

ORDINANCE NO. 14,228

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, and amended by Ordinance No. 14,064, passed March 18, 2002, and Ordinance No. 14,144, passed October 7, 2002, by amending Sections 98-26, 98-54, 98-55, 98-58, 98-114, 98-115 and 98-118, relating to definition of terms, regulations for solid waste collection and charges for collection, sale of stickers for collection of solid waste, solid waste container specifications, regulations for curbside recycling, disposal of yard debris and sale of bags and stickers for yard debris.

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, is hereby amended by amending Sections 98-26, 98-54, 98-55, 98-58, 98-114, 98-115 and 98-118, relating to definition of terms, regulations for solid waste collection and charges for collection, sale of stickers for collection of solid waste, solid waste container specifications, regulations for curbside recycling, disposal of yard debris and sale of bags and stickers for yard debris, as follows:

Sec. 98-26. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Appliances include, but are not limited to, refrigerators, freezers, kitchen ranges, air conditioning units, dehumidifiers, water heaters, furnaces, thermostats, clothes washers, clothes dryers, dishwashers, microwave ovens, and fluorescent light fixtures (excluding bulbs). These items may contain Polychlorinated Biphenyl (PCB), capacitors, refrigerants and components containing mercury which are restricted by law from being disposed of at a landfill.

Authority means the Metro Waste Authority, successor agency to the Des Moines Metropolitan Area Solid Waste Agency.

Capacitor means a device for accumulating and holding a charge of electricity that consists of conducting surfaces separated by a dielectric fluid.

City-owned container means those solid waste containers which the city purchases and provides to the owners or occupants of residential premises for the placement of solid waste for collection by the city.

Director means the director of public works or any authorized employee or representative who shall have responsibility for administering and enforcing this chapter.

Disposal site means a sanitary landfill transfer station or other facility for receiving or disposing of solid waste.

Extra trash item means one 33-gallon trash bag or one box no larger than 24 x 24 x 36 inches with a maximum weight of 40 pounds.

Hazardous substance has the same meaning and definition as appears in I.C. § 455B.381 and includes but is not limited to explosive materials, rags or other wastes soaked in volatile and inflammable materials; drugs, poisons; radioactive materials; highly combustible materials; and other materials which may present a special hazard to collection or disposal personnel or equipment or to the public.

Hazardous waste has the same meaning and definition as appears in I.C. § 455B.411 and includes but is not limited to fly ash or other fine or powdery material and other material which may present a special hazard to collection or disposal personnel or equipment or to the public.

Large item means an item that does not fit in a 33-gallon trash bag or box no larger than 24 x 24 x 36 inches. Large items include, but are not limited to, a table, a couch, a loveseat, a mattress, a box spring, four kitchen chairs, five boxes or bags (maximum 40 pounds each), or five rolls of carpet (4 foot length by 18 inches in diameter).

Multifamily residential premises means a multiple-family dwelling building, an apartment building, a condominium, or a complex of such buildings, containing five or more individual living units.

Multiple chamber incinerator means any incinerator used to dispose of combustible refuse by burning, consisting of three or more refractory lined combustion furnaces in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned, the refractories having a pyrometric cone equivalent of 31, tested according to the method described in the American Society for Testing and Materials, method C-24-56.

Owner means and includes, the record titleholder, or any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations imposed in this chapter shall be joint and several.

Person means and includes an individual or group or association of individuals; a firm or any member thereof; a corporation, or any executive officer, manager, person in charge or employee thereof; and the use of a pronoun specifying one gender shall include both genders.

Recyclable materials means newspaper, corrugated containers, magazines, catalogs, junk mail, kraft bags, bimetal and ferrous cans, aluminum cans, clear glass containers, and recyclable plastics, whether alone or in combination.

Residential premises means and includes single-family dwellings and any multiple-family dwelling up to and including four separate living units or family quarters. Garden-type apartments and row-type housing units shall be considered residential premises regardless of the total number of such apartments or units which may be included in a given housing development.

Rubble means dirt, stone, brick, or similar inorganic material, or street sweepings.

Solid waste means useless, unwanted or discarded materials resulting from commercial, industrial, domestic and agricultural operations and other normal community activities. Wastes which are solid or semisolid containing insufficient liquid to be free-flowing are considered to be solid wastes and include in part the following: garbage; rubbish; ashes and other residue of incineration; street refuse or sweepings; dead animals; solid animal waste; decrepit automobiles and parts thereof; agricultural, commercial and industrial wastes; construction and demolition wastes; sewage treatment solid residue. For purposes

of sections 98-74 and 98-75, the term "solid waste" shall have the meaning prescribed by this section except that it shall not include solid waste resulting from residential, farming, manufacturing, mining, or commercial activities on land owned or leased by the person conducting such activities if the dumping or depositing of such on that land does not violate other sections of this Code or city ordinances or statutes or regulations adopted by the state or federal government, but it shall include such solid waste which has come into the possession or control of a person because of the operation by that person of a collection, hauling, disposal, or other waste disposition service. For purposes of sections 98-74 through 98-76, the term "solid waste" shall not include rubble or a reasonable amount of organic material gathered and suitably contained for purposes of composting or fertilizing agricultural or floral plots.

Transfer station means an intermediate solid waste disposal facility, the principal business of which is the transferring of loads of solid waste, with or without reduction of volume, from one transportation unit to another for ultimate disposal at a solid waste disposal site. The term includes an intermediate facility, as described in this definition, at which materials of a like or similar kind are also isolated, segregated, or otherwise gathered as an incident to such activities for salvage and reutilization by recycling through one or more commercial facilities; the term shall not include junkyards or salvage yards.

Yard debris means grass clippings, leaves, garden wastes, brush, or tree branches or trimmings two inches or less in diameter.

Sec. 98-54. Collection.

The city proposes to provide solid waste collection service to remove solid wastes from residential premises subject to the following conditions, prohibitions and requirements:

- (1) Such collection shall be made on a weekly basis not less than 52 times per annum in accordance with schedules to be developed by the city

manager. If such scheduled weekly collection is deferred to a following day to conform to holiday observances or weather conditions, the city will pick up an allowed number of containers as specified in this section from allowed locations as specified in this section which is commensurate with the elapsed time since the last previous collection.

(2) The city manager is authorized and empowered, jointly, to change or amend such schedules from time to time as he or she shall deem necessary.

(3) Collection of solid waste shall be made from streets unless specifically approved by the public works director for alley or alternate collection, pursuant to the following:

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- a. No person shall place an extra trash item for collection unless such person shall have affixed an extra trash sticker to such extra trash item prior to its collection.
- b. No person shall place a large item for collection unless such person shall have affixed a large item disposal sticker to said item in a clearly visible location prior to its collection, and shall have scheduled the collection of said large item through the public works department. Large items shall not be placed for collection more than 12 hours prior to the scheduled collection time established by the public works department.
- c. Solid waste will only be collected from a residential premises if it is placed for collection in a city-owned container billed to that residence, or if it is placed for collection as an extra trash item or a large item as provided in subparagraphs g and h above.

(4) The number of containers to be collected per residential premises per week shall not exceed the number of city-owned containers billed to the residence and extra trash and large items with the appropriate stickers unless during specified periods by council resolution in response to council-perceived temporary needs or objectives or is permitted by a declaration of a collection emergency by the city manager.

(5) Any failure to comply with this section or sections 98-58 or 98-69 of this division by the owner of such residential premises shall relieve the city of its obligation to collect such solid waste therefrom which is not in compliance therewith as to type, preparation, volume or place of storage, but in all cases such solid waste from such premises as meets the requirements of such section shall be collected as provided in this section.

(6) No person, unless pursuant to contract with the city permitting that person to collect and remove rubbish and

refuse or unless that person is a city employee acting under the direction of the city council and the city manager, shall collect or remove any rubbish or refuse which has been deposited or placed by another person on the parking or curb along the roadway adjoining the latter's premises for collection by the city as provided in city ordinances.

(7) Upon application by the owner of property, demonstrating that a particular property is unoccupied and uninhabitable due to disrepair; due to damage by flood, storm, or fire; or due to the fact that it is undergoing renovation or reconstruction, the director may temporarily suspend the collection of solid waste from such premises and direct that the property not be charged the monthly charge for solid waste collection service as provided in this division. Such application shall be made in writing to the public works department on the form provided by the department for that purpose. The applicant shall therein verify that the property is not

occupied and shall identify the conditions that make it uninhabitable. The public works department may require verification of uninhabitability in the form of reports, orders, or permits issued by the community development department or the fire department. If the premises is unoccupied and uninhabitable due to flood, storm, or fire damage or due to renovation or reconstruction, the applicant shall be required to arrange for interim collection of damage or construction debris from the premises and to identify and verify the existence of those arrangements in the application. Collection services shall not be suspended for more than a period of one month, but such suspension shall be renewable monthly upon oral request for up to five additional months. No additional period of suspension shall thereafter be granted unless the owner makes reapplication for suspension of collection service as provided in this subsection.

Sec. 98-55. Charges for collection service.

(a) A monthly collection fee shall be charged by the city and collected from each owner or occupant of a "residential premises" as defined in section 98-26 of this Code served by solid waste collection service as provided in section 98-54 of this division, except as to those owners or occupants of residential premises for which whom a fee reduction is established in subsection (c) of this section. Said monthly fee shall be in payment for collection and disposal of solid waste as defined, and shall be collected in full each month from all owners or occupants of residential premises except as to those owners or occupants for whom a fee reduction is allowed as provided in subsection (c) of this section. The fee per month for city-owned containers assigned to a residential premises shall be as follows:

\$12.00 per month for one city-owned 96-gallon wheeled container,
\$11.00 per month for one city-owned 64-gallon wheeled container,
\$10.00 per month for each additional city-owned 96-gallon wheeled container, and \$9.00 per month for each additional city-owned 64-gallon wheeled container.

(b) The solid waste collection fee shall be billed to the "owner" as herein defined every month, payable in advance within 30 days from date of such billing.

(c) A fee reduction of \$1.00 per month from the rates shown in 98-55(a) for the first container assigned to a residential premises (no reduction will be allowed for each

additional container) shall be allowed and authorized by the city for each owner of a residential premises served by solid waste collection service who (1) has filed claim for tax reimbursement and has established eligibility for such reimbursement under the provisions for property tax relief for elderly and disabled contained in the I.C. §§ 425.16--425.39, with reference to such residential premise; (2) has waived any right to confidentiality relating to all income tax information obtainable through the state department of revenue; (3) has filed an application with the city reciting such facts and asking for the benefits of this provision subject to verification by the state department of revenue; and (4) has received notification by the city that such application has been approved by the city director of finance or his or her designee.

(1) Such fee reduction shall be on a 12-month period basis, shall commence on the first day of the first month of the first monthly billing period following approval of the application therefor and shall be valid thereafter for a 12-month period unless the applicant is for any reason disqualified as a claimant under the I.C. §§ 425.16--425.39. In event of such disqualification, the owner's eligibility for fee reduction shall terminate at the termination of the billing period in which such disqualification occurs and shall be billed at the rate

prescribed by subsection (a) of this section, unless and until the owner's qualification is reviewed and eligibility for such fee reduction is re-established pursuant to a new application to the city for the subject premises. In any event, each such application must be reviewed at least 30 days before the end of the 12-month period aforesaid and approved as aforesaid in order for such fee reduction to be effective for a succeeding 12-month period, and annually upon such schedule thereafter, failing which the eligibility for fee reduction shall automatically cease at the end of the current 12-month period. Fee reduction application forms shall be available at city hall in such form, manner and location as the city manager shall direct. Such applications shall be as informal as possible and may be made by the owner of a residential premises, or may be made on behalf of such owner by any person or institution reasonably expected to act in accordance with the wishes and best interests of the owner.

(2) Termination of city allowance of fee reduction for any cause, other than loss of status as a qualified claimant for reimbursement under said act or by lapse of time as aforesaid, shall occur only by action of the city council after reasonable notice and hearing. Said notice shall identify the reason for loss of eligible status and shall be served in the manner of service of original notice at least ten days before date of hearing. Appeal to the courts shall be permitted the applicant in any manner allowed by the Iowa rules of civil procedure within time limitations as therein stated.

- d. The \$1.00 fee reduction per month aforementioned shall be shown each month on the owner's billing statement for solid waste collection service.
- e. A fee of \$1.00 shall be charged for each extra trash item sticker and a fee of \$5.00 shall be charged for each large item sticker.

(f) A fee of \$35.00 shall be charged for the sale of an appliance disposal sticker to cover the cost of collection, demanufacturing, and disposal of appliances as defined in section 98-26.

(g) Appliance disposal stickers, extra trash stickers, and large item stickers shall be made available at multiple retail locations, a listing of which shall be available at the Public Works Department's 24 hour Customer

Service Center. The city manager shall direct the distribution of appliance disposal stickers, extra trash stickers, and large item stickers to retailers under such distribution and auditing procedures as the city manager shall establish upon the advice of the finance director. Such stickers shall be made available to members of the public at retail outlets at a cost not exceeding \$35.00 for appliance disposal, \$1.00 for extra trash, and \$5.00 for large items. The city manager shall make said stickers available only to retailers who agree to market same at the above indicated retail price.

(h) The owner of a multiple-family dwelling with four separate living units or family quarters may, upon prior arrangement with the director with respect to day and location of collection, verification of number of units, and execution of a hold harmless agreement in favor of the city, arrange for city collection and disposal of solid waste placed by residents of such multiple-family dwelling in one or more dumpsters of not more than two (2) cubic yards capacity each. Such placement and collection of solid waste shall in all other respects be conducted as provided in section 98-54 of this division. A fee of \$9.00 per dumpster per month shall be charged by the city and collected from the owner or owners of such multiple-family dwelling, which fee shall be in addition to the per unit solid waste collection and disposal fee charged as provided in (a) above.

(i) The owner or occupant of a residential premises may request a one-time container exchange free of charge. For each additional exchange, there will be a \$25.00 service charge.

Sec. 98-58. Container specifications.

(a) Only city-owned containers provided by the city shall be used for the placement of solid waste for collection by the city. City-owned containers shall be assigned to a particular residential premises and shall remain at that residential premises in the event the owner or occupant moves. If a city-owned container is lost or stolen from a residential premises, the owner or occupant of the residential premises shall report such event to the Public Works Department's 24 hour Customer Service Center. In the event of loss or theft, a replacement city-owned container or containers shall be provided to the owner or occupant at the owner's or occupant's cost.

(b) Disposable cardboard boxes not larger than 24 by 24 by 36 inches may be used for extra trash or yard debris not weighing more than 40 pounds. Tree limbs and brush placed for collection as yard debris may be securely tied in bundles not larger than 48 inches long and 18 inches in diameter and weighing not more than 40 pounds.

(c) Extra trash and large bulky items such as furniture, large tree limbs, automobiles and major parts thereof and appliances that cannot be reduced to fit approved containers shall not be collected; provided that special arrangements can be made for the collection of appliances, extra trash, and large items as provided in Section 98-54(3)g.

Sec. 98-114. Curbside recycling at residential premises.

(a) The city, in conjunction with the Metro Waste Authority, has established a voluntary curbside recycling program, pursuant to which recyclable materials are collected at curbside in green recycling bins provided by the city in cooperation with the Metro Waste Authority for that purpose. Persons owning or residing in residential premises who

elect to participate in the curbside recycling program shall do so as provided in this section.

(b) Bottles, jugs, and containers shall be emptied of contents, decapped, and rinsed prior to placement in a green recycling bin for collection.

(c) The city may refuse to collect recyclable materials not prepared for collection pursuant to instructions therefor promulgated by the Metro Waste Authority.

Sec. 98-115. Disposal of yard debris.

(a) The provisions of subsection 98-54(5) of this article to the contrary notwithstanding, yard debris will be collected from residential premises only in bags, containers, boxes, or bundles designated for that purpose as provided in this section. All persons owning or residing in residential premises shall dispose or provide for the disposal of yard debris by placing the yard debris for curbside collection by the city in separate bags, solid waste containers, or boxes designated as provided in subsection (b) of this section for the collection of yard debris, or in bundles, or, for single-family residences, by composting the yard debris upon such premises as provided in this section.

(b) Yard debris may be placed for collection at curbside on any regular collection day along with other solid waste in:

(1) A degradable bag bearing the Compost It! logo of the Metro Waste Authority and sold for that purpose by the Metro Waste Authority;

(2) A standard 30-36 gallon solid waste container bearing an annual sticker issued by the Metro Waste Authority designating such container for use for collection of yard debris through December 31, 2003;

(3) A cardboard box not larger than 24 x 24 x 36 inches or degradable store brand yard waste paper bag bearing a sticker issued by the Metro Waste Authority designating such box or bag for use for collection of yard debris; or

(4) A bundle of tree limbs or brush no larger than 48 inches long and 18 inches in diameter secured by twine or cord and Christmas trees each bearing a Metro Waste Authority yard debris sticker.

Such bags, containers, boxes, or bundles, when placed for collection, shall not contain more than 40 pounds of yard debris.

(c) There shall be no limit on the number of bags, containers, boxes, or bundles of yard debris that may be placed for collection on a single collection day, unless a limit is temporarily imposed by the city manager in an emergency situation.

(d) As an alternative to the placement of yard debris in bags, containers, boxes, or bundles for curbside collection, persons

owning or residing in single-family residences may dispose of yard debris by composting, if such composting meets the following requirements:

(1) Composting may be conducted on the premises of a single-family residence only if the lot upon which the residence is located has an area of not less than 5,000 square feet.

(2) A compost pile shall not be located less than 50 feet from any neighboring dwelling.

(3) Each compost pile shall be fenced to screen it from view from neighboring residences and to prevent wind from scattering debris.

(4) Compost piles shall be established and maintained in accordance with recognized guidelines or those provided to the city's solid waste collection customers or otherwise published by the public works department; provided, however, that household food waste, scrap food or garbage shall not be composted with or added to a yard debris compost pile.

(5) Compost piles which are not properly fenced resulting in the dispersal of debris or

which create odors resulting in complainants by neighboring residents or which, in the judgment of the public works department sanitation superintendent or the office of environmental health, create a risk of fire or other threat to public health, safety, or welfare shall, when so ordered by the sanitation superintendent or the office of environmental health, be removed from the premises and disposed of by curbside collection as provided in this section.

(6) Yard debris that did not originate upon or which was not collected from the residential lot upon which a compost pile is established shall not be added to such compost pile; provided, however, that a communal compost pile may be established and shared by two or more single-family residences upon approval by the sanitation superintendent.

(e) The city may refuse to collect any bag or container of yard debris if it contains material other than yard debris or if it contains more than 65 pounds of yard debris.

Sec. 98-118. Sale and issuance of bags and stickers designated for yard debris.

The Metro Waste Authority shall be responsible for the sale and issuance of bags and stickers designated for yard waste.

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

FORM APPROVED:

Terrence L. Timmins, Deputy City Attorney

Preston A. Daniels, 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. 03-1028), passed by the City Council of said City at a meeting held May 5, 2003 signed by the Mayor on May 5, 2003 and published as provided by law in the Business Record on May 19, 2003 Authorized by Publication Order No. 3583.

Diane Rauh, City Clerk