

ORDINANCE NO. 14,236

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 102-596 and Section 102-598 thereof; by enacting a new Section 102-596 and Section 102-598; and, by adding and enacting new subsections (10) and (11) to Section 102-604, to require that all new mailboxes and replacements of existing mailboxes be of a breakaway design.

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

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, be and is hereby amended by repealing Section 102-596 and Section 102-598 thereof; by enacting a new Section 102-596 and Section 102-598; and, by adding and enacting new subsections (10) and (11) to Section 102-604, to require that all new mailboxes and replacements of existing mailboxes be of a breakaway design, as follows:

Sec. 102-596. Definitions.

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

Breakaway mailbox means a mailbox approved by the U.S. Postal Service and used for the curbside delivery of mail, which is supported by a wood post no greater in cross section than 4 inches square or by a post with a strength no greater than a 2 inch diameter standard steel pipe. Two such posts may be used to support a cluster of four or more mailboxes.

City engineer means the head of the engineering department or the engineer's duly authorized designee.

Encroachment, in addition to its usual meaning, means any architectural projection, chimney, stairway, platform, step, railing, door, grate, vault, sign, banner, canopy, marquee, awning, newsrack, trash container, bench, areaway, obstruction, opening or structure.

Newspaper delivery receptacle means a device for receiving and containing newspapers delivered for and at the request of a subscriber to the newspaper.

Newsrack means an encroachment in the form of an unmanned device for the vending or free distribution of newspapers or news periodicals; provided, however, that this definition shall not include newspaper delivery receptacles.

Public property, in addition to its usual meaning, means any street, highway, avenue, alley, sidewalk, skywalk bridge, public place or other real property owned or controlled by the city.

Sec. 102-598. Damages.

Any injury or damage to persons or property occurring in consequence of the construction, use or maintenance of any of the encroachments described in this article or because of any defect therein shall be paid by the person using or maintaining such encroachment.

After July 1, 2003, the responsibility for damage to a mailbox upon public property by the city, its officers, employees and agents, shall be limited to replacement of the damaged mailbox by the city with a breakaway mailbox of a standard design and color selected by the city. The owner of any mailbox remaining upon public property after July 1, 2003, shall be deemed to have agreed to this limitation as a condition of the owner's continued use of the public right-of-way.

Sec. 102-604. Exemptions from article.

Nothing in this article shall be held in any way to prohibit or regulate the maintenance or placement of the following:

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(10) Breakaway mailboxes.

(11) Mailboxes constructed prior to May 1, 2003, that are not breakaway mailboxes. However, the burden of establishing that an existing mailbox was constructed prior to May 1, 2003, shall be upon the owner. Any mailbox, when replaced, shall be replaced with a breakaway mailbox.

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

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. 03-1030-I), 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 June 2, 2003 Authorized by Publication Order No.3591.

Diane Rauh, City Clerk