

ORDINANCE NO. 13,662

AN ORDINANCE to amend the Municipal Code of Des Moines, 1991, adopted by Ordinance No. 11,651, passed April 15, 1991, by adding new Sections 16-171, 16-172, 16-173, 16-174, 16-175, 16-176, 16-177 and 16-178 thereof, relating to the approval of annual permit fee and hauling vehicle fees for commercial snow haulers using the City's snow dump.

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

Iowa:

Section 1. That the Municipal Code of Des Moines, 1991, adopted by Ordinance No. 11,651, passed April 15, 1991, by adding new Sections 16-171, 16-172, 16-173, 16-174, 16-175, 16-176, 16-177 and 16-178 thereof, relating to the approval of annual permit fee and hauling vehicle fees for commercial snow haulers using the City's snow dump, as follows:

SUBCHAPTER 9. SNOW DUMP

16-171. PERMIT TO DUMP SNOW.

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

16-172. PERMIT REQUIREMENTS.

(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) The applicant shall pay, at the time of application, an annual permit fee of \$100.00 as well as \$50.00 for each vehicle to be used for hauling snow to the City of Des Moines' snow dump.

(c) 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.

16-174. 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 section 16-172 of this code.

16-175. SUSPENSION AND REVOCATION OF PERMITS.

(a) Any permit issued pursuant to this subchapter may be revoked for violations of this subchapter. 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 subchapter 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 subchapter 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.

16-176. DISPOSAL SITE REQUIREMENTS.

No person licensed under section 16-173 shall deposit or cause the depositing of snow at the city's snow disposal site from properties other those located within the corporate boundaries of the City of Des Moines, Iowa. The disposal site is located at SE 15th Street and Harriett Street, and any other sites designated by the public works director.

16-177. ILLEGAL DUMPING.

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

16-178. CIVIL VIOLATIONS AND PENALTIES.

Any person, corporation or other legal entity who violates or resists the enforcement of any of the provisions of this subchapter shall be guilty of a municipal infraction punishable by a civil penalty of not more than \$500.00 for the initial offense and not more than \$750.00 for each repeat offense. Each day that a municipal infraction occurs constitutes a separate offense. Any person, corporation or other legal entity who violates a provision of this subchapter after having previously been found guilty of violating the same provision of this subchapter at the same location or at a different location shall be guilty of a repeat offense. This municipal infraction penalty shall be in addition to the penalties provided for in section 1-11 of this code.

Seeking a civil penalty as authorized in this section does not preclude the city from seeking alternative relief, including an order for abatement or injunctive relief, from the court in the same action or as a separate action.

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

FORM APPROVED:

Thomas A. DeSio

Assistant City Attorney