

ORDINANCE NO. 14,010

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 Sections 42-347, numbered paragraph (12) of Section 42-348, 42-352 and 42-361 thereof and enacting new Sections 42-347, numbered paragraph (12) of Section 42-348, 42-352 and 42-361, relating to abatement, enforcement, liability and abandonment of property in the right-of-way.

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 Sections 42-347, numbered paragraph (12) of Section 42-348, 42-352 and 42-361 thereof and enacting new Sections 42-347, numbered paragraph (12) of Section 42-348, 42-352 and 42-361, relating to abatement, enforcement, liability and abandonment of property in the right-of-way, as follows:

Sec. 42-347. Nuisance construed; action to abate.

Whatever is injurious or dangerous to the public health, safety or welfare, including but not limited to those things or actions which are offensive to the senses, or an obstruction to the free use of real estate so as to unreasonably interfere with the comfortable enjoyment of life or real estate or which are identified specifically as nuisances in this Code is a nuisance. Such nuisance may be abated by:

- (1) A civil action brought by ordinary proceedings, with damages sustained on account thereof, the costs of abatement and civil penalties to be recovered as an assessment to be placed against the real estate and collected in the

same manner as a property tax and/or as a personal judgment; or

(2) The administrative hearing procedure described in this article, with damages and or the cost of abatement sustained on account thereof to be recovered as an assessment to be placed against the real estate and collected in the same manner as a property tax and/or collected as a personal judgment.

Sec. 42-348. Enumeration of nuisances subject to enforcement by administrative hearing procedure or civil action.

The following are nuisances which may be enforced through the administrative hearing process as set forth in this article:

(12) No person shall abandon, or allow the abandonment, of property in any public right-of-way abutting real estate owned or under control of such person. Property left in the public right-of-way of any road or alley, including but not limited to any personal and household items, furniture,

appliances, machinery,
equipment, building
materials or other items
located on the public
right of way shall be
deemed abandoned.

Sec. 42-352. Liability.

The owners, agents, contract buyers, tenants, or lessees of all residential dwellings, commercial establishments, and/or real estate upon which a violation of this article is found shall be jointly and severally responsible for compliance with this article and jointly and severally liable for any damages or costs incurred and awarded under this article.

Sec. 42-361. Abandoned property in the right-of-way.

(a) Property left in the public right-of-way of any road or alley, including but not limited to any personal and household items, furniture, appliances, machinery, equipment, building materials or other items shall be deemed abandoned and shall constitute a violation of this article and are hereby declared a public nuisance. Property left on the public right-of-way as a result of an eviction or a forcible entry and detainer action shall be deemed abandoned and are hereby declared a public nuisance.

(b) The abutting property owner is required to maintain all property outside the lot lines and property lines and inside the curb lines or the travelled portion of the public streets or alleys. Any items which remain on the public right-of-way or any road or alley for a period of 48 hours shall be deemed abandoned and to constitute a public nuisance subject to removal from the real estate by the city with or without notice.

(c) It shall not be a defense to this article that the public works department of the city has been contacted for a bulk waste pick up, if the items were placed on the curb or right-of-way prior to the pick up date assigned by the public works department.

(d) The costs of the abatement will be assessed against the abutting real estate from which the nuisance was abated for collection in the same manner as a property tax if notice has been served.

(e) Service to the notice shall be by regular mail, addressed to the owner of the real estate abutting the property and/or the person deemed responsible for the real estate abutting the public right-of-way four (4) days in advance of the abatement. The notice shall contain information, which reasonably appraises the party notified of the nature of the nuisance.

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

Preston Daniels, Mayor

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. 01-3337), passed by the City Council of said City at a meeting held November 5, 2001, signed by the Mayor on November 5, 2001, and published as provided by law in the Business Record on November 19, 2001. Authorized by Publication Order No. 3003.

Donna Boetel-Baker, MMC City Clerk