

ORDINANCE NO. 13,667

AN ORDINANCE to amend the Municipal Code of Des Moines, 1991, adopted by Ordinance No. 11,651, passed April 15, 1991, and amended by Ordinance No. 11,806, passed April 27, 1992, and amended by Ordinance No. 11,961, passed April 5, 1993 by repealing Sections 14-26 and 14-26.03, thereof and enacting new Sections 14-26 and 14-26.03, all relating to procedures for inspection.

Be It Ordained by the City Council of the City of Des Moines,

Iowa:

Section 1. That the Municipal Code of Des Moines, 1991, adopted by Ordinance No. 11,651, passed April 15, 1991, and amended by Ordinance No. 11,806, passed April 27, 1992, and amended by Ordinance No. 11,961, passed April 5, 1993 by repealing Sections 14-26 and 14-26.03, thereof and enacting new Sections 14-26 and 14-26.03, all relating to procedures for inspection, as follows:

14-26. PROCEDURE FOR INSPECTION, CERTIFICATION AND NOTICE.

(a) Except for newly constructed rental units, a person who shall lease, rent, let, permit or otherwise allow the occupancy of a dwelling unit or rooming unit, directly or through any such governmental project or program, without first obtaining a certificate of inspection shall be in violation of this code. Any person who so proposes to lease, rent, let, permit or otherwise allow the occupancy of a dwelling unit or rooming unit shall first obtain a certificate of inspection from the housing code enforcement division for the structure containing such unit before occupancy of such unit is commenced or allowed. Such person or the agent, manager or other person in charge and control of such structure shall make application for inspection of such structure and the unit or units therein with the housing code enforcement division, which application shall be accompanied by a receipt issued by the city treasurer for the fee applicable to such structure pursuant to section 14-25. Such application shall be signed by the owner of the property as named on the application. The housing code enforcement officer shall then promptly cause an inspection to be made of the premises in and about such structure and each dwelling unit or rooming unit therein as applicable and shall:

(1) issue a certificate of inspection if the correct fee has been paid and if the premises and each unit in the structure and each accessory structure on the premises are found to be in substantial compliance with the requirements of this subchapter, or, if such compliance is not found;

(2) formally notify the applicant by letter addressed to the applicant at the address listed on the application, or by personal service, of violations of this subchapter found by such inspection and of the period of time which shall be allowed for correction of each such violation, after which such period further inspection shall be made; provided that those violations which have been determined by the city manager not to constitute a serious threat to life or health, are corrected prior to the next renewal inspection unless otherwise agreed to by the housing code enforcement officer.

(3) in the event violations are found upon inspection and are found to have been corrected upon further inspection, then upon payment of the remaining fees left unpaid of those fees prescribed in this subchapter, issue a certificate of inspection;

(4) issue such certificate upon the payment of all such fees if, upon the most recent inspection, but no later than a year from date of the current certificate of inspection, the violations found are not of a nature to leave the occupants of the premises in a physical situation which constitutes a serious threat to life or health;

(5) upon finding failure of compliance after the expiration of the applicable time period as set forth in section 14-26.02 for correction of one or more such violations, the property shall be referred to the housing appeals board except as otherwise provided herein. The housing appeals board has the authority to mediate the matter by actions inclusive of but not limited to extending further time to the owner after which legal action will be undertaken if not complied, entering into long term agreements if deemed necessary, or recommending that legal action be immediately undertaken. Notice shall be given to the owner in the inspection report that failure to complete correction of violations cited within thirty days of receipt of the notice and arranging for an inspection on or before the thirtieth day shall cause the matter to be referred to the housing appeals board. Upon the property being referred to the housing appeals board the owner shall be given notice by regular United States mail of the time and date of hearing. Such notice shall be sent no later than seven days before the meeting of the board at which the property will be considered. Upon failure of the owner to comply with the resolution or action of the board, or his or her failure to appear before the board the matter shall be referred for legal action.

(6) in the event normal billing procedures to collect pre-inspection fees or other fees and costs incurred by the housing code enforcement division fail, a judgment for such costs shall be obtained or assessed against the property. An inspection of the premises shall be performed or a certificate of inspection shall be issued.

(b) If the housing code enforcement officer has not received an application for inspection but nevertheless initiates the inspection process, the above procedures for notification, correction of violations and issuance of a certificate of inspection shall apply. The failure of the owner, agent or manager or other person in charge or control of premises such as those described in the first paragraph of this section to pay the requisite fee or to make application for a certificate of inspection before leasing, renting, letting, permitting or otherwise allowing the occupancy of such a unit shall be a violation of this code by the owner.

(c) Any person owning rental residential property in the city shall provide to the housing code enforcement officer, in writing, the name and local business address of a natural person 18 years of age or older, who is customarily present in an office in Polk County, Iowa for the purpose of transacting business, or who actually resides in Polk County, Iowa, and who shall be designated by the owner as his or her authorized agent for receiving notice of violation pursuant to this code. The name of such authorized agent and such local business address shall be provided at the time of filing application for certificate of inspection or within three months from the effective date of this ordinance, whichever shall first occur. A person who becomes titleholder or contract purchaser of a rental residential property shall provide the information required in this subsection

within five days from the date of such transfer. An owner who is a natural person and who meets the address requirement of this subsection as to either the location of his or her residence or the place of transacting business may designate himself or herself an agent. The term "**local business address**" as used in this section shall refer to an address within Polk County, Iowa.

14-26.03. PENALTIES FOR NEGLECT TO CORRECT VIOLATIONS AND CAUSE INSPECTIONS.

(a) Any owner who neglects to correct any violation prior to the date set forth in the notice of violation shall be subject to a cumulative civil penalty as follows:

(1) A maximum of five dollars per day for each day the owner neglects to arrange for an inspection within the time as set forth in subsection 14-26(a)(5);

(2) A maximum of five dollars per day for each violation not corrected within the time designated in the notice of violations, unless within such time the owner has appealed to the housing code enforcement officer or the housing appeals board and is granted an extension upon showing good cause for such appeal. Neglecting to arrange for a timely inspection shall give rise to a legal presumption that the violations were not timely corrected and a penalty shall be imposed accordingly.

(3) In any case the penalty shall not exceed \$500.00 per day nor shall the total penalty exceed five thousand dollars.

(4) The amount of the fine as set forth herein shall be determined and imposed shall be imposed by the housing appeals board upon recommendation of the administrative staff of housing code enforcement. The board shall have the authority to impose the maximum penalty or to impose a lesser penalty or waive the penalty upon good cause shown.

(b) Upon determination of the amount of the fine by the housing appeals board the staff of housing code enforcement shall send a billing to the owner for the amount of the fine imposed. If upon billing the owner neglects to pay the penalty, the penalty may be collected by a court action against the owner, by an action against the real property. A court action against the owner may be joined with an action against the real property or assessed against the property.

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

FORM APPROVED:
Vicky Long-Hill

Assistant City Attorney