



## Legislation Text

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**File #:** 170930, **Version:** 1

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170930  
Substitute 1

ALD. BAUMAN

A substitute ordinance relating to the requirement for a special privilege to place a solid waste container in the public right-of-way.

79-5-1 am  
115-11.5-0 am  
115-11.5-1 am  
115-11.5-2-0 am  
245-4.7 cr  
245-12-3-h cr  
245-12-7 am

This ordinance provides that, in order to place a dumpster in the public right-of-way on an ongoing or permanent basis, the owner of the property served by the dumpster shall obtain a special privilege granted by the common council. This requirement shall not apply to a dumpster placed in the right-of-way on a temporary basis (e.g., a dumpster used in conjunction with a construction project). Every dumpster placed in the right-of-way shall comply with the following standards:

1. The dumpster shall remain in the location for which the special privilege was granted.
2. The dumpster shall not have rusted surfaces or otherwise be in a state of disrepair.
3. The lid or lids of the dumpster shall remain closed at all times, except when refuse is being placed in the dumpster or the dumpster is being emptied.
4. No contents of the dumpster shall spill onto the public right-of-way.
5. No refuse shall remain on the ground on the perimeter of the dumpster.

In addition, this ordinance provides that, in the case of a special privilege for placement of a dumpster in the public right-of-way, the common council may, by resolution, revoke the special privilege for failure to comply with these 5 standards. The general sanction for noncompliance with the special privilege regulations - assessment of a monthly enforcement fee until compliance is obtained - also remains in effect.

This ordinance is effective January 1, 2018.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 79-5-1 of the code is amended to read:

## 79-5. Location of Containers.

1. ON PREMISES. All containers used for solid waste disposal shall be stored on the premises >> except dumpsters for which special privileges to allow placement in the public right-of-way have been granted pursuant to s. 245-12<< . Where containers are kept within any enclosure, the enclosure shall have a door of sufficient size to allow the containers to be removed by sliding or rolling forward without being lifted.

Part 2. Section 115-11.5-0, 1 and 2-0 of the code is amended to read:

### 115-11.5. Dumpsters in the Public Way >> Temporary Basis<< .

1. RESPONSIBILITY TO OBTAIN PERMIT. For any dumpster placed in the public way >> on a temporary basis<< , it shall be the responsibility of the business placing the dumpster to obtain the permit required by s. 115-10. No permit shall be required for any dumpster placed in the public way by the city. >> For any dumpster placed in the public way on an ongoing or permanent basis, it shall be the responsibility of the owner of the property served by the dumpster to obtain a special privilege as provided in s. 245-12.<<

2. STANDARDS. For any dumpster placed in the public way >> on a temporary basis<<, it shall be the responsibility of the commissioner (for a dumpster placed by the city) or the business placing the dumpster (for all other dumpsters) to provide:

Part 3. Section 245-4.7 of the code is created to read:

**245-4.7. Dumpsters.** No dumpster may be placed in the public right-of-way, including any alley, sidewalk, paved roadway, tree border or other unpaved portion of the right-of-way, unless the owner of the property served by the dumpster has obtained a special privilege granted by the common council under s. 245-12. When 2 or more dumpsters serve a particular property, the property owner may apply for a single special privilege for all dumpsters located in the right-of-way. The commissioner of public works is authorized to remove, or to have removed, from the right-of-way any dumpster for which no special privilege has been granted.

Part 4. Section 245-12-3-h of the code is created to read:

### 245-12. Special Privileges.

#### 3. PROVISIONS.

h. If the special privilege is for placement of one or more dumpsters in the public right-of-way, the grantee shall ensure that:

h-1. Each dumpster remains in the location for which the special privilege was granted.

h-2. No dumpster has rusted surfaces or is otherwise in a state of disrepair.

h-3. The lid or lids of each dumpster remain closed at all times except when refuse is being placed in the dumpster or the dumpster is being emptied.

h-4. No contents of a dumpster spill onto the public right-of-way.

h-5. No refuse remains on the ground on the perimeter of any dumpster.

Part 5. Section 245-12-7 of the code is amended to read:

**7. ENFORCEMENT; SANCTIONS.** If the commissioner of public works determines that a person has failed to comply with the provisions of this section, the commissioner shall notify the person of the violation. If the person fails to comply with any order issued by the commissioner within 60 days of receipt of the order, the commissioner may assess the person a monthly enforcement fee under s. 200-33 until compliance is obtained. The fee may be assessed and collected as a special tax on the property or otherwise be collected as allowed by law. >>In addition, in the case of a special privilege for placement of one or more dumpsters in the public right-of-way, the common council may, by resolution, revoke the special privilege for failure to comply with any of the standards of sub. 3-h.<<

Part 6. This ordinance is effective January 1, 2018.

APPROVED AS TO FORM

\_\_\_\_\_  
Legislative Reference Bureau

Date: \_\_\_\_\_

IT IS OUR OPINION THAT THE ORDINANCE  
IS LEGAL AND ENFORCEABLE

\_\_\_\_\_  
Office of the City Attorney

Date: \_\_\_\_\_

LRB169935-2  
Jeff Osterman  
10/13/2017