

★ **Roll Call Number**

Agenda Item Number

34

Date November 22, 2010

An Ordinance entitled, "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 subsection (B) of Section 42-256 thereof, and enacting a new subsection (B) to Section 42-256, and by adding and enacting a new subsection (E) to Section 42-259, regarding the application of the Noise Control Ordinance of the City of Des Moines to solid waste collection and other loading and unloading activities, and prohibiting solid waste collection activities within 150 feet of an R district or portion of a PUD district restricted to residential use between the hours of 7:00 p.m. and 6:00 a.m.",

which was considered and voted for the first time upon under Roll Call No. 10-1863 of November 8, 2010; again presented.

MOVED by _____ that this ordinance be considered and given second vote for passage.

(Second of three required readings)

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				
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

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date:	November 8, 2010
	Agenda Item No.	46
	Roll Call No.	[10-1863]
	Communication No.	10-663
	Submitted by:	Phillip Delafield Community Development Director

AGENDA HEADING:

Amending Section 42-256 of the Noise Ordinance regarding trash collection activities.

SYNOPSIS:

Recommend approval of changes in the sound ordinance which more clearly prohibits the use of a vehicle for the purpose of solid waste collection to pick up or empty a dumpster or other container within 150 feet of a Residential District or portion of a "PUD" restricted to residential use between the hours of 7:00 p.m. and 6:00 a.m. This proposed change permits solid waste collection one hour earlier than the present ordinance which does not permit pick up before 7:00 a.m.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

At the April 12, 2010 Council meeting, representatives of the South Park Neighborhood Association appeared to discuss the City's present noise ordinance as it relates to garbage trucks or other motor vehicles engaged with solid waste collection prior to 7:00 a.m. At this meeting, Council directed staff to review the ordinance to see if any amendments could be recommended.

Staff met with the Metro Waste Authority Director along with two commercial solid waste collector representatives to discuss the current noise ordinance as it relates to truck noise. Several items were discussed including the landfill hours, safety and the changing layout of Des Moines. Both representatives explained that to safely service commercial customers throughout Des Moines, stops must occur before 7:00 a.m. in numerous locations because of parked cars blocking access to containers. People and vehicular traffic also become safety issues.

Upon review, staff has determined to amend Section 42-256 of the Noise Ordinance to permit solid waste collections from 6:00 a.m. to 7:00 p.m. Trash pickup at elementary and secondary schools and hospitals is recommended to be exempt from this requirement and the City Manager or the Manager's designee may grant exceptions to this limitation on the timing of trash pickup where such exception is necessary to avoid an unreasonable risk.

If approved by Council, this amendment shall be in full force and effect on March 1, 2011.

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PREVIOUS COUNCIL ACTION(S):

Date: April 12, 2010

Roll Call Number: 10-547

Action: Request from Council Member Brian Meyer to speak regarding noise issues in the South Park Neighborhood. Moved by Meyer to refer to the City Manager to review the current ordinances and existing Consent Decree and work with South Park and other Neighborhood Associations regarding the noise created by garbage trucks, parking lot maintenance vehicles and the loading and unloading of trucks in the early morning hours. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the second floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to cityclerk@dmgov.org.

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ORDINANCE NO. _____

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 subsection (B) of Section 42-256 thereof, and enacting a new subsection (B) to Section 42-256, and by adding and enacting a new subsection (E) to Section 42-259, regarding the application of the Noise Control Ordinance of the City of Des Moines to solid waste collection and other loading and unloading activities, and prohibiting solid waste collection activities within 150 feet of an R district or portion of a PUD district restricted to residential use between the hours of 7:00 p.m. and 6:00 a.m.

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, as amended by Ordinance No. 14,746 passed February 25, 2008, and by Ordinance No. 14,752 passed April 7, 2008, be and is hereby amended by repealing subsection (B) of Section 42-256 thereof, and enacting a new subsection (B) to Section 42-256, and by adding and enacting a new subsection (E) to Section 42-259, regarding the application of the Noise Control Ordinance of the City of Des Moines to solid waste collection and other loading and unloading activities, and prohibiting solid waste collection activities within 150 feet of an R district or portion of a PUD district restricted to residential use between the hours of 7:00 p.m. and 6:00 a.m., as follows:

Sec. 42-256. Specific activities prohibited.

.....

(B) *Loading and unloading.* No person shall so load, unload, open, close or handle boxes, crates, containers, building materials, garbage cans, or similar objects between the hours of 7:00 p.m. and ~~7~~6:00 a.m. the following morning as to create a noise disturbance across a residential real property boundary or within a noise sensitive area. This subsection shall not apply to the engine noise generated by the activities covered-regulated by section 42-259 of this article.

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Sec. 42-259. Motorized vehicles.

.....

(E) No person operating or in control of a garbage truck or other motor vehicle engaged

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Ordinance No. _____

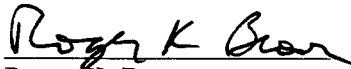
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in the business of solid waste collection. shall use such vehicle to pick up or empty a dumpster or other container used for the collection or storage of solid at any location in. or within 150 feet of. an R district or portion of a PUD district restricted to residential use. between the hours of 7:00 p.m. and 6:00 a.m. the following morning. subject to the following:

- (1) Trash pickup at elementary and secondary schools and hospitals is exempt from this requirement.
- (2) The city manager or the city manager's designee may grant an exception to this limitation on the timing of trash pickup where such exception is necessary to avoid an unreasonable risk of harm created by the unusual circumstances of the site. Any such exception may be subject to reasonable conditions imposed to minimize the detrimental impact of granting such exception. and shall be subject to reconsideration in the event of changed circumstances.

Sec. 2. This ordinance shall be in full force and effect from and after the later of its passage and publication as provided by law, and March 1, 2011.

FORM APPROVED:



Roger K. Brown

Assistant City Attorney

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