427 and repealing Sections 42-427.2, 42-428, 42-429, 42-430, 42-431, and 42-432, relating to the disposal of snow, as follows:

ARTICLE VIII. SNOW ~~DUMP~~DISPOSAL

Sec. 42-426. ~~Permit to dump snow~~ Illegal dumping.

No person shall throw, deposit, place, drop or spill snow being hauled upon the streets, sidewalks, or other public rights-of-way.

~~No person shall engage in the business of depositing snow removed from residential and/or commercial premises within the corporate city limits at the city's snow dump unless such person shall have first applied for and received a permit to dump snow from the city. Only snow removed from properties within the corporate city limits may be deposited at the city's snow dump. Such permits shall be issued and renewed on an annual basis for fiscal years commencing on July 1st of each year.~~

Sec. 42-427. ~~Permit application requirements~~ Civil violations and penalties.

Any person who violates or resists the enforcement of any of the provisions of this article shall be guilty of a misdemeanor punishable by fine as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.

- ~~(a) — An application for a permit shall be filed with the city clerk and shall contain the following information:~~
 - ~~(1) — The name and address of the applicant.~~
 - ~~(2) — The vehicles to be used.~~
 - ~~(3) — General information concerning the routes to be traveled and places to be served.~~

~~(b) — All vehicles licensed under this section shall prominently display the permit, to be furnished by the city, on the upper or lower left corner of the windshield of the vehicle.~~

~~Sec. 42-427.2. — 42-432. Repealed by Ordinance No. --,---. Permit fees.~~

~~(a) — An applicant for a snow dumping permit shall submit a fee to the city clerk at the time of filing the application.~~

~~(b) — If the application is denied or the application is withdrawn before final action is taken by the city clerk, a portion of the application fee shall be retained by the city clerk for the cost of administration.~~

~~(c) — The permit fee and its nonrefundable portion for a snow dumping permit shall be in the amounts set in the schedule of fees adopted by the city council by resolution.~~

~~Sec. 42-428. Permit exemptions.~~

~~Vehicles owned and operated by the authority of the city, or operated under contract to the city, shall be deemed to be engaged in a public service function exempt from the requirements of sections 42-427 and 42-427.2 of this Code.~~

~~Sec. 42-429. Suspension and revocation of permits.~~

~~(a) — Any permit issued pursuant to this article may be revoked for violations of this article. No revocation shall issue except upon notice delivered to the permittee by mailing the notice in the regular mail addressed to the permittee at the address listed on the application, a minimum of ten days prior to the date set for the hearing before the city manager or his or her designee. Such notice shall inform the permittee of the time, date and place of the hearing, the purpose of the hearing, and shall set out the reasons therefor. Provided that in case of violation of this article of such nature that the violation is deemed to be an immediate hazard by the public works director and such report is submitted to the city clerk in writing, the city clerk shall be authorized to temporarily suspend the permit until notice can be given and hearing held.~~

~~(b) — If, after such a hearing, the city manager or his or her designee makes a finding based on substantial evidence that a violation of this article did in fact occur as alleged, the city manager or his or her designee may continue suspension of or revoke the permit; the determination of whether to revoke such permit shall be in the discretion of the city manager or his or her designee and shall be dependent upon the circumstances surrounding the violation and its severity.~~

~~(c) — The decision of continued suspension or revocation made by the city manager or his or her designee may be appealed to the city council. In order to appeal such decision, written notice of appeal must be filed with the city clerk within three days after receipt of the decision. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the decision of continued suspension or revocation of the city manager or his or her designee.~~

~~(d) — The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the city clerk. The hearing of such appeal shall be scheduled at the next regular council meeting, if such notice is received by 5:00 p.m. on the Wednesday before the next regular council meeting. If notice is not received by the above designated time the hearing will be scheduled for the next following council meeting, if notice is received within three days after receipt of the decision by the city manager or his or her designee. The hearing may be~~

~~continued for good cause. The hearing shall be confined to the record made before the city manager or his or her designee and the arguments of the parties or their representatives, but no additional evidence shall be taken. After such hearing, the city council may affirm or reverse the order of the city manager or his or her designee. Such determination shall be contained in a written decision and shall be filed with the city clerk within three days after the hearing, or any continued session thereof.~~

~~(e) — If the city council affirms the action of the city manager or his or her designee, continuing the suspension or revocation, the city council shall so state and order in its written decision.~~

~~(f) — A permittee whose permit has been revoked shall not be eligible for another permit to deposit snow for a period of two years.~~

~~**Sec. 42-430. Disposal site requirements.**~~

~~No person licensed under section 42-426 shall deposit or cause the depositing of snow at the city's snow disposal site from properties other [than] those located with[in] the corporate boundaries of the city. The disposal site is located at SE 15th Street and Harriett Street, and any other sites designated by the public works director.~~

~~**Sec. 42-431. Illegal dumping.**~~

~~No person shall throw, deposit, place, drop or spill snow being hauled upon the streets, sidewalks, or other public rights of way.~~

~~**Sec. 42-432. Civil violations and penalties.**~~

~~— Any person who violates or resists the enforcement of any of the provisions of this article shall be guilty of a misdemeanor punishable by fine as provided by section 1-15 of this Code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this Code.~~

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

FORM APPROVED:

/s/ Glenna K. Frank

Glenna K. Frank

Assistant City Attorney