

ORDINANCE NO. 15,250

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, as heretofore amended, is hereby amended by amending Sections 42-458, 42-459, 42-460, 42-485 and 42-486, by repealing Sections 42-462, 42-463, 42-464, 42-488, 42-489, 42-490 and 42-491, and by adding and enacting new Sections 42-457.01 and 42-492.01, relating to use and maintenance of drainage facilities.

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, as heretofore amended, is hereby amended by amending Sections 42-458, 42-459, 42-460, 42-485 and 42-486, by repealing Sections 42-462, 42-463, 42-464, 42-488, 42-489, 42-490 and 42-491, and by adding and enacting new Sections 42-457.01 and 42-492.01, relating to use and maintenance of drainage facilities, as follows:

**Sec. 42-457.01. Administrative hearings.**

Recipients of notice of violation pursuant to this article may request an administrative hearing as set forth in section 42-358(b) of this chapter. The conduct of such administrative hearing shall be as set forth in sections 42-358.02(c)(d) and (e) of this chapter. If the recipient of the notice of violation chooses to have an agent duly authorized by the recipient to file a request for an administrative hearing and/or to represent him/her at the hearing, such agent must be identified in a notarized statement filed with the request for administrative hearing.

**Sec. 42-458. Determination of illicit discharges as public nuisance and notice of abatement.**

- (a) Discharges in violation of this division are deemed to constitute a public nuisance.
- (b) If the director determines that a discharge in violation of this division has occurred or is occurring, such nuisance may be abated and enforced against and the costs of such abatement invoiced and assessed as set forth in and pursuant to article VI of chapter 42 of the Code.

**Sec. 42-459. Right to assess costs of abatement by city.**

When the city abates an illicit discharge pursuant to article VI of chapter 42, the city may assess the actual costs of abating such illicit discharge to the owner of the real estate found to be in violation of this division.

**Sec. 42-460. Assessment of costs of abatement by city.**

The actual cost of abating illicit discharges to the MS4 from public or private property shall be paid by the owner of the real property determined to be the source of such discharge, in violation of this division, and such costs shall be assessed against such real estate if not paid by the owner.

**Sec. 42-462. Repealed by Ord. No. 15,250.**

**Sec. 42-463. Repealed by Ord. No. 15,250.**

**Sec. 42-464. Repealed by Ord. No. 15,250.**

**Sec. 42-485. Notice of abatement.**

If the director determines that a storm water drainage nuisance as described in section 42-484 of this division has occurred or is occurring, such nuisance may be abated and enforced against and the costs of such abatement invoiced and assessed as set forth in and pursuant to article VI of chapter 42 of the Code. The city may cause the removal of a substandard drainage pipe, or the cleaning or repair of an improperly maintained public drainageway on private property, private drainageway or private drainage pipe, after providing the owner of the real property upon which is located the substandard private drainage pipe, or the improperly maintained drainageway or drainage pipe with notice of the need to abate the nuisance by removing such substandard private drainage pipe or by cleaning or repairing such improperly maintained drainageway or drainage pipe.

**Sec. 42-486. Right to assess costs of abatement by city.**

When the city removes an illicit discharge pursuant to article VI, chapter 42, the city may assess the actual costs of removing such illicit discharge to the owner of the real estate found to be in violation of this division.

**Sec. 42-488. Repealed by Ord. No. 15,250.**

**Sec. 42-489. Repealed by Ord. No. 15,250.**

**Sec. 42-490. Repealed by Ord. No. 15,250.**

**Sec. 42-491. Repealed by Ord. No. 15,250.**

**Sec. 42-492.01. Administrative hearings.**

Recipients of notice of violation pursuant to this article may request an administrative hearing as set forth in section 42-358(b) of this chapter. The conduct of such administrative hearing shall be as set forth in sections 42-358.02(c)(d) and (e) of this chapter. If the recipient of the notice of violation chooses to have an agent duly authorized by the recipient to file a request for an administrative hearing and/or to represent him/her at the hearing, such agent must be identified in a notarized statement filed with the request for administrative hearing.

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

FORM APPROVED:

Ann DiDonato, Assistant City Attorney

T. M. Franklin Cownie, Mayor

Attest:

I, Diane Rauh, 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. 14-0071), passed by the City Council of said City at a meeting held January 13, 2014 signed by the Mayor on January 13, 2014 and published and provided by law in the Business Record on January 31, 2014. Authorized by Publication Order No. 8758.

Diane Rauh, City Clerk