

ORDINANCE NO. 13,900

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, by repealing Section 42-354, subsection (b) of Section 42-358, and subsections (c), (e), (f), (g), (h), (i) and (j) of Section 42-363 thereof and enacting a new Section 42-354, subsection (b) of Section 42-358, and subsections (c), (e), (f), (g), (h), (i) and (j) of Section 42-363, regarding the notice of nuisance abatement 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, is hereby amended by repealing Section 42-354, subsection (b) of Section 42-358, and subsections (c), (e), (f), (g), (h), (i) and (j) of Section 42-363 thereof and enacting a new Section 42-354, subsection (b) of Section 42-358, and subsections (c), (e), (f), (g), (h), (i) and (j) of Section 42-363, regarding the notice of nuisance abatement hearings, as follows:

Sec. 42-354. Habitual violators.

Any person who is given notice of violation of this article three times within an 36-month period, at any address in the city, shall be deemed to be a habitual violator.

Sec. 42-358. Notice of nuisances enumerated for enforcement by administrative hearing procedure or civil action.

(b) Service of the
notice shall be
accomplished as follows:

(1) Notice
shall be
served by
United States
mail, postage
prepaid to all
persons deemed

responsible
for the
violation at
their last
known mailing
address as
determined by
reasonable
search.

Sec. 42-363. Hearing.

(c) A request for a
hearing shall be made in
writing and filed with
the city clerk within
seven days of date of
the violation notice.

(e) The hearing shall be
held as soon as
practicable and no later
than 18 days after the
date of the violation
notice. The person
requesting the hearing
shall be notified in
writing or by phone of
the date and place of
such hearing at least
three 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.

(f) The hearing officer
may: find that

violations exist or existed; void the notice; order compliance with all or part of the notice; extend time for compliance of the notice to a date certain but in no event shall time for compliance be extended more than 30 days from the date of the violation notice; uphold the assessment for costs of abatement; or reduce or waive costs of the assessment.

(g) If the hearing officer finds that a nuisance exists or existed, an order for damages sustained on account thereof, the costs of abatement and a civil penalty of no more than \$500.00 for the initial offense and no more than \$750.00 for each repeat offense, or any other fine authorized under the Iowa Code, damages sustained on account thereof and the costs of abatement by the city may be entered to be paid to the city.

(h) The determination of the hearing officer is a final administrative decision.

(i) Failure to request a hearing within seven days of the date of the notice shall be

considered a waiver of the right to a hearing and it will be thereafter conclusively presumed that the nuisance exists and the nuisance will be abated by the city as indicated in the notice and the costs will be collected as indicated in the notice.

(j) Notwithstanding the foregoing, in the event of an alleged violation of subsection 42-348(11):

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Vicky Long Hill, Assistant City Attorney

Preston A. Daniels, Mayor

Attest:

I, Diane Rauh, Chief Deputy City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 01-086), passed by the City Council of said City at a meeting held January 8, 2001, signed by the Mayor on January 8, 2001, and published as provided by law in the Des Moines Register on January 18, 2001. Authorized by Publication Order No. 1537.

Diane Rauh, Chief Deputy City Clerk