

★ **Roll Call Number**

Agenda Item Number

57

Date September 14, 2009

Communication from Johnny Mascaro, Des Moines, Iowa, to speak regarding various issues, i.e. creating jobs, and violations for littering.

Moved by \_\_\_\_\_ to receive and file comments.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
<b>TOTAL</b>				

MOTION CARRIED

APPROVED

\_\_\_\_\_  
Mayor

**CERTIFICATE**

I, DIANE RAUH, 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.

\_\_\_\_\_  
City Clerk

REGISTRATION FORM TO SPEAK AT CITY COUNCIL MEETING

57

To: The Honorable Mayor  
and  
Members of the City Council  
City of Des Moines, Iowa  
c/o City Clerk

I/We JOHNNY MASCARO  
(Please Print)

hereby request permission to speak at the Des Moines City Council  
meeting of SEPT. 14TH 2009, regarding

THE NEED TO CREATE JOBS INCREASE FINES  
FOR THE VIOLATIONS OF LITTERING  
WITHIN THE CITY OF DES MOINES  
BY THOSE WHO THROW TRASH,  
INCLUDING NEWSPRINT, CAN'S, BOTTLES  
CIGARETTE BUTTS AND OTHER DEBRIS

Name: Johnny Mascaro  
(Signature)

Address: P.O. Box 93722 DM, IA. 50393

Daytime Phone: 515-779-3792

PROCEDURAL RULES OF DES MOINES CITY COUNCIL:

Part III. Agenda

Rule 16. Citizen Agenda Requests. Any citizen may request the right to have an item placed on the Agenda (including a request to speak) by filing such request in writing with the City Clerk prior to noon on the Wednesday preceding the Council meeting.

Part V. Citizen Participation

Rule 27. Citizen's Right to Address Council. Persons other than Council Members shall be permitted to address the Council only upon specific Agenda Items.

MONEY FROM FINE'S 51  
STAY'S IN DES MOINES

ARTICLE VII. LITTERING\*

\*Cross references: Solid waste, ch. 98.

**Sec. 42-391. 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:

*Aircraft* means any contrivance known or invented that is used or designated for navigation or for flight in the air. The term "aircraft" shall include helicopters and lighter-than-air dirigibles and balloons.

*Authorized private receptacle* means such a litter collection and storage receptacle as required and authorized in division 2 of article II of chapter 98 of this Code.

*Handbill* means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper booklet, or any other printed or otherwise reproduced original or copies of any literature.

*Litter* means any decomposable or nondecomposable solid or other waste material.

*Newspaper* means any newspaper of general circulation as defined by general law, any newspaper duly entered with the United States Postal Service in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law and, in addition thereto, means and includes any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

*Vehicle* means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

(C54, § 3A-1; O.6164; C62, § 3A-1; O.8463; C75, C79, C91, § 16-65)

**Cross references:** Definitions generally, § 1-2.

**Sec. 42-392. Depositing in public and private places.**

No person shall throw or deposit litter in or upon any stream or body of water, street, sidewalk or public park, cemetery or other public place or upon private property within the city except in public receptacles or in authorized private receptacles for collection, in such a manner so as to prevent litter properly placed in the receptacle from being scattered or being carried or deposited by the elements or animals outside of such receptacle.

(C54, § 3A-2; O.6164; C62, § 3A-2; O.8463; C75, C79, C91, § 16-66)

**Sec. 42-393. Construction of receptacles to prevent scattering.**

Public receptacles or authorized private receptacles shall be located in a sufficient number of

appropriate places throughout the city for the deposit and collection of litter, and such receptacles shall be constructed, maintained and cleaned in such a manner as to prevent litter properly placed in them from being scattered or being carried or deposited by the elements or animals outside of such receptacle.

(C54, § 3A-3; O.6164; C62, § 3A-3; O.8463; C75, C79, C91, § 16-67)

#### **Sec. 42-394. Sweeping into gutters.**

No person, including but not limited to a person owning or occupying a place of business, shall sweep into or deposit in any manner in any gutter, street, or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk, parking lot or driveway. Persons, including but not limited to persons owning and occupying places of business within the city, shall keep the sidewalks and parking in front of their premises free of litter.

(C54, § 3A-4; O.6164; C62, § 3A-4; O.8463; C75, C79, C91, § 16-68)

#### **Sec. 42-395. Vehicle loads.**

No person shall move any vehicle within the city unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place. If any person shall move any vehicle within the city, the wheels or tires of which carry onto or deposit in any public place mud, dirt, sticky substances, litter or foreign matter of any kind, such person shall remove such matter the same day.

(C54, § 3A-5; O.6164; C62, § 3A-5; O.8463; C75, C91, § 16-69)

**Cross references:** Traffic and vehicles, ch. 114.

#### **Sec. 42-396. Throwing or distributing handbills.**

No person shall throw or deposit or cause to be thrown or deposited any handbill in or upon any sidewalk, street or other public place within the city.

(C54, § 3A-7; O.6164; C62, § 3A-7; O.8463; C75, C79, § 16-71; O.10,672; C91, § 16-71(a))

**Cross references:** Advertising, ch. 6.

#### **Sec. 42-397. Posting notices.**

No person shall post or affix any notice, poster, or other paper or device, calculated to attract the attention of the public, to any lamp post, public utility pole, or shade tree in the public right-of-way, or upon any public property, or public structure or building, except as may be authorized or required by law.

(C54, § 3A-12; O.6164; C62, § 3A-12; O.8463; C62, § 3A-8; C75, C79, C91, § 16-72; O.13,783)

#### **Sec. 42-398. Placing handbills on vehicles.**

No person shall place any handbill in or upon any vehicle not owned or controlled by such person.

(C54, § 3A-8; O.6164; C62, § 3A-8; O.8463; C62, § 3A-9; C75, C79, C91, § 16-73)

**Cross references:** Advertising, ch. 6; traffic and vehicles, ch. 114.

**Sec. 42-399. Depositing handbills on vacant premises.**

No person shall throw or deposit any handbill in or upon any private premises, whether owned by such person or not, which are temporarily or continuously uninhabited or vacant. Nothing provided in this section shall prevent the owner or person in control of such property from properly and securely storing such materials thereon.

(C54, § 3A-9; O.6164; C62, § 3A-9; O.8463; C62, § 3A-10; C75, C79, C91, § 16-74)

**Sec. 42-400. Distributing handbills and newspapers at private premises.**

(a) No person shall throw, deposit, or distribute any handbill or newspaper in or upon private premises which are inhabited unless:

(1) Any such handbills or newspapers are wrapped, bound or secured in such a manner as to prevent them from being carried or deposited by the elements upon public or private property; and

(2) Any such handbills or newspapers are placed at any of the following locations or in any of the following manners:

- a. Anywhere on the private premises with the express consent of the owner or occupant;
- b. At the front door step;
- c. Hung or placed on the front door knob or handle;
- d. Hung on a hook placed for the purpose of receiving handbills or newspapers;
- e. Placed in a secondary mailbox or other reception device intended for handbills or newspapers and not the U.S. mail; or
- f. By handing directly to a person present in or upon such private premises.

(b) (1) No person shall throw, deposit, or distribute any handbill or newspaper in or upon private premises when the owner or occupant specifically requests in writing no handbill or newspaper delivery by any means be made to his or her premises, and such writing has been provided to the publisher and/or distributor of such handbill or newspaper.

(2) A publisher of a newspaper or handbill may, at its own expense, conduct an annual mail and/or direct delivery survey of occupants of residences without curbside mailboxes. If such a survey is conducted; and

- a. a survey card is mailed or delivered to each such residence annually; and
- b. the survey card clearly states the occupant's right to refuse delivery of the publisher's publication; and
- c. the survey card clearly states the occupant's right to immediately stop delivery of the publisher's publication; and
- d. the survey card is preaddressed to the publisher, with postage prepaid or guaranteed,

then unless the occupant has previously requested no delivery under subsection (b)(1) above, the publisher may assume express consent exists to deliver the newspaper or

handbill in the private driveway of occupants who do not return the survey card which states the occupant's desire to discontinue delivery of the publication.

(c) This section shall not apply to the distribution of mail by the United States Postal Service.

(C54, § 3A-10; O.6164; C62, § 3A-10; O.8463; C62, § 3A-11; C75, C79, C91, § 16-75; O.13,980)

#### **Sec. 42-401. Dropping from aircraft.**

No person in an aircraft shall throw out, drop, or deposit within the city any litter, handbill, or any other object, provided that the city council may waive the terms of this section upon application.

(C54, § 3A-11; O.6164; C62, § 3A-11; O.8463; C62, § 3A-12; C75, C79, § 16-76; O.9824; C91, § 16-76)

**Cross references:** Aviation, ch. 22.

#### **Sec. 42-402. Responsibility to maintain premises free of litter.**

The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

(C54, § 3A-14; O.6164; C62, § 3A-14; O.8463; C62, § 3A-13; C75, C79, C91, § 16-77)

#### **Sec. 42-403. Clearing of private property by city.**

(a) *Notice to remove.* The environmental health officer is authorized and empowered to notify the owner of any open or vacant private property within the city or the agent of such owner to properly dispose of litter located on such owner's property which is dangerous to public health, safety, or welfare. Such notice shall be by certified mail addressed to the owner at his or her last known address.

(b) *Action upon noncompliance.* Upon the failure, neglect or refusal of any owner or agent so notified to properly dispose of litter dangerous to the public health, safety, or welfare within a time set by the environmental health officer or his or her designee, after receipt of written notice provided for in subsection (a) of this section or within this set time after the date of such notice, if the notice is returned to the city post office department because of inability to make delivery thereof, provided the notice was properly addressed to the last known address of such owner or agent, the environmental health officer is authorized and empowered to pay for the disposing of such litter or to order its disposal by the city.

(c) *Assessment of costs.* When the city has effected the removal of litter from private property or has paid for its removal, the actual cost of removal of such litter shall be paid by the owner of the property and shall be assessed against such property and collected as set forth in sections 102-131 to 102-136 of this Code, in the same manner as provided for the removal of snow and ice from sidewalks.

(C54, § 3A-15; O.6164; C62, § 3A-15; O.8463; C62, § 3A-14; C75, C79, § 16-78; O.9835; C85, § 16-78; O.11,048; C91, § 16-78; O.13,013)

#### **Sec. 42-404. Evidence of violation.**

Whenever litter is thrown, deposited, dropped, or dumped from any vehicle, boat, aircraft, or

other private conveyance not carrying passengers for hire, it shall be prima facie evidence that the operator of the conveyance shall have violated this article.

(C62, § 3A-15; O.8463; C75, C79, C91, § 16-79)

#### **Sec. 42-405. Enforcement.**

All law enforcement agencies, officers, and officials of the city or of any agency licensed by such officers or agencies or any official of any organization established by this city are authorized, empowered and directed to enforce compliance with this article. In addition, the city council is authorized to appoint or direct the establishment or deputization of organizations or individuals to enforce this article, and any person observing a violation of this article may initiate prosecution therefor through appropriate legal officers.

(C62, § 3A-16; O.8463; C75, C79, C91, § 16-80)

#### **Sec. 42-406. Penalty.**

Any person who fails to perform an act required by this article or who commits an act prohibited by this article shall be guilty of a misdemeanor punishable by fine or imprisonment 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.

(C54, § 3A-16; O.6164; C62, § 3A-16; O.8463; C62, § 3A-17; C75, C79, C85, § 16-81; O.11,030; C91, § 16-81)

#### **Sec. 42-407. Legally authorized disposal.**

Nothing contained in this article shall be construed to apply to legally designated places used for the authorized disposal of litter.

(C62, § 3A-18; O.8463; C75, C79, C91, § 16-82)

Secs. 42-408--42-425. Reserved.