

ORDINANCE NO. 20-09
CHAPTER 22
ARTICLE I

AN ORDINANCE to amend Chapter 22 of the 1984 Detroit City Code, *Handling of Solid Waste and Prevention of Illegal Dumping*, Article I, *In General*, by amending Sections 22-1-1, 22-1-2, 22-1-11, 22-1-12, 22-1-13, 22-1-14, 22-1-15 and 22-1-16 to change the definition of the term 'repeat' to clarify that a repeat blight determination must occur within a one (1) year period; to provide that an authorized local official is authorized to issue a warning notice prior to the issuance of a blight violation notice; to clarify in Sections 22-1-11, 22-1-12, 22-1-13, 22-1-14, and 22-1-15 that all violators be made responsible for the cost of removal by the City of Detroit of solid waste, medical waste, and hazardous waste; to change the method of measuring solid waste in Section 21-1-14 from cubic feet to cubic yards; to delete the erroneous language in Section 21-1-14 that a person who violates Sections 22-2-83(c) and (d), 22-2-84(a) and (b)(1), (2) and (4), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code, where the amount of solid waste is less than twenty (20) or more cubic feet in volume but less than twenty (20) cubic feet in volume, is responsible for a blight violation and, for the first violation, is subject to a civil fine of one thousand dollars (\$1,000.00); to delete the requirement in Section 21-1-14 that a person who violates any of the provisions of this Chapter 22-2-83(c) and (d), 22-2-84(a) and (b)(1), (2) and (4), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code, where the amount of the solid waste is twenty (20) or more cubic feet in volume but less than fifty (50) cubic feet in volume, is responsible for a blight violation and, for the first violation, is subject to a civil fine of two thousand five hundred dollars (\$2,500.00); to delete the requirement in Section 21-1-14 that a person who violates any provisions of Sections 22-2-83(c) and (d), 22-2-84(a) and (b)(1), (2) and (4), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code, for a repeat or subsequent blight violation, where the amount of the solid waste is twenty (20) or more cubic feet in volume but less than fifty (50) cubic feet in vol-

ume, is subject to a civil fine of not less than three thousand five hundred dollars (\$3,500) but not more than five thousand dollars (\$5,000.00); to delete the requirement in Section 21-1-14 that a person who violates any provisions of Sections 22-2-83(c) and (d), 22-2-84(a) and (b)(1), (2) and (4), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code, for a repeat or subsequent blight violation, where the amount of the solid waste is fifty (50) or more cubic feet in volume, is subject to a civil fine of not less than five thousand dollars (\$5,000) but not more than ten thousand dollars (\$10,000.00); and to require in Section 21-1-14 that a person who violates any of the provisions of Sections 22-2-83(c) and (d), 22-2-84(a) and (b)(1), (2) and (4), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code, where the amount of solid waste is ten (10) or more cubic yards, is responsible for a blight violation and, for the first violation, is subject to a civil fine of one thousand hundred dollars (\$1,000.00).

IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT THAT:

Section 1. Chapter 22 of the 1984 Detroit City Code, *Handling of Solid Waste and Prevention of Illegal Dumping*, Article I, *In General*, be amended by amending Sections 22-1-1, 22-1-2, 22-1-11, 22-1-12, 22-1-13, 22-1-14, 22-1-15 and 22-1-16, to read as follows:

CHAPTER 22. HANDLING OF SOLID WASTE AND PREVENTION OF ILLEGAL DUMPING
ARTICLE I. IN GENERAL
DIVISION 1. DEFINITIONS AND ENFORCEMENT

Sec. 22-1-1. Definitions.

For purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Approved means that equipment, method or procedure which the director designates as acceptable, having been, by demonstration or test, proven workable and safe for its intended purpose.

Approved containers means receptacles designated for use in specific areas or for specific uses by the Director of the Department of Public Works, which are limited to Courville containers, large movable or stationary containers, and portable containers as defined in this section.

Authorized local official means a Detroit

police officer, or other City of Detroit personnel, who is authorized by the Director of the Department of Public Works in accordance with Chapter 8.5 of this Code to issue a blight violation in accordance with this Chapter and provisions of this Code that are designated as blight violations.

Blight violation means any unlawful act, or any omission or failure to act, which is designated by this Code as a blight violation pursuant to Section 4l(2) of the Michigan Home Rule Cities Act, being MCL 117.4l(2).

Blight violation determination means a determination that i) an alleged violator is responsible for one (1) or more blight violations as a result of the admission of responsibility for the allegation(s) in a blight violation notice, or ii) after an administrative hearing that a person is or is not responsible for one (1) or more blight violations, or iii) as a result of a decision and order of default for failing to appear as directed by the blight violation notice, or other notice regarding one (1) or more blight violations, at a scheduled appearance at the Department of Administrative Hearings in accordance with Section 4q(8)(c) of the Michigan Home Rule Cities Act, being MCL 117.4q(8)(c).

Blight violation notice means a written violation notice prepared by an authorized local official which directs an alleged violator i) to pay the civil fine(s) specified in the notice, including any required fees or costs, for one (1) or more blight violations in accordance with the fines, fees, or costs specified in this Code and ii) to appear at the Department of Administrative Hearings regarding the occurrence or existence of one (1) or more blight violations pursuant to Section 4q(8) of the Michigan Home Rule Cities Act, being MCL 117.4q(8).

Blight violation proceeding means an administrative process that results in a blight violation determination.

Bulk solid waste means solid waste that is larger than can be stored in an approved container or greater than ten (10) cubic feet, including appliances, beds, cradles, furniture, refrigerators, stoves, water heaters, other bulk heavy items, and four (4) or fewer scrap tires.

Commercial establishments means all businesses, non-profit organizations, churches, governmental agencies, and other such institutions which cannot be classified as residential structures, as well as residential structures containing five (5) or more household units.

Commercial solid waste means i) the solid waste resulting from the operation of commercial establishments, and ii) construction solid waste, but does not include domestic solid waste.

Construction solid waste means waste from buildings construction, alteration, demolition or repair, and dirt from excavations.

Courville containers means receptacles which are one hundred (100), three hundred (300) or four hundred (400) gallons in capacity, are the property of the City of Detroit, are provided by the Department of Public Works for use at residential structures and commercial establishments, and are mechanically emptied.

Domestic solid waste means the solid waste resulting from the usual routine of housekeeping, but does not include commercial solid waste.

Emergency means any condition or situation that reasonably constitutes a threat to public interest, safety, or welfare.

Erected means not only new buildings, but also any addition to a structure or any conversion of use or occupancy of a structure which results either in new or increased production of food wastes, except the remodeling of kitchens in one- or two-family dwellings or the replacement of residential kitchen sinks.

Food wastes means vegetable or animal matter, or a combination thereof, produced or developed as the result of preparation, processing, marketing, cooking, serving, distributing, sale, spoilage, decay, deterioration, storage or in any other manner of food which renders such unfit, undesirable or unacceptable for sale, distribution or human consumption.

Garbage means, as defined in Section 11503 of the Michigan Natural Resources and Environmental Act, being MCL 324.11503, rejected food wastes including waste accumulation of animal, fruit, or vegetable matter used or intended for food or that attends the preparation, use, cooking, dealing in or dealing with storing of meat, fish, fowl, fruit, vegetable matter.

Generator means the person responsible for creating, disposing, storing or transporting solid waste, medical waste, or hazardous waste.

Hazardous waste means any chemical or other material or substance defined as hazardous waste or substance under Parts 111 and 201 of the Michigan Natural Resources and Environmental Protection Act, respectively, being MCL 324.11101 et seq., and MCL 324.20101 et seq.

Household unit(s) means the individual residences of the residents of the City of Detroit.

Industrial site means a location where heavy warehousing, manufacturing, processing, assembling, utility generation, tool and dye operations, pumping, fabricating, iron working, welding, grinding and the like occur.

Industrial site solid waste means garbage, as defined in this section, and rubbish, as defined in this section, resulting from the daily activities of person at industrial sites, but does not include industrial waste, as defined in this section.

Industrial waste means the liquid, solid, or gaseous waste or form of energy, or combination thereof, resulting from any processing of industry, manufacturing, business, trade or research, including the development, recovery, or processing of natural resources.

Large movable or stationary containers means receptacles which are two (2) cubic yards, three (3) cubic yards, six (6) cubic yards or larger in capacity and are mechanically emptied.

Litter means, as defined by Section 8901 of the Michigan Natural Resources and Environmental Act, being MCL 324.8901, all rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, debris, or other foreign substances when the amount is under five (5) cubic feet.

Manifest means a form provided or approved by the Michigan Department of Environmental Quality that is used for identifying the quantity; composition (including class, curie count, and radioactive nuclides) origin, routing; and destination of waste from the point of generation to the point of disposal, treatment, or storage within the meaning of Section 11103(8) of the Michigan Natural Resources and Environmental Protection Act, being MCL 324.11103(8).

Medical waste means any of the following that are not generated from a household, a farm operation or other agricultural business:

- (1) Cultures and stocks of infectious agents and associated biologicals, including laboratory waste, biological production wastes, discarded live and attenuated vaccines, culture dishes, and related devices;
- (2) Liquid human and animal waste, including blood and blood products and bodily fluids, but not including urine or materials stained with blood or body fluids;
- (3) Pathological waste;
- (4) Sharps; and
- (5) Contaminated wastes from animals that have been exposed to agents infectious to humans, these being primarily research animals.

Municipal solid waste means solid waste material from residential structures that is classified as domestic solid waste, from commercial establishments that is classified as commercial solid waste, and from industrial sites as industrial solid waste.

On site disposal means the disposal within the premises by approved methods or system of any food wastes produced or developed therein.

Operator means a person who is in control of, or responsible for, any private property or water.

Owner means any owner, occupant, tenant, lessee, agent or person in possession or control of any private property or water.

Person means an individual, partnership, firm, company, corporation, association, sole proprietorship, joint venture, owner, operator or generator, or any other legal entity.

Private property or water means any of the following:

(1) A privately owned right-of-way of a road or highway, a body of water or watercourse, or the shore or beach of the body of water or watercourse, including the ice above the water;

(2) A privately owned park, playground, building, structure, parking lot, vacant lot, or conservation or recreation area;

(3) Residential or farm properties or timberlands; or

Motor vehicles or vessels.

Portable containers means receptacles which are not more than thirty (30) gallons in capacity and are manually emptied.

Repeat means a second, or any subsequent, blight violation determination regarding a blight violation notice that is made within a one (1) year period for the same blight violation except for a determination by an administrative hearings officer that a person is not responsible for a blight violation for the first or subsequent violation.

Residential structures means the household unit(s) of the residents of the City of Detroit.

Rubbish means, as defined by Section 11505 of the Michigan Natural Resources and Environmental Act, being MCL 324.11505, nonputrescible solid waste, excluding ashes, consisting of both combustible and noncombustible waste, including paper, cardboard, metal containers, yard clippings, wood, glass, bedding, crockery, demolished building materials, or litter of any kind that may be a detriment to the public health and safety.

Scrap tires means continuous solid or pneumatic rubber coverings which were

manufactured to encircle a wheel for use in the operation of any motorized vehicle and are no longer being used for their original intended purpose as defined by Sections 16901(j) and (m) of the Michigan Natural Resources and Environmental Protection Act, being MCL 324.16901 (j) and (m).

Scrap tire hauler means a person transporting scrap tires within the meaning of Section 16901(k) of the Michigan Natural Resources and Environmental Protection Act, being MCL 324.16901(k).

Solid waste means any material defined as a solid waste within the meaning of the Natural Resources and Environmental Protection Act, being MCL 324.11501 *et seq.*, and 42 USC 6901 *et seq.*, and specifically includes "scrap" and "litter" as defined by the Michigan Litter Statute, being MCL 324.8201, and "medical waste" as defined in this section.

Solid waste hauler means a person who owns or operates a solid waste transporting unit within the meaning of Section 11506(2) of the Michigan Natural Resources and Environmental Protection Act, being MCL 324.11506(2).

Solid waste transporting unit, as defined in Section 11506(4) of the Michigan Natural Resources and Environmental Protection Act, being MCL 324.11506(4), means a container that may be an integral part of a truck or other piece of equipment used for the transportation of solid waste.

Unapproved containers means all receptacles which are not approved containers.

Vehicle means every motor vehicle which is required to be registered under the Michigan Vehicle Code, being MCL 257.1 *et seq.*

Vessel means a vessel which is required to be numbered under the Michigan Marine Safety Act, being MCL 324.80101 *et seq.*

Violation means any act which is prohibited or made or declared to be a blight violation by any section of this Chapter, and any omission or failure to act where the act is required by any section of this Chapter.

Violator means a person who is responsible for a blight violation.

Sec. 22-1-2. Violation of this Chapter deemed to be a blight violation; warning notice by authorized local official permitted prior to issuance of blight violation notice in certain circumstances.

(a) In accordance with Section 8.5-2-1 of this Code, a violation of this chapter is deemed to be a blight violation, unless

specifically stated to be a misdemeanor. As set forth in Section 22-1-41 of this Code, the City of Detroit, through its Corporation Counsel, may institute an appropriate legal action or proceeding in equity to prevent, restrain, correct, or abate any violation of the provisions of this Chapter.

(b) In accordance with Section 8.5-2-11 of this Code, an authorized local official is authorized to issue a warning notice prior to the issuance of a blight violation notice.

DIVISION 2. CIVIL FINES FOR VIOLATIONS

Sec. 22-1-11. Civil fines for violation of Sections 22-2-22, 22-2-41, 22-2-43, 22-2-44, 22-2-45, 22-2-88(a) and 22-2-96 of this Code; cost of removal incurred by City of Detroit.

(a) A person who violates Sections 22-2-22, 22-2-41, 22-2-43, 22-2-44, 22-2-45, 22-2-88(a) or 22-2-96 of this Code is responsible for a blight violation and is subject to a civil fine of one hundred dollars (\$100.00) for the first offense and, in accordance with Section 22-1-31 of this Code, is responsible for the cost of removal by the City of Detroit.

(b) A person who violates Sections 22-2-22, 22-2-41, 22-2-43, 22-2-44, 22-2-45, 22-2-88(a) or 22-2-96 of this Code is responsible for a blight violation and is subject to a civil fine of three hundred dollars (\$300.00) for the second offense and, in accordance with Section 22-1-31 of this Code, is responsible for the cost of removal by the City of Detroit.

(c) A person who violates Sections 22-2-22, 22-2-41, 22-2-43, 22-2-44, 22-2-45, 22-2-88(a) or 22-2-96 of this Code is responsible for a blight violation and is subject to a civil fine of five hundred dollars (\$500.00) for the third offense and, in accordance with Section 22-1-31 of this Code, is responsible for the cost of removal by the City of Detroit.

(d) A person who violates Sections 22-2-22, 22-2-41, 22-2-43, 22-2-44, 22-2-45, 22-2-88(a) or 22-2-96 of this Code is responsible for a blight violation and is subject to a civil fine of one thousand dollars (\$1,000.00) for the fourth or subsequent offense and, in accordance with Section 22-1-31 of this Code, is responsible for the cost of removal by the City of Detroit.

(e) Each day on which any violation of Sections 22-2-22, 22-2-41, 22-2-43, 22-2-44, 22-2-45, 22-2-88(a) or 22-2-96 of this Code continues shall constitute a separate violation. The imposition of a fine under this chapter shall not be construed to excuse or to permit the continuation of

any violation and, upon a blight violation determination, the violator may be subject to a civil fine for each day the violation continues. The determination as to whether an act or a failure to act is a continuing violation is within the discretion of the hearings officer.

Sec. 22-1-12. Civil fines for violation of Sections 22-2-17, 22-2-18, 22-2-21(b), 22-2-42, 22-2-48, 22-2-49, 22-2-61, and 22-2-92 of this Code; cost of removal incurred by City of Detroit.

(a) A person who violates Sections 22-2-17, 22-2-18, 22-2-21(b), 22-2-42, 22-2-48, 22-2-49, 22-2-61, or 22-2-92 of this Code is responsible for a blight violation and is subject to a civil fine of two hundred dollars (\$200.00) for the first offense and, in accordance with Section 22-1-31 of this Code, is responsible for the cost of removal by the City of Detroit.

(b) A person who violates Sections 22-2-17, 22-2-18, 22-2-21(b), 22-2-42, 22-2-48, 22-2-49, 22-2-61, or 22-2-92 of this Code is responsible for a blight violation and is subject to a civil fine of three hundred dollars (\$300.00) for the second offense and, in accordance with Section 22-1-31 of this Code, is responsible for the cost of removal by the City of Detroit.

(c) A person who violates Sections 22-2-17, 22-2-18, 22-2-21(b), 22-2-42, 22-2-48, 22-2-49, 22-2-61, or 22-2-92 of this Code is responsible for a blight violation and is subject to a civil fine of five hundred dollars (\$500.00) for the third offense and, in accordance with Section 22-1-31 of this Code, is responsible for the cost of removal by the City of Detroit.

(d) A person who violates Sections 22-2-17, 22-2-18, 22-2-21(b), 22-2-42, 22-2-48, 22-2-49, 22-2-61, or 22-2-92 of this Code is responsible for a blight violation and is subject to a civil fine of one thousand dollars (\$1,000.00) for the fourth or subsequent offense and, in accordance with Section 22-1-31 of this Code, is responsible for the cost of removal by the City of Detroit.

(e) Each day on which any violation of Sections 22-2-17, 22-2-18, 22-2-21(b), 22-2-42, 22-2-48, 22-2-49, 22-2-61, or 22-2-92 of this Code continues shall constitute a separate violation. The imposition of a fine under this section shall not be construed to excuse or to permit the continuation of any violation and, upon a blight violation determination, the violator may be subject to a civil fine for each day the violation continues. The determination as to whether an act or a failure to act is a continuing violation is within the discretion of the hearings officer.

Sec. 22-1-13. Civil fines for violation of Sections 22-2-19, 22-2-21(a), 22-2-24, 22-2-38, 22-2-91, 22-2-93, 22-3-1, 22-3-2, and 22-3-3 of this Code; cost of removal incurred by City of Detroit.

(a) A person who violates Sections 22-2-19, 22-2-21(a), 22-2-24, 22-2-38, 22-2-91, 22-2-93, 22-3-1, 22-3-2, or 22-3-3 of this Code is responsible for a blight violation and is subject to a civil fine of one thousand five hundred dollars (\$1,500.00) for the first offense and, in accordance with Section 22-1-31 of this Code, is responsible for the cost of removal by the City of Detroit.

(b) A person who violates Sections 22-2-19, 22-2-21(a), 22-2-24, 22-2-38, 22-2-91, 22-2-93, 22-3-1, 22-3-2, or 22-3-3 of this Code is responsible for a blight violation and is subject to a civil fine of two thousand five hundred dollars (\$2,500.00) for the second offense and, in accordance with Section 22-1-31 of this Code, is responsible for the cost of removal by the City of Detroit.

(c) A person who violates Sections 22-2-19, 22-2-21(a), 22-2-24, 22-2-38, 22-2-91, 22-2-93, 22-3-1, 22-3-2, or 22-3-3 of this Code is responsible for a blight violation and is subject to a civil fine of five thousand dollars (\$5,000.00) for the third offense and, in accordance with Section 22-1-31 of this Code, is responsible for the cost of removal by the City of Detroit.

(d) A person who violates Sections 22-2-19, 22-2-21(a), 22-2-24, 22-2-38, 22-2-91, 22-2-93, 22-3-1, 22-3-2, or 22-3-3 of this Code is responsible for a blight violation and is subject to a civil fine of ten thousand dollars (\$10,000.00) for the fourth or subsequent offense and, in accordance with Section 22-1-31 of this Code, is responsible for the cost of removal by the City of Detroit.

(e) Each day on which any violation of Sections 22-2-19, 22-2-21(a), 22-2-24, 22-2-38, 22-2-91, 22-2-93, 22-3-1, 22-3-2, or 22-3-3 of this Code continues shall constitute a separate violation. The imposition of a fine under this section shall not be construed to excuse or to permit the continuation of any violation and, upon a blight violation determination, the violator may be subject to a civil fine for each day the violation continues. The determination as to whether an act or a failure to act is a continuing violation is within the discretion of the hearings officer.

Sec. 22-1-14. Civil fines for violation of Sections 22-2-83(b), (c) and (d), 22-2-84(a) and (b)(1), (2) and (4), 22-2-87, 22-2-88(b) and (c), 22-2-96 and 22-2-97 of this Code regarding solid

waste except for medical waste and hazardous waste; cost of removal incurred by City of Detroit; factors to be considered by hearings officer when determining fine; burden of proof for factors upon violator.

(a) A person who violates any of the provisions of Sections 22-2-83(b), 22-2-84 (a) and (b)(1), (2) and (4), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code regarding solid waste where the amount of the solid waste is less than five (5) cubic yards in volume, is responsible for a blight violation and, for the first violation, is subject to a civil fine two hundred dollars (\$200.00) and, in accordance with Section 22-1-31 of this Code, is responsible for the cost of removal by the City of Detroit.

(b) A person who violates any of the provisions of Sections 22-2-83(c) and (d), 22-2-84(a) and (b)(1), (2) and (4), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code, where the amount of the solid waste is five (5) or more cubic yards in volume but less than ten (10) cubic yards in volume, is responsible for a blight violation and, for the first violation, is subject to a civil fine of five hundred (\$500.00) and, in accordance with Section 22-1-31 of this Code, is responsible for the cost of removal by the City of Detroit.

(c) A person who violates any of the provisions of Sections 22-2-83(c) and (d), 22-2-84(a) and (b)(1), (2) and (4), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code, where the amount of the solid waste is ten (10) or more cubic is responsible for a blight violation and, for the first violation, is subject to a civil fine of one thousand dollars (\$1,000.00) and, in accordance with Section 22-1-31 of this Code, is responsible for the cost of removal by the City of Detroit.

(d) For a repeat or subsequent blight violation under sections 22-2-83(b), 22-2-84(a) and (b)(1), (2) and (4), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code, where the amount of the solid waste is less than five (5) cubic yards in volume, a person shall be subject to a civil fine of not less than two hundred dollars (\$200.00) but not more than five hundred dollars (\$500.00) and, in accordance with Section 22-1-31 of this Code, is responsible for the cost of removal by the City of Detroit.

(e) For a repeat or subsequent blight violation under Sections 22-2-83(c) and (d), 22-2-84(a) and (b)(1), (2) and (4), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code, where the amount of the

solid waste is five (5) or more cubic yards in volume but less than ten (10) cubic yards in volume, a person shall be subject to a civil fine of not less than five hundred dollars (\$500.00) but not more than one thousand dollars (\$1,000.00) and, in accordance with Section 22-1-31 of this Code, is responsible for the cost of removal by the City of Detroit.

(f) For a repeat or subsequent blight violation under Sections 22-2-83(c) and (d), 2-2-84(a) and (b)(1), (2) and (4), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code, where the amount of the solid waste is ten (10) or more cubic yards in volume, a person shall be subject to a civil fine of not less than one thousand dollars (\$1,000.00) but not more than two thousand five hundred dollars (\$2,500.00) and, in accordance with Section 22-1-31 of this Code, is responsible for the cost of removal by the City of Detroit.

(g) Each day on which any violation of any of the provisions of Sections 22-2-83(b), (c) and (d), 22-2-84(a) and (b)(1), (2) and (4), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code continues shall constitute a separate violation. The imposition of a fine under this section shall not be construed to excuse or to permit the continuation of any violation and, upon a blight violation determination may be subject to a civil fine for each day the violation continues. The determination as to whether an act or a failure to act is a continuing violation is within the discretion of the hearings officer.

(l) When determining the amount of a civil fine for a blight violation that is issued under Subsections (a), (b), (c), (d), (e), or (f) of this section, the hearings officer shall consider all of the following factors:

- (1) The type of solid waste;
- (2) The nature of the violation;
- (3) The duration of the violation;
- (4) The preventability of the violation;
- (5) The potential and actual effect on the surrounding neighborhood or the environment;
- (6) The economic benefit to the violator;
- (7) The violator's recalcitrance or efforts to comply with law; and
- (8) The economic impact of the fine on the violator.

These factors shall only be considered where the hearings officer determines that the violator has made all good faith efforts to correct and terminate the violation. The violator shall have the burden of proof regarding the presence and degree of any factor to be considered by the hearings officer in determining the amount of

the fine. In each case, the fine shall be set within the range that is delineated in Subsections (a), (b), (c), (d), (e), or (f) of this section for the corresponding amount of solid waste.

Sec. 22-1-15. Civil fines and penalties for violation of Sections 22-2-83(e) and (f), 22-2-85, 22-2-86, 22-2-87, 22-2-88, 22-2-94, 22-2-96(a), and 22-2-97 of this Code regarding medical waste and hazardous waste; cost of removal incurred by City of Detroit.

(a) A person who violates any of the provisions of Sections 22-2-83(e) and (f), 22-2-85, 22-2-86, 22-2-87, 22-2-88, 22-2-94, 22-2-96(a), or 22-2-97 of this Code, where the medical waste or hazardous waste is less than one (1) cubic foot in volume, is responsible for a blight violation and is subject to a civil fine of five thousand dollars (\$5,000.00) and, in accordance with Section 22-1-31 of this Code, is responsible for the cost of removal by the City of Detroit.

(b) A person who violates any of the provisions of Sections 22-2-83(e) and (f), 22-2-85, 22-2-86, 22-2-87, 22-2-88, 22-2-94, 22-2-96(a), or 22-2-97 of this Code, where the medical waste or hazardous waste is one (1) cubic foot or more in volume, is responsible for a blight violation and is subject to a civil fine of ten thousand dollars (\$10,000.00).

(c) A person responsible for a repeat or subsequent blight violation under Sections 22-2-83(e) and (f), 22-2-85, 22-2-86, 22-2-87, 22-2-88, 22-2-94, 22-2-96(a), or 22-2-97 of this Code is subject to a civil fine of ten thousand dollars (\$10,000.00) and, in accordance with Section 22-1-31 of this Code, is responsible for the cost of removal by the City of Detroit.

(d) Each day on which a violation of any of the provisions of Sections 22-2-83(e) and (f), 22-2-85, 22-2-86, 22-2-87, 22-2-88, 22-2-94, 22-2-96(a), or 22-2-97 of this Code continues shall constitute a separate violation. The imposition of a fine under this section shall not be construed to excuse or to permit the continuation of any violation, and upon a blight violation determination, shall be subject to a civil fine for each day the violation continues. The determination as to whether an act or a failure to act is a continuing violation is within the discretion of the hearings officer.

Sec. 22-1-16. Civil fines for violation of Section 22-2-84(b)(3) of this Code; cost of removal incurred by City of Detroit.

(a) An owner or operator who violates Sections 22-2-84(b)(3) of this Code by failing to remove the large removable container from the owner or operator's property within forty-eight (48) hours or its placement is responsible for a blight violation and is subject to a civil fine of three hundred dollars (\$300.00) and, in accordance with Section 22-1-31 of this Code, is responsible for the cost of removal by the City of Detroit.

(b) Each day on which a violation of Section 22-2-84(b)(3) of this Code continues shall constitute a separate violation. The imposition of a fine under this section shall not be construed to excuse or to permit the continuation of any violation and, upon a blight violation determination, shall be subject to a civil fine for each the violation continues. The determination as to whether an act or a failure to act is continuing violation is within the discretion of the hearings officer.

Secs. 22-1-17 — 22-1-30. Reserved.

Section 2. This ordinance is hereby declared necessary to preserve the public peace, health, safety, and welfare of the People of the City of Detroit.

Section 3. All ordinances, or parts of ordinances, that conflict with this ordinance are repealed.

Section 4. In the event that this ordinance is passed by a two-thirds (2/3) majority of City Council Members serving, it shall be given immediate effect and become effective upon publication in accordance with Section 4-116 of the 1997 Detroit City Charter. Where this ordinance is passed by less than a two-thirds (2/3) majority of City Council Members serving, it shall become effective on the thirtieth (30th) day after enactment, or on the first business day thereafter, in accordance with Section 4-115 of the 1997 Detroit City Charter.

(J.C.C.)	October 6, 2009
Passed:	October 20, 2009
Approved:	November 4, 2009
Published:	December 4, 2009
Effective:	December 4, 2009

JANICE M. WINFREY
City Clerk

