

★ Roll Call Number

Agenda Item Number

47

Date December 21, 2020

An Ordinance entitled, "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, by amending Section 42-358, relating to notices for nuisances",

(Council Communication No. 20-553)

presented.

Moved by \_\_\_\_\_ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)

/s/ Megan Norberg
Megan E. Norberg
Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, GRAY, MANDELBAUM, VOSS, WESTERGAARD, and TOTAL.

CERTIFICATE

I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED
Mayor

City Clerk

ORDINANCE NO. \_\_\_\_\_

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, by amending Section 42-358, relating to notices for 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, as heretofore amended, is hereby amended by amending Section 42-358, relating to notices for nuisances, as follows:

**Sec. 42-358. Notices.**

- (a) Notice to abate a nuisance shall be given prior to city action to abate a nuisance, except that in the event of an emergency, such notice as is practical under the circumstances, if any is practical, shall be given; provided, however, that nothing herein shall require notice in an emergency if impractical. If notice to abate a nuisance is given pursuant to this article, said notice shall contain the following information:
  - (1) A description, to the extent possible, of the conditions that constitute the nuisance;
  - (2) A description of the location of the nuisance;
  - ~~(3) A statement that any other violations of Chapter 42 Article VI found on the property at the time of a city cleanup will be removed without further notice;~~
  - (34) A statement that the person liable for the presence of the nuisance must correct the nuisance within the reasonable time set forth in the notice and in accordance with this article; and
  - (45) A statement that upon failure to comply with this article within the time set forth in the notice, the person so notified of the violation shall be deemed liable for the nuisance, and that the city may enter onto the real property and cause the conditions which constitute the nuisance to be abated and assess the costs of abatement against the real property for collection in the same manner as a property tax, following administrative hearing if requested or court action as applicable.
  - (56) If the department elects to follow the administrative hearing procedure set forth in this article, the notice shall also contain a statement that the person notified, or the person's duly authorized agent as identified in a notarized statement provided by the person notified, may file a written request for an administrative hearing as set forth in section 42-358.02(b) of this article.
  - ~~(6) For nuisances set forth in sections 42-348.2, 42-348.3, 42-348.4, 42-348.5, and 42-348.12, the notice shall also contain a statement that any other violation of these sections found on the property at the time of a city cleanup will be removed without further notice.~~
- (b) Notice of costs of abatement shall be given prior to city assessment of such costs. If notice of costs of abatement is given following administrative hearing procedure or emergency action pursuant to this article, said notice shall contain the following information:

- (1) A description, to the extent possible, of the conditions that constituted the nuisance;
- (2) A description of the location of the nuisance;
- (3) A description, to the extent possible, of the abatement actions taken by the city;
- (4) A copy of the invoice or other documentation of costs incurred by the city in abating the nuisance; and
- (5) A statement that upon failure to make full payment as directed in the notice within the time set forth in the notice, the city may assess the costs of abatement against the real property for collection in the same manner as a property tax, following administrative hearing if requested.
- (6) A statement that the person notified, or the person's duly authorized agent as identified in a notarized statement provided by the person notified, may file a written request for an administrative hearing on costs of abatement only, as set forth in section 42-358.02(b) of this article.

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

FORM APPROVED:

/s/ Megan Norberg  
Megan E. Norberg  
Assistant City Attorney