

ORDINANCE NO. 14,485

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, by amending Sections 118-58, 118-75 and adding and enacting a new Section 118-75.05 thereof, providing clarification that septic tank systems or private sewage disposal systems which are detrimental to the environment are prohibited and providing for municipal infraction and administrative penalties.

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 118-58, 118-75 and adding and enacting a new Section 118-75.05 providing clarification that septic tank systems or private sewage disposal systems which are detrimental to the environment are prohibited and providing for municipal infraction and administrative penalties, as follows:

Sec. 118-58. Detrimental use of privies, wells, vaults or septic tank systems; corrective measures.

- (a) Whenever the use and maintenance of any privy, well or vault located upon any premises in the city is found by the environmental health officer to be detrimental or dangerous to life or health, he or she is authorized and empowered to prohibit its use upon any such premises, to order it to be disinfected and filled with fresh earth, to order connection to the public sewer or, where a public sewer is not available or not accessible, to order a septic tank or private sewage disposal system to be constructed upon any such premises and to order the plumbing installed in any building located upon such premises to be connected with and drained into a properly constructed sewer or septic tank or private sewage disposal system.

- (b) Whenever the use and maintenance of any septic tank system or private sewage disposal system located upon any premises in the city is found by the environmental health officer to be detrimental or dangerous to life, health, or the environment he or she is authorized and empowered to prohibit its use upon any such premises until such time as the condition causing the system to be detrimental or dangerous to life, health, or the environment shall have been remedied and to order the detrimental or dangerous effects thereof to be abated by whatever means may be appropriate, including connection to the public sewer where reasonably accessible.

Sec. 118-75. Penalty.

Any person, firm, or corporation who fails to perform an act required by the provisions of this division who commits an act prohibited by the provisions of this division shall be guilty of a municipal infraction. The first violation of this division within a calendar year shall be deemed a first offense punishable for a civil penalty not to exceed \$750.00. The second and subsequent violations within a calendar year shall be a repeat offense, punishable by a civil penalty not to exceed \$1,000.00. The director of public works, or his or her authorized representative, or any police officer is authorized to issue a civil citation pursuant to I.C. § 364.22(4) to anyone violating this division indicating such person is in violation of the division and is subject to the penalties provided for in this section.

Sec. 118-75.05. Administrative penalties - notice of violations.

- (a) The director of public works or his or her designated representative or any police officer is authorized to issue a notice of violation imposing an administrative penalty upon any person, firm or corporation who fails to perform an act required by this division or who commits an act prohibited by this division.
- (b) The administrative penalty for such violations shall be as provided in the schedule of administrative penalties adopted by the city council by resolution.
- (c) Notice of violation, with the applicable penalty for such violation noted thereon, shall be issued to the violator by the director of public works or his or her designated representative or any police officer. Service of the notice may be by regular mail or delivery in person.

- (d) Penalties shall be paid in full within thirty (30) days of the issuance of the notice.
- (e) The administrative penalties set out in the schedule of administrative penalties shall be changed in lieu of the penalties provided for in section 118-75, unless the violator refuses to correct the violation and pay the scheduled administrative penalty, or the director determines that immediate enforcement action by municipal infraction or misdemeanor prosecution pursuant to section 1-15 is, in view of the particular circumstances of the case, necessary to achieve compliance with the requirements of this division. The public works department shall maintain a record of all violations and administrative penalties charged or other enforcement actions taken.

Sec. 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

T.M. Franklin Cownie, 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. 05-2238), passed by the City Council of said City at a meeting held September 12, 2005 signed by the Mayor on September 12, 2005 and published as provided by law in the Business Record on September 19, 2005 Authorized by Publication Order No.4843.

Diane Rauh, City Clerk

