

ORDINANCE NO. 13,993

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. 13,900, passed January 8, 2001, and amended by Ordinance No. 13,941, passed April 16, 2001, by repealing Section 42-363 thereof and enacting a new Section 42-363, relating to abatement of public nuisances.

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, and amended by Ordinance No. 13,900, passed January 8, 2001, and amended by Ordinance No. 13,941, passed April 16, 2001, by repealing Section 42-363 thereof and enacting a new Section 42-363, relating to abatement of public nuisances, as follows:

Sec. 42-363. Hearing.

(a) Any person ordered to abate a nuisance may have, upon request, an appeal hearing with a hearing officer to determine whether a nuisance exists or existed.

(b) Any person notified of or billed for the costs of abatement of a nuisance may, upon written request, have an appeal hearing before a hearing officer to determine whether the costs should be assessed against the real estate, and whether the costs should be reduced.

(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, notice of costs or billing for costs.

(d) Each request for hearing shall contain the address of the person requesting the hearing to which all further notices shall be mailed or served and shall state the basis for the appeal.

(e) The hearing shall be held as soon as practicable and no later than 18 days after the date of the violation notice, notice of costs or billing for costs. 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; uphold the assessment for costs of abatement; or reduce or waive costs of the assessment or bill.

(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 violation notice, notice of costs or billing for costs 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, in the amount indicated in the notice of costs or billing for costs.

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

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

FORM APPROVED:

Bruce E. Bergman, City Attorney

George E. Flagg, Mayor Pro Tem

Attest:

I, Donna Boetel-Baker, 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. 01-2749), passed by the City Council of said City at a meeting held September 10, 2001, signed by the Mayor Pro Tem on September 10, 2001, and published as provided by law in the Business Record on September 24, 2001. Authorized by Publication Order No. 1890.

Donna Boetel-Baker, MMC City Clerk

