

ORDINANCE NO. 1597

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to Health and Sanitation, amending DMMC 7.08.010 and 7.08.110, and repealing and replacing chapter 7.20 DMMC, "Smoking in Public Spaces" to be consistent with state law.

WHEREAS, following the amendments made to Titles 12, 13, 14, 16, 17, and 18 DMMC, additional chapters were found to need updating to coincide with the DMMC renumbering and referenced RCW chapters, and

WHEREAS, chapter 7.20 DMMC was enacted in 1988 by Ordinance No. 755, prohibiting smoking in public places, work places, and City vehicles, and

WHEREAS, Des Moines Ordinance No. 1009, enacted in 1993, amended the penalties section associated with violations of chapter 7.20 DMMC, and

WHEREAS, this Ordinance repeals chapter 7.20 DMMC to adopt by reference chapter 70.160 RCW, and

WHEREAS, the state of Washington recognizes that exposure to secondhand smoke is a known cause of diseases, including cancer, pneumonia, asthma, bronchitis, and heart disease, and

WHEREAS, in order to protect the health and welfare of all citizens, including workers in their places of employment, it is necessary to continue to prohibit smoking in public places and workplaces; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. DMMC 7.08.010 and section 1 of Ordinance No. 74 as amended by section 1 of Ordinance No. 663 as amended by section 1 of Ordinance No. 923 as amended by section 14 of Ordinance No. 993 are amended to read as follows:

Definitions - Use of words and phrases. As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

"Garbage" includes:

(a) All accumulation of putrescible and nonputrescible waste matter that has been discarded by the owner thereof, including, but not limited to: ashes, cinders, trade waste, rags, bottles, papers, broken household furniture, dead animals not more than 20 pounds in weight, boxes, barrels, scraps of boards and lumber, hollow material or ware, rubbish in general; and

(b) All organic wastes except yard waste or extremely hazardous wastes, hazardous substance, or hazardous waste, as defined in chapter 18.01.050 DMMC; and

(c) Every accumulation of animal, fruit, or vegetable matter that attends the preparation, use, cooking, storage, or handling of food, including swill; except the definition of garbage specifically excludes manure, sewage, dead animals of more than 20 pounds in weight, automobile bodies, trees and limbs more than four inches in diameter, slaughterhouse waste, cleanings from public and private catchbasins, building materials, construction waste, landscaping waste, and the like, only in those instances where transportation of waste is effected by the property owner or property owner's designee, and the transporting party is not an organization licensed by the Washington Utilities and Transportation Commission.

"Recyclable materials" means those products or materials that have useful physical or chemical properties after their intended use and can be diverted from the City's solid waste stream for reuse, remanufacture, or use as a raw material in the manufacture of another product.

"Solid waste" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, yard waste, and recyclable materials.

"Unattended container" means a temporary, semipermanent, or permanent container or receptacle for the collection of recyclable materials. Unattended containers are available for use by the general public and are not under the direct and continuous supervision of an on-site attendant. This definition shall not include receptacles for recyclable materials located on public property by a government agency for use by the public.

"Yard waste" means grass clippings, leaves, weeds, prunings, and similar plant materials from yards and gardens. Yard waste does not include food waste, plastics and synthetic fibers, lumber, any wood or tree limbs more than four inches in diameter, or soil contaminated with extremely hazardous or hazardous waste.

Sec. 2. DMMC 7.08.110 and section 12 of Ordinance No. 923 are amended to read as follows:

Unattended containers. No person shall place, display, or maintain any unattended container for collection of recyclable materials or donated items in any exterior location within the city except in conformance with all of the following provisions:

(1) Such unattended containers shall be located only within the parking area of private property lawfully zoned, developed, and used for commercial or industrial purposes or at schools, churches, or charitable organizations which have

similar parking facilities. Such unattended containers shall not occupy on-site parking spaces required by Title 18 DMMC, or be located within the required front yard area of any property. Furthermore, such unattended containers shall not be located within any public right-of-way.

(2) Such unattended containers shall be located only with the permission of the property owner, his/her agent, or the person in possession of the property. The container owner's name and current telephone number, the benefitting organization's name and current telephone number, and the type of recyclable material or donation solicited shall be displayed thereon in a conspicuous location.

(3) Such unattended containers shall be located only with the permission of the Planning, Building and Public Works Director, who shall provide necessary application forms to requesting persons. Such unattended containers shall be screened as specified by DMMC 18.195.450 through 18.195.490. The Planning, Building and Public Works Director may waive all or portions of the requirements of DMMC 18.195.450 through 18.195.490 when such screening is determined to be unnecessary.

(4) Such unattended containers shall be inspected no less frequently than at two-week intervals by the container owner. All containers filled to capacity shall be promptly emptied. Container owners shall ensure that the vicinity of the container is free of litter. The placement of any material in or around the unattended container other than the material or materials intended by

the container owner shall be deemed a violation of DMMC 7.08.020 and chapter 9.56 DMMC.

(5) Both the property owner and the container owner shall be responsible for compliance with the provisions of this section. Violations of the provisions of this section shall constitute a civil offense with penalties as set forth in this chapter.

Sec. 3. Chapter 7.20 DMMC and all underlying Ordinances are repealed and replaced as follows:

CHAPTER 7.20

Smoking in Public Places

Adopted by reference. The following state statutes are adopted by reference and are applicable within the City:

RCW:

- 70.160.011 Findings -- Intent -- 2006 c 2 (Initiative Measure No. 901).
- 70.160.020 Definitions.
- 70.160.030 Smoking prohibited in public places or places of employment.
- 70.160.050 Owners, lessees to post signs prohibiting smoking.
- 70.160.060 Intent of chapter as applied to certain private workplaces.
- 70.160.070 Intentional violation of chapter -- Removing, defacing, or destroying required sign -- Fine -- Notice of infraction -- Exceptions -- Violations of RCW 70.160.050 -- Fine -- Enforcement.
- 70.160.075 Smoking prohibited within twenty-five feet of public places or places of employment -- Application to modify presumptively reasonable minimum distance.

70.160.080 Local regulations authorized.
70.160.100 Penalty assessed under this chapter paid to jurisdiction bringing action.

Sec. 4. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

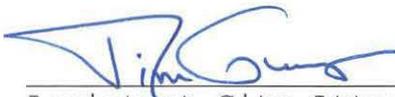
(2) If the provisions of this Ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this Ordinance is deemed to control.

Sec. 5. Effective date. This Ordinance shall take effect and be in full force on thirty (30) days after its passage, approval, and publication in accordance with law.

PASSED BY the City Council of the City of Des Moines this 8th day of May, 2014 and signed in authentication thereof this 8th day of May, 2014.


MAYOR

APPROVED AS TO FORM:


Assistant City Attorney

ATTEST:


City Clerk

Published: May 13, 2014

Effective Date: June 7, 2014

LEGAL NOTICE
SUMMARY OF ADOPTED ORDINANCE
CITY OF DES MOINES

ORDINANCE NO. 1597, Adopted May 8, 2014.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This Ordinance relates to Health and Sanitation, amends DMMC 7.08.010 and 7.08.110, and repeals and replaces chapter 7.20 DMMC, "Smoking in Public Spaces" to be consistent with state law.

The full text of the Ordinance will be mailed without cost upon request.

Bonnie Wilkins
City Clerk

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