

★ **Roll Call Number**

**Agenda Item Number**

35

Date May 7, 2018

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 amending Sections 98-26, 98-54, 98-55, 98-79.05, 98-115, 98-118 and 118-158, relating to solid waste charges for collection services and to clarify language regarding administrative hearings",

which was considered and voted upon under Roll Call No. 18- 0719 of April 23, 2018; again presented.

Moved by \_\_\_\_\_ that this ordinance be considered and given second vote for passage.

(Second of three required readings)


COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
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;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b> April 23, 2018
	<b>Agenda Item No.</b> 50 <b>Roll Call No.</b> <u>18-0719</u> <b>Communication No.</b> <u>18-198</u> <b>Submitted by:</b> Bob Fagen, Finance Director

**AGENDA HEADING:**

Amending the Municipal Code Section 98 relating to the monthly fee charge for the collection and disposal of solid waste services (Solid Waste rate increases), administrative hearing process, and to clarify language.

**SYNOPSIS:**

Recommend approval of amending the Municipal Code Sections 98-55, increasing monthly collection fees charged for solid waste services by \$2.20 effective on July 1, 2018; increasing the monthly fee reduction from \$1.00 to \$3.20 for solid waste services for those residential owners who qualify for a fee reduction under the Municipal Code Section 98-55(c) effective on July 1, 2018. At the November 27, 2017, Council workshop the proposed increase was \$2.25, but additional analysis by budget staff allowed for the smaller increase proposed here. The proposed amendment to Section 98-79.05 Administrative Hearing makes the administrative penalty appeal process for violations of Section 98-70 (littering) or Section 98-117(b) (prohibition against mixing solid waste with yard debris or solid waste with recyclable materials) consistent with that process for other administrative penalty appeals throughout the City Code by requiring such appeal to follow the process in Chapter 3 Administrative Hearing Process.

**FISCAL IMPACT:**

Amount: The monthly solid waste collection fees are proposed to increase by \$2.20 beginning July 1, 2018. The fee reduction for residential owners who qualify under Section 98-55(c) will increase to \$3.20 per month. Proposed rates and estimated annual revenue increases follow:

	<u>Current Monthly Rate</u>	<u>Proposed Rate on 7/01/2018*</u>
First 64 gallon	\$ 11.00	\$ 13.20
First 96 gallon	\$ 12.00	\$ 14.20
Additional 64 gallon	\$ 9.00	\$ 11.20
Additional 96 gallon	\$ 10.00	\$ 12.20
First 64 gallon subsidized	\$ 10.00	\$ 10.00
First 96 gallon subsidized	\$ 11.00	\$ 11.00
City of DM - Dumpster	\$ 9.00	\$ 9.00

\*Rates for the subsidized containers are shown after the increased subsidy.

Funding Source: Revenues will be deposited in the appropriate solid waste fund accounts for use on operations and capital projects per the budget plan.

**ADDITIONAL INFORMATION:**

- At the November 27, 2017 Council workshop, staff presented an update on the operating plans for solid waste. At that time, the proposed increase was \$2.25 per month. Further analysis revealed that a smaller increase will be sufficient.
- Fee increases are needed in the Solid Waste Fund to offset annual increases in operating costs. This section of the Municipal Code was last changed 2003.
- After the increase, solid waste rates in the City are still below the average for the largest 10 municipalities in the state and below the average of national peers.

**PREVIOUS COUNCIL ACTION(S):**

Date: May 5, 2003

Roll Call Number: 03-1028

Action: 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, 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", which was considered and voted upon for the first time under Roll Call No. 03- 930 of April 21, 2003, and considered and voted upon for the second time under Roll Call No. 03- 1027 of May 5, 2003, again presented. Moved by Hensley that the rule requiring that ordinances must be considered on for passage at two Council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass. Motion carried 6-0.

**BOARD/COMMISSION ACTION(S): NONE**

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

Second and third readings of the ordinance.

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 first 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](mailto: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 amending Sections 98-26, 98-54, 98-55, 98-79.05, 98-115, 98-118 and 118-158, relating to solid waste charges for collection services and to clarify language regarding administrative hearings.

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 heretofore amended, is hereby amended by amending Sections 98-26, 98-54, 98-55, 98-79.05, 98-115, 98-118 and 118-158, relating to solid waste charges for collection services and to clarify language regarding administrative hearings, as follows:

**Sec. 98-26. Definitions.**

- (r) *Recyclable materials* means newspaper, corrugated containers, magazines, catalogs, junk mail, kraft bags, bimetal and ferrous cans, aluminum cans, glass containers, ~~and~~ recyclable plastics, and paper food cartons, whether alone or in combination.
- (s) *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. "Solid waste" shall not include yard debris.

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**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:
  - a. Whenever solid waste is collected from the street, residents desiring to have solid waste collected by the city shall cause it to be deposited upon the parking or terrace adjacent to and within approximately eighteen (18) inches of the near edge of the roadway in front of their premises and three feet away from any other object, including other solid waste containers.
  - b. As to residential premises approved for alley pickup, solid waste or solid waste containers shall be placed adjacent to the alley right-of-way and three feet away from any other object, including other solid waste containers.

**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 solid waste containers, excluding yard debris containers, assigned to a residential premises shall be as follows: ~~-\$12.00~~ \$14.20 per month for one city-owned 96-gallon wheeled container, ~~-\$11.00~~ \$13.20 per month for one city-owned 64-gallon wheeled container, ~~-\$10.00~~ \$12.20 per month for each additional city-owned 96-gallon wheeled container, and ~~-\$9.00~~ \$11.20 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~~ \$3.20 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~~ \$3.20 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 (7 - \$5.00 stickers) 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

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- 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)~~ eight (8) 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 for a change in container size free of charge. Such free of charge exchange will be allowed for both a solid waste container and a yard waste container. For each additional exchange, there will be a \$25.00 service fee.
  - (j) Upon request of the owner, the director of public works is authorized and empowered to except from city solid waste collection a residential premises that is adjacent to a multifamily residential premises if such dwellings are commonly owned, are not separated by a street or public alley, and were being served by private solid waste collection as of January 1, 2005. When either the multifamily residential premises or the adjacent residential premises change ownership the residential premises shall be served by city solid waste collection.

**Sec. 98-79.05. Administrative hearing.**

- (a) ~~\_\_\_\_\_~~ A person to whom a notice of administrative penalty has been issued may request an administrative hearing for review of the finding that a violation occurred pursuant to the administrative appeal process set forth in chapter 3 of this Code by filing a written notice of appeal with the city clerk within 10 business days after the date of the decision appealed from. Failure to timely file a written notice of appeal shall constitute a waiver of any right to appeal the decision.
- (b) ~~A request for hearing on a notice of administrative penalty shall be made in writing and filed with the city clerk within ten (10) days of the date of issuance of the notice. Such request shall include the address of the violator and state the basis for the appeal.~~
- (c) ~~The hearing shall be scheduled to be held as soon as practicable and no later than fourteen (14) days after the request for hearing was filed with the city clerk. The person requesting the hearing shall be notified in writing or by telephone of the date and place of such hearing at least three (3) days in advance thereof. At such hearing the department and the person requesting the hearing may be represented by counsel, examine witnesses, and present evidence as necessary.~~
- (d) ~~The hearing officer shall determine whether or not the violation occurred.~~
- (e) ~~The determination of the hearing officer is a final administrative decision.~~

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~~(f) Failure to request a hearing within ten (10) days of the date of issuance of the notice shall be considered a waiver of the right to a hearing and it will be thereafter conclusively presumed that the violator is responsible for the violation.~~

**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 64 or 96-gallon solid waste container with a green lid issued by the public works department ~~and bearing a sticker issued by the public works department~~ designating such container for use for collection of yard debris;
  - (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.



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- (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 and city-owned containers designated for yard debris.**

The Metro Waste Authority shall be responsible for the sale and issuance of bags and stickers designated for yard debris for cardboard boxes and tree limb or brush bundles. The public works department shall be responsible for the sale and issuance of the 64 and 96-gallon green lid city-owned solid waste containers stickers for yard debris. The ~~annual~~ charge for yard debris ~~containers~~ stickers for each 64-gallon green lid container is ~~\$100 (billed at \$8.34 per month)~~ and ~~\$125~~ \$10.42 per month for each 96-gallon open lid container ~~(billed at \$10.42 per month)~~ plus a one-time fee of \$25.00 for container processing, billed and collected pursuant to sections 98-55, 98-56, and 98-57 of this chapter.

**Sec. 118-158. Billing procedures; late payment charge; past due and delinquent accounts.**


- (a) The city water works is authorized to act as the city's agent for the billing and collection of sewer, solid waste, and yard debris collection, and stormwater management service charges within the city and for charges made to the city sewer service contract accounts outside the city. The water works is authorized to read the water meter of each sewer contributor monthly, or in accordance with its procedures and regulations, and to thereafter bill sewer contributors the rates and charges provided in sections 118-149 and 118-154 of this division, utilizing its water use data as appropriate to calculate each billing. As to sewer contributors who do not derive water service from the water works, the water works shall bill such contributors for sewer service as determined and directed by the administrator pursuant to section 118-156 of this division. The water works is also authorized to bill each solid waste contributor the charges for solid waste collection service provided in section 98-55 of this Code. The city shall periodically provide to the water works an updated listing of elderly and disabled solid waste contributors entitled to the reduced rate for such service provided in subsection 98-55(c) of this Code. The water works is authorized to bill the owners or occupants of all properties within the city, except exempt properties, the charge for stormwater management services, all as provided by division 7 of this article.

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- (b) Payments for sewer, solid waste collection, and/or stormwater management services are due as of the date the billings are mailed, which date shall be the billing date. Water, sewer, solid waste collection, and/or stormwater management service charges will be billed to contributors and customers in a combined service account billing statement.
- (c) If full payment of all charges billed in a combined service account billing statement is not received within 33 days after the billing date, the city water works is authorized to impose a 5% late payment charge, according to its established practices and procedures, upon the unpaid balance of the account for sewer, solid waste collection and storm water management services. The water works may, after 30 days prior written notice to the city council, adjust the late payment charge percentage and/or the period after the due date when the late payment charge will be imposed. If the city council declines to approve such adjustments, it may repeal this authorization to impose the late payment charge.
- (d) If full payment of all charges billed in a combined service account billing statement is not received within 40 days after the billing date, the contributor's or customer's combined service account shall be considered delinquent, and the Water Works shall give notice, as hereafter provided, that the combined service account is delinquent and that water service to the premises for which the account is delinquent will be discontinued if the delinquent charges are not paid within 50 days after the billing date.

Section 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