

Ordinance No. 794

AN ORDINANCE OF THE VILLAGE OF HEMINGFORD, NEBRASKA, AMENDING TITLE IX, CHAPTER 91, SECTION 91.21 RELATING TO NUISANCE ABATE PROCEDURE, PROVIDING FOR VIOLATION ENFORCEMENT, AND SETTING FORTH PENALTIES FOR VIOLATIONS; AMENDING THE HEMINGFORD VILLAGE CODE OF ORDINANCES AND REPEALING ANY OTHER ORDINANCES OR PROVISIONS IN CONFLICT THEREWITH, DIRECTING THE PUBLICATION OF THIS ORDINANCE AND PRESCRIBING THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.

BE IT ORDAINED BY THE CHAIRMAN AND TRUSTEES OF THE VILLAGE OF HEMINGFORD, BOX BUTTE COUNTY, NEBRASKA:

Section 1. Title IX, General Regulations, Chapter 91, Section 91.21 is amended as follows:

§91.21 NUISANCE VIOLATIONS AND ABATEMENT PROCEDURES.

- (A) The owner or occupant of any real estate within the corporate limits or zoning jurisdiction of the village shall keep such real estate free of nuisances. Except to the extent that conflicting procedures are otherwise provided, the procedures in this section shall apply to abatement of nuisances. Any owner or occupant violating any provision set forth in §91.20 shall be subject to prosecution for the violation and shall, upon conviction, be fined as follows, and pay for costs of prosecution. In addition, the sentencing court may order such person to reimburse the Village for the fair and reasonable costs incurred by the Village in removing the nuisance, and if the Village has not already undertaken such removal, the court may order such person to abate the nuisance. Each 30 day period shall constitute a separate and distinct offense.
- a. First Offense: \$50.00
 - b. Second Offense: \$100.00
 - c. Third Offense: \$200.00
 - d. Fourth and Subsequent Offenses: \$400.00
- (B) In addition to prosecution, the Village may give notice to the owner or occupant to abate and remove such a nuisance. The notice shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or by certified mail. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the village or by conspicuously posted the notice on the real estate upon which the nuisance is to be abated and removed. The notice shall include the following:
- a. An order to abate the nuisance within a stated time.
 - b. A statement that the party may request a hearing in writing before the Village Board of Trustees within five days after receiving the notice.
 - c. The location of the nuisance
 - d. A description of what constitutes the nuisance.
 - e. A statement of acts necessary to abate the nuisance.

- f. A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the owner/occupant may be subject to prosecution and if the Village must abate such nuisance, it will assess the cost thereof against such person.

(C) Within 5 days after the receipt of such notice, publication, or posting, whichever is applicable, the owner or occupant may request in writing a hearing with the Board of Trustees. If the owner or occupant makes such a request, the Board shall fix a time and place at which a hearing will be held. Notice of the hearing shall be given by personal service or certified mail and require the owner or occupant to appear before the Board to show cause why such condition should not be found to be a nuisance and be remedied. The notice shall be given not less than 7 nor more than 14 days before the time of the hearing. Upon the date fixed for the hearing and pursuant to the notice, the Board shall hear all objections made by the owner or occupant and shall hear evidence submitted by the Board of Health or designated official. If after consideration of all the evidence, the Board of Trustees finds that the condition is a nuisance, it shall, by resolution, order and direct the owner or occupant to remedy the nuisance at once. If the owner or occupant refuses or neglects to promptly comply with the order to abate and remove the nuisance, the village may have the necessary work done to abate the nuisance.

(D) If within five (5) days after receipt of such notice, publication, or posting, whichever is applicable, the owner or occupant of the real estate does not request a hearing with the Board, or fails to promptly abate and remove the nuisance, the Village may have the necessary work done to abate the nuisance.

(E) If the village has the work done to abate and remove the nuisance, the costs and expenses of any such work shall be paid by the owner. If unpaid for two (2) months after such work is done, the village may either:

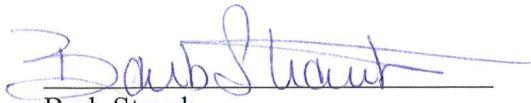
- a. Levy and assess the costs and expenses of the work upon the real estate so benefitted in the same manner as other special taxes for improvements are levied and assessed; or
- b. Recover in a civil action the costs and expenses of the work upon the real estate and the adjoining streets and alleys. Owners and occupants shall be jointly and severally liable for such costs and expenses.

Section 2. All other ordinances and parts of ordinances in conflict herewith are repealed; provided, however, this ordinance shall not be construed to effect any rights, liabilities, duties or causes of action, either criminal or civil, existing or pending at the time when this Ordinance becomes effective.

Section 3. This Ordinance shall become effective upon its passing and approval and publication as according to law.

PASSED AND APPROVED THIS 16 DAY OF May, 2017.

ATTEST:

A handwritten signature in blue ink, appearing to read "Barb Straub", is written over a horizontal line.

Barb Straub
Village Clerk

John Annen
Chairman