

ORDINANCE NO. 14,432

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 Article IV, Neighborhood Inspection Rental Code and Residential Public Nuisance Code of Chapter 26, Building and Building Regulations and adding and enacting a new Chapter 60, Housing Code, Sections 60-1 through 60-377, relating to neighborhood inspection rental code, real estate installment contract sales inspection and residential public nuisance code.

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 by repealing Article IV, Neighborhood Inspection Rental Code and Residential Public Nuisance Code of Chapter 26, Building and Building Regulations and adding and enacting a new Chapter 60, Housing Code, Sections 60-1 through 60-377, relating to neighborhood inspection rental code, real estate installment contract sales inspection and residential public nuisance code, as follows:

Chapter 60 HOUSING CODE

Article I. Neighborhood Inspection Rental Code

DIVISION 1. GENERALLY

Sec. 60-1. Title.

This article will be known as the Neighborhood Inspection Rental Code.

Sec. 60-2. Adoption of International Property Maintenance Code.

- (a) This article shall adopt the International Property Maintenance Code, 2000 edition, published by the International Code Council, which volume is incorporated in this section by this reference with full force and effect as if set forth in its entirety, except for those portions as are stated in this article to be deleted therefrom and added thereto.
- (b) This article and all provisions incorporated in this article, by reference or otherwise, shall be known as the Neighborhood Inspection Rental Code, shall be cited as such and will be referred to in this article as such and as "this code" or as "this article." References made in this article to chapters will be to chapters of the International Property Maintenance Code. References to section numbers not preceded by "26-" will be to sections in the International Property Maintenance Code. Where the city municipal code is the subject of reference in this article, it will be referred to as "the Municipal Code."
- (c) An official copy of this code and a certified copy of this article are on file in the office of the city clerk.

Sec. 60-3. Deletions.

The following sections are deleted from the International Property Maintenance Code, and are of no force or effect in this article:

- (1) Chapter 1 Section 102.3
Section 103 in its entirety.
- (2) Section 104.1, 104.2, 104.3, 104.5, 104.6, 104.7,
Section 105 in its entirety.
Section 106 in its entirety.
Section 107 in its entirety.
Section 108 in its entirety.
Section 109 in its entirety.
Section 110 in its entirety.
Section 111 in its entirety.
- (3) Chapter 2 in its entirety.
- (4) Chapter 3 Section 302.4, 302.6; 302.7.2, 302.8
- (5) Chapter 5 Section 502.3, 502.4, 502.4.1, 507.1
- (6) Chapter 6 Section 606 in its entirety.

Sec. 60-4. Amendments and additions.

The remaining sections of this article represent amendments and additions to the requirements contained in the International Property Maintenance Code. In the event of a conflict between

the International Property Maintenance Code and this article, the requirements of this article prevail.

Sec. 60-5. Scope, applicability and exceptions

The provisions of Division I through IV of this article shall apply to the maintenance, repair, equipment, use and occupancy of all residential rental buildings and structures now in existence or hereafter constructed, rehabilitated, renovated or converted to residential use within the corporate limits, except those buildings and structures specifically excluded from the provisions of this article and public nuisance structures as defined in Division 8. Any structure that was in compliance on the day previous to the adoption of this code will be allowed to remain.

EXCEPTIONS:

The provisions of this article do not apply to:

- (1) Buildings, structures and uses owned, licensed and operated by any governmental unit or governmental agency;
- (2) Single-family dwellings occupied by the owner, as defined in this chapter, or members of that owner's immediate family. Such members are defined as parents, grandparents, children and grandchildren. Owners must register the names of the immediate family members who reside in the dwelling on an annual basis and whenever there is a change in occupancy;
- (3) Transient shelters and group homes subject to state inspection;
- (4) Residential structures in which ownership passes to a governmental unit;
- (5) Where a nonresidential business or activity or a state-licensed or state-approved use occupies a portion of a building and the building contains premises which would otherwise be subject to this article, this article shall be and remain applicable to the residential and common or public areas of such building and premises;
- (6) A duplex, at least one of the units of which is occupied by the owner, as defined in this chapter, and the other unit is occupied by a member of that owner's immediate family, as defined in subsection (2) of this section.

Sec. 60-6. Definitions.

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms have the following meanings and shall be so construed wherever they

appear in this article:

Appropriate authority: The Neighborhood Inspection Officer.

Basement: That portion of a building which is partly or completely below grade.

Bathroom: A room containing plumbing fixtures including a bathtub or shower.

Bedroom: Any room or space used or intended to be used for sleeping purposes.

Cellar: That portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling.

Central heating plant or heating plant: Heating equipment installed in a manner to supply heat by means of ducts or pipes to areas other than the room or space in which equipment is located, and shall include the chimney and all required vents.

Condominium: A single dwelling unit located within a multi-unit structure where each unit is separately held by deed in conformity with I.C. § 499B.5.

Corporate unit: The City of Des Moines.

Code official: The Neighborhood Inspection Officer charged with the administration and enforcement of this code, or any duly authorized representative.

Duplex: A building containing two attached dwelling units under the same ownership.

Dwelling Unit: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Exit: A continuous and unobstructed means of access to a public way, including intervening doors, doorways, corridors, exterior exit balconies, ramps, stairways, smoke-proof enclosures, horizontal exits, exit passageways, exit courts, and yards.

Exterior Property: The open space on the premises and on adjoining property under the control of owners or operators of such premises.

Extermination: The control and elimination of insects, rats or other pests by elimination of harborage places; by removing or making inaccessible materials that serve as food; by poison spraying, fumigation, trapping or by any other approved pest elimination method.

Fuel burning appliance: Any device which utilizes combustible fuel to produce heat for cooking, water heating or room heating.

Garbage: Animal or vegetable waste resulting from the

handling, preparation, cooking and consumption of food.

Grade: The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, where the property line is more than five feet from the building, between the building and a line five feet from the building.

Guards: A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

Habitable Space: Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility space and similar areas are not considered habitable spaces.

Infestation: The presence of insects, rats, vermin, or other pests within or contiguous to a structure or premises.

Junk: Second hand, worn or discarded articles of any kind having little or no commercial value.

Lead-based Paint: Any liquid substance applied or intended for application to surfaces containing more lead by weight than the percentage allowed by federal regulations now existing or hereafter adopted, calculated as lead metal in the total nonvolatile content of such liquid substance or in the dry film of such liquid substance after application.

Neighborhood Inspection Division: The division within the city charged with the duty to inspect dwelling units, rooming houses, rooming units, premises and structures for compliance with this article, and may also mean, as the context indicates, a member of that division.

Neighborhood Inspection Officer: The administrator of the Neighborhood Inspection Division or his designee. The officer shall be the authorized representative for the enforcement of this article and for the administration of the division.

Mobile home: Any vehicle without motive power and so designed, constructed, or reconstructed as to permit the vehicle to be used as a place for human habitation by one or more persons. It may also include any such vehicle with motive power not registered as a motor vehicle in this state. A mobile home is factory-built housing built on a chassis. A mobile home may not be construed to be a travel trailer or other form of recreational vehicle. A mobile home shall be construed to remain a mobile home, subject to all regulations pertaining thereto, whether or not wheels, axles, hitches or other appurtenances of mobility are removed and regardless of the nature of the foundation provided.

Multiple dwelling: Any dwelling containing more than two dwelling units or rooming units. For purposes of this article

the area of common ownership in a condominium, and the area in any single apartment unit rented, let or leased to and occupied by other than its record titleholder for housing purposes in a condominium shall be deemed a multiple dwelling or multiple dwelling unit, as appropriate.

Openable Area: The part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

Owner: For purposes of this article, except divisions 8 and 9, means the holder of legal title or contract purchaser as well as an agent for the receipt of notice, legal process or other service or any individual acting in a fiduciary capacity for the record titleholder or contract purchaser.

Owner: For purposes of divisions 8 and 9 of this article, shall mean any person who has an interest of record, including any titleholder, contract purchaser, tenant under a recorded lease or any executor, administrator, trustee, conservator or other fiduciary, mortgagee or other lien holder, and any holder of an unrecorded interest of which the city has actual knowledge.

Person: Any natural person and any entity that is recognized by law as having the rights and obligations of a natural person.

Plumbing: The practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, and appurtenances in connection with any of the following: sanitary drainage or storm drainage facilities; venting systems; public or private drainage or storm drainage facilities; the public or private water supply systems within or adjacent to any building, structure or conveyance; the installation, maintenance, extension, or alteration of the storm water, liquids, or sewerage and water-supply systems to their connection with any point of public disposal or other acceptable terminal.

Record titleholder: Any person holding title of record by deed, contract of sale, or judicial determination. The term "record titleholder" shall also include the official representatives of a bona fide religious organization which is titleholder.

Rental Buildings and Structures: Dwelling which are occupied by one or more persons, none of whom are record titleholder.

Rooming House: A building offered or occupied for lodging, with or without meals, and not occupied as a one or two-family dwelling.

Rooming unit: Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping

or living, but not for cooking purposes.

Rubbish: Combustible and non-combustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and other similar material.

Shall means as follows:

- (1) With respect to the functions and powers of the Neighborhood Inspection Officer and that officer's subordinates, employees and agents of the city and any board authorized and empowered hereunder, a direction and authorization to act in the exercise of sound discretion, good faith and reasonable judgment.
- (2) With respect to the obligations upon owners and occupants of premises and their agents, a mandatory requirement to act in compliance with this article at the risk of civil and criminal liability upon failure to act.

Tenant: A person, corporation, partnership or group, not the legal owner of record, occupying a building or portion thereof as a unit.

Toilet Room: A room containing a water closet or urinal but not a bathtub or shower.

Ventilation: The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

Workmanlike: Executed in a skilled manner, generally plumb, level, square, in line, undamaged, and without marring adjacent work.

Sec. 60-7--60-49. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT*

Sec. 60-50. Powers, duties, and enforcement.

- (a) The Neighborhood Inspection Division shall cause inspections to be made to determine the condition of rental dwellings, dwelling units, rooming houses, rooming units, dormitories, mobile homes, similar dwellings and accessory structures located within the corporate limits, and may issue notices as provide in this article.
- (b) Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official shall have discretionary authority to allow modifications in individual cases, provided that the modification is in

accord with the purpose and intent of this code and such modification does not endanger health, safety, or welfare. Any modification will be recorded and entered in the department files.

- (c) The Neighborhood Inspection Officer or his designees are authorized to enter at reasonable times to inspect. If entry is refused or not obtained the code official is authorized to pursue recourse as provided by law.
- (d) The enforcement of this article is not to be construed for the particular benefit of any individual or group of persons, other than the general public.
- (e) Neither the city, any city employee nor any agent thereof shall be liable for damages as a result of any act or failure to act in the enforcement of this article. This article is not to be construed to relieve or diminish the legal obligation of any other person.

Sec. 60-51. Regulation and Inspection of mobile homes.

Mobile homes shall be regulated and inspected in accordance with the following classifications:

- (1) The class of mobile homes denoted as manufactured homes, as defined in 42 USC 5402(6), shall bear a data plate, serial number and certification label as required by Manufactured Home Construction and Safety Standards, Department of Housing and Urban Development (1985), sections 3280.5, 3280.6 and 3280.8, or shall meet the requirements of section 3280.7;
- (2) Mobile homes manufactured from March 1973 through May 1976 shall bear the seal of the state;
- (3) Mobile homes manufactured prior to March 1973 shall be inspected for general conformity with the Manufactured Home Construction and Safety Standards cited in subsection (b)(1) of this section as such standards govern fire safety, plumbing, mechanical and electrical systems and general construction;
- (4) All other mobile homes not included in the classifications in subsections (b)(1) through (3) of this section shall be inspected for general conformity with the Manufactured Home Construction and Safety Standards cited in this subsection as such standards govern fire safety, plumbing, mechanical and electrical systems and general construction;
- (5) A mobile home showing no evidence of modification and generally well-maintained as set forth in this article, shall be issued a housing certificate in the same manner as any other dwelling subject to this

article.

DIVISION 3. DWELLING INSPECTION AND RENTAL CERTIFICATION

Sec. 60-52. Required owner/agent information.

Owners of residential rental property in the city who reside in Polk County or any county contiguous thereto shall provide the Neighborhood Inspection Division with their physical addresses and telephone numbers. Owners of residential rental property in the city who reside in any other county shall provide the Neighborhood Inspection Division with the name and physical address of an individual over the age of eighteen (18) who shall reside in Polk County or any county contiguous thereto and who shall be designated as agent for receiving notice and service of process. A new owner shall provide the information required in this subsection within five days from the date of any change of ownership.

Sec. 60-53. Rental certificate required.

No owner shall rent, let, lease, or otherwise allow the occupancy of any dwelling, dwelling unit, or rooming unit unless that owner holds a valid rental certificate.

Sec. 60-54. Fees and rental certificates.

1. Rental inspection fees and reinspection fees will be charged in the amount set forth in the Schedule of Fees adopted by the City Council by resolution.
2. Certificates will be issued for the following periods:
 - a) Thirty six (36) months for single family and duplex structures. Properties that comply upon renewal inspection may request to pay a 33% additional fee and receive a 48 month rental certificate;
 - b) Twenty four (24) months for multiple family dwellings, condominiums, and rooming houses. Properties that comply upon renewal inspection may request to pay a 50% additional fee and receive a 36 month rental certificate;
 - c) Rental certificates will be issued when all requirements of sections 26-475 and section 26-476 have been met.
3. At the inspectors discretion, owners may certify in writing to the Neighborhood Inspection Division that violations have been corrected when a property does not have more than two violations per unit, cumulative per structure, upon a

renewal inspection and the property has not had more than two violations per unit, cumulative per structure, upon the past two renewal inspections. No reinspection fee will be charged for this self inspection.

4. Newly constructed or renovated rental structures will be required to pay a registration fee in the amount set forth in the Schedule of Fees adopted by the City Council by resolution when the Certificate of occupancy is issued. Multiple structures will not be inspected for 24 months and 36 months for SFD and duplex structures unless a complaint has been made. Thereafter applications and reinspections will occur in accordance with this article.

Sec. 60-55. Procedure for inspections.

- A. At least thirty (30) days prior to initial occupancy as a rental property the owner or agent of a new rental property shall apply to the Neighborhood Inspection Division for inspection of the structure and all units therein. The owner of the property shall be required to sign and return the application, which will include the information required by section 26-472 of this article.
- B. Prior to the renewal inspection of a structure with an existing rental certificate the Neighborhood Inspections Division shall send the property owner or agent a notice of expiration and application update that shall be signed and returned. The notice shall include the expiration date of the current certificate and pertinent information for contacting the correct inspector.
- C. The neighborhood inspection officer shall inspect the property. If the property is in compliance with this article, the certificate will be issued and a bill will be sent for all fees owed.

Sec. 60-56. Notice of violation and method of service.

If the Neighborhood Inspection Officer determines that there are reasonable grounds to believe that premises are being maintained in violation of this article, that officer shall give notice of the alleged violation to the owner of the premises. Such notice shall:

- (1) Be in writing;
- (2) Include a description of the real estate sufficient for identification;
- (3) Describe the violation and remedial action required;
- (4) All health, safety and maintenance violations must be corrected within 30 days from receipt of this notice.

Any maintenance items which cannot be completed at this time because of weather constraints may be granted a time extension. Time extensions to be negotiated with the owner/agent of the property and the inspector.

- (5) State that if upon reinspection a violation still exists the Neighborhood Inspection Officer shall order that the rental certificate be suspended and the structure vacated.
- (6) Be mailed to the owner of the premises or agent designated for receipt of service.
- (7) State the time to file an appeal, the amount of the appeal fee, the right to call witnesses and the right to be represented by counsel.

Sec. 60-57. Complaint by tenants and retaliatory actions.

Unless there are significant health or safety issues, if the property has a valid rental certificate, a tenant must first complain to the owner or agent. Forms for that purpose will be available in the Neighborhood Inspections Division office.

- (a) An owner or agent shall have seven (7) calendar days to address the complaint. If the complaint is not remedied to the tenant's satisfaction within seven (7) calendar days the Neighborhood Inspection Officer will schedule an inspection appointment with the tenant and owner. If violations are found an inspection fee in accordance with Section 26- 474 shall be charged.
- (b) No person shall maintain an action for eviction because the occupant has reported a violation of this article or a related provision of the city code to the Neighborhood Inspections Officer or other city employee.
- (c) No person shall cause any service, facility, equipment or utility required under this article to be removed, shut off or discontinued in retaliation for a complaint.

Sec. 60-58. Rental certificate.

The rental certificate issued under this article shall contain the following information:

- (1) The address and type of structure;
- (2) The date of inspection;
- (3) The date of issuance;
- (4) The expiration date.

Sec. 60-59. Rental certificate display and transferability.

A current rental certificate issued under this article shall not be invalidated by sale or transfer of the property. The owner of a multiple dwelling unit shall display a copy of the rental certificate in a common hallway of each building or in the onsite management office. The owner of single family and duplex dwellings must be able to show a copy of the rental certificate upon request.

Sec. 60-60. Notices on sale of dwelling.

- (a) A seller of a rental property, including property occupied under authority of an unrecorded contract for sale, shall inform the prospective buyer of the following at least 14 days prior to the closing:
 - (1) Current status of the rental certificate;
 - (2) Any outstanding notice regarding violations of the Neighborhood Rental Inspection Code;
 - (3) The existence of any court or administrative proceeding which pertains to alleged violations of the Neighborhood Inspection Rental Code, stating the case numbers and names of all parties to the proceedings.
- (b) Every seller of a rental property shall give notice in writing to the Neighborhood Inspection Division within two business days after closing. This notice shall include the name and address of the buyer.
- (c) Each buyer of an interest in rental property shall give notice in writing to the Neighborhood Inspection Officer within two business days after closing. The notice shall identify the address of the affected property, the name and address of all parties named in the contract, and the interests in the property conveyed or received by each party. The buyer shall also provide a copy of the real estate contract or memorandum of contract recorded with the county recorder pursuant to I.C. § 558.46, showing the date, book, and page within ten days of recording.

Sec. 60-61--60-84. Reserved.

DIVISION 4 PENALTIES

Sec. 60-85. Penalties for failure to correct violations.

- (a) An owner who fails to correct a violation of this article by the date set forth in the notice of violation shall be subject to a cumulative fine in the amount set forth in the Schedule of Administrative Penalties adopted by City

Council Resolution under the following circumstances;

- 1) For each day the owner fails to arrange for an inspection within the time set forth in subsection 26-476(5);
- 2) For each violation not corrected within the time designated in the notice of violation, unless within such time the owner has been granted an extension of time;
 - (a) Failure to arrange for a timely reinspection shall give rise to a presumption that the violation was not corrected and a fine shall be imposed accordingly;
 - (b) Violations not corrected in the allotted time shall be subject to the maximum fine, retroactive to the original date set forth in the violation notice.

Sec. 60-86. Actions to enjoin and to collect costs.

- (a) In addition to the penalties provided in this Article or in section 1-15 of the Municipal Code, when any dwelling, building or structure is constructed, altered, converted, used or maintained in violation of any section of this article, the city may bring suit in the district court to:
 - (1) Prevent unlawful construction, alteration, conversion, or maintenance;
 - (2) Restrain, correct, or abate such violation or nuisance;
 - (3) Prevent the occupation of the dwelling, building or structure;
 - (4) Prevent any other violation of this article; and
 - (5) Obtain a judgment for costs and expenses to enforce this article.

Sec. 60-87. Municipal infractions and penalties.

- (a) Any person who violates this article shall be guilty of a municipal infraction punishable pursuant Municipal Code section 1-15. Any person who violates a section of this article after having previously been found guilty of violating the same section of this article at the same location shall be guilty of a repeat offense.
- (b) Relief under this section shall be in addition to the remedies set forth in section 26-492.

Sec. 60-88. Assessment of costs.

All inspection fees, reinspection fees, demolition costs, administrative costs and legal costs incurred by the Neighborhood Inspection Division in the enforcement of this article may be collected by an assessment placed against the real estate to be collected as a property tax or by judgment entered against the owner personally or against the real estate.

Sec. 60-89--60-99. Reserved.

DIVISION 5 HEARINGS

Sec. 60-100. Housing appeals board.

- a) There is established a board known as the Housing Appeals Board.
- b) The Housing Appeals Board shall consist of the following separate persons: one realtor licensed in this state; one architect or structural engineer registered in this state; two contractors experienced in construction and remodeling; three representatives of the general public, one of whom has a demonstrated interest in historic preservation. Each member shall serve a three-year term.
- c) If the city council by resolution finds that no suitable person with the required qualifications is available for appointment to fill a vacancy on the Housing Appeals Board that has remained open for at least two months, then the city council may appoint a representative of the general public to fill the vacancy. The member so appointed shall not be reappointed unless the city council by resolution finds that no suitable person with the required qualifications is then available for appointment to the Housing Appeals Board.

Sec. 60-101. Duties.

The Housing Appeals Board shall:

- (1) Hold bimonthly hearings of appeals filed with the Neighborhood Inspection Division under section 26-513 and concerning properties referred to the board by the city council or Neighborhood Inspection Division;
- (2) Decide whether to grant variances under section 26-517;
- (3) Rule on requests for additional time, provided that the granting of such additional time does not endanger the life, health or safety of the occupants or the integrity of the structure;
- (4) Direct that legal action be brought to enforce the

Neighborhood Inspection Rental Code

- (5) Make specific recommendations to the city council regarding matters pertaining to this article; and
- (6) Elect a chair from among themselves who will serve for a term of one year. The chair shall be the administrative officer and shall preside at meetings and hearings.

Sec. 60-102. Appeals filed.

- (a) Any owner objecting to a notice may file a written appeal with the Neighborhood Inspection Division requesting a hearing before the Housing Appeals Board. An appeal shall be filed within 10 days of the date of the inspection notice. An untimely appeal shall not be accepted, unless in the discretion of the Neighborhood Inspection Officer good cause is shown for the untimely filing.
- (b) An appeal objecting to an inspection notice shall be accompanied by a receipt from the city treasurer showing payment of a filing fee charged in the amount set forth in a Schedule of Fees adopted by the City Council by resolution. The appeal shall state those items that are being contested. The filing fee shall be refunded if the board rules that the objection is valid.
- (c) An appeal consisting of an application for a variance shall be accompanied by a receipt from the city treasurer showing payment of a nonrefundable filing fee charged in the amount set forth in a Schedule of Fees adopted by the City council by resolution.
- (d) An owner referred to the Housing Appeals Board for failure to comply with an inspection notice shall be charged an administrative fee in the amount set forth in a Schedule of Administrative Penalties adopted by the City Council by resolution, if the board finds in favor of the Neighborhood Inspection Division.
- (e) If a structure referred to the Housing Appeals Board is brought into compliance prior to that board meeting, an administrative fee in the amount set forth in a Schedule of Administrative Penalties adopted by the City Council by resolution, shall be charged.
- (f) The Neighborhood Inspection Officer shall notify the appellant and all board members of the date, time and location of the hearing.

Sec. 60-103. Hearing.

At the hearing the appellant shall have the opportunity to

be heard, the right to call witnesses and to be represented by counsel. If represented by counsel, the name, address and telephone number of such counsel shall be submitted to the Neighborhood Inspection Division seven (7) days prior to that meeting. The Housing Appeals Board shall issue a ruling which must be based upon evidence in the record. The department shall keep an accurate record of the proceedings. A copy of the minutes shall be issued to all members of the board prior to the next Housing Appeals Board meeting

Sec. 60-104. Power to impose fines.

- (a) The Housing Appeals Board may impose a fine, the amount of which shall be determined upon recommendation of the Neighborhood Inspection Division. The board shall have the authority to impose the maximum fine, a lesser fine or to waive the fine upon good cause shown.
- (b) The Neighborhood Inspection Division shall send a notice of the decision of the Housing Appeals Board to the owner stating the amount of the fine imposed. If the owner neglects to pay the fine, the fine may be collected by a court action against the owner or by an action against the real property. A court action against the owner may be joined with an action against the real property.
- (c) If a property is brought into compliance the owner may, within ten days of reinspection, file with the Neighborhood Inspection Division a request to have the imposition of the fine reviewed by the Housing Appeals Board. The board may reduce, rescind or affirm the imposition of the fine.

Sec. 60-105. Stay upon appeal.

When an appeal is filed under this division the Neighborhood Inspection Officer shall stay all proceedings regarding the appeal until the appeal is decided.

Sec. 60-106. Power to grant variances.

Upon application and after a hearing as provided in section 26-514, the Housing Appeals Board may grant a variance from a provision of division 6 of this article upon a showing of each of the following:

- (1) The burden on the owner to comply outweighs any resulting benefit to the public health, safety, and welfare;
- (2) Because of the design or construction of the dwelling strict compliance would cause undue hardship;
- (3) Strict compliance with such section would be arbitrary; and

- (4) A variance would be in harmony with the intended spirit and general purpose of this article to secure the public health, safety and welfare.

Sec. 60-107. Limitation and revocation of variance.

- (a) The Housing Appeals Board may set reasonable conditions and safeguards to promote the public health, safety, and welfare when granting a variance.
- (b) The board may revoke a variance at any time upon a showing that the basis for granting the variance no longer exists or upon a showing that a condition of the variance has been violated.
- (c) Before revoking a variance the board shall notify the owner in the manner set forth in section 26-476 and proceed to a hearing as set forth in sections 26-514 and 26-515.

Sec. 60-108. Habitual violators.

- (a) An owner who fails to correct a violation within the time period given by notice and who has been required to appear before the Housing Appeals Board for such failure three times or on three separate properties during a 12-month period shall be deemed a habitual violator if found by the board to have failed to correct the violations without good cause. Upon finding that the owner is a habitual violator, an agent or representative of such owner may also be deemed a habitual violator as to those properties.
- (b) The Housing Appeals Board is authorized to order the unified inspection of all properties owned or managed by a habitual violator. The fee for this unified inspection will be charged at regular inspection rates as set forth in section 60-54. The owner or manager may be placed on an accelerated inspection schedule by the board, thereby reducing certification periods, if the result of the unified inspection justifies such action. The fees as set forth in subsection 26-474 shall be charged for such inspections.

Sec. 60-109--60-119. Reserved.

DIVISION 6. RESPONSIBILITIES OF OWNERS AND OCCUPANTS

Sec. 60-120. General maintenance.

- (a) The Owner of the premises shall maintain the structures and exterior property in compliance with the requirements of

Chapter 3 of the International Property Maintenance Code, except as otherwise provided for in this Rental Inspection Code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. Occupants of a dwelling unit are responsible for keeping in a clean, sanitary, and safe condition that part of the dwelling unit or premises which they occupy and control.

- (b) All repairs shall be done in a workmanlike manner and the site maintained in a safe and sanitary condition. All work must be done in accordance with the International Building Code, International Fire Code, Uniform Plumbing Code, Uniform Mechanical Code, and the ICC Electrical Code.
- (c) Sanitation: All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.
- (d) Grading and drainage: All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water. Exception: Approved retention areas and reservoirs.
- (e) Sidewalks and driveways: All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.
- (f) Rodent harborage: All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by an approved process which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent further reinfestation.
- (g) Accessory structures: All accessory structures, including detached garages, fences, and walls, shall be structurally sound and in good repair.
- (h) Protective treatment: All exterior surfaces shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated

to inhibit such rust corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

- (i) Structural members: All structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead or live loads.
- (j) Foundation Walls: All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.
- (k) Exterior walls: All exterior walls shall be free from holes, breaks and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.
- (l) Roofs and drainage. The shingles and flashing shall be in good repair and weather tight. No more than three layers of shingles are allowed, unless the fourth layer is already installed and free of defects. Soffit, fascia, and trim must be in good repair and impervious to weather. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.
- (m) Stairways, decks, porches and balconies: Every exterior stairway, deck, porch, and balcony and all appurtenances attached thereto, shall be maintained structurally sound in good repair with proper anchorage and capable of supporting the imposed load.
- (n) Chimneys and towers: All chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe and sound and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating material, such as paint or similar surface treatment.
- (o) Handrails and guards: Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition, as specified in section 26-553.
- (p) Windows, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

- (q) Openable windows. Every window other than a fixed window, shall be easily openable and capable of being held in position by window hardware.
- (r) Screen: All openable windows in habitual rooms, inclusive of all bathrooms shall be supplied with approved tight fitting screens of not less than 16 mesh per inch. All screen doors required for ventilation shall be supplied with 16 mesh per inch. Every swinging door shall have a self-closing device in good working order.
- (s) Doors: All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and rooming units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3. of the International Property Maintenance Code.
- (t) Basement hatchways: Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

Sec. 60-121. General maintenance interior.

- (a) General: The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, a dormitory, two or more dwelling units, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.
- (b) Structural Members: All structural members shall be maintained structurally sound and capable of supporting the imposed loads.
- (c) Interior Surfaces: All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking, or abraded paint shall be repaired, removed, or covered. Cracked or loose plaster, decayed wood, and other defective surface conditions shall be corrected.
- (d) Stair and walking surfaces: Every stair, ramp, landing, balcony, porch, deck, or other walking surface shall be maintained in sound condition and good repair.
- (e) Handrails and guards: See Section.26-553.
- (f) Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers, or tracks as intended by the manufacturer

for the attachment hardware.

Sec. 60-122. Rubbish and garbage.

- (a) Accumulation of rubbish or garbage. All exterior property and the interior of every structure shall be free from any accumulation of rubbish or garbage.
- (b) Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.
- (c) Rubbish storage facilities. The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner for the premise shall be responsible for the removal of rubbish.
- (d) Disposal of garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility of approved garbage containers.
- (e) Garbage facilities: The owner of every dwelling shall supply one of the following: an approved mechanical food waste grinder in each dwelling unit; an approved incinerator unit in the structure available to the occupant: or a garbage container.
- (f) Containers. The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leakproof containers provided with close-fitting covers for the storage of such materials until removed from the premise for disposal.

Sec. 60-123. Extermination.

- (a) Infestation. All structures shall be kept free from insect and rodent infestation. Where insects or rodents are found they shall promptly be exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.
- (b) Owner. The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.
- (c) Single occupant. The occupant of a one family dwelling shall be responsible for extermination on the premise.
- (d) Multiple occupancy. The owner of a structure containing two or more dwelling units, a multiple occupancy, or a rooming house shall be responsible for extermination in the public or shared areas of the structure and exterior property.

- (e) Occupant. The occupant of any dwelling unit shall be responsible for the continued rodent and pest-free condition of the structure. Exception: where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.

Sec. 60-124. Basement and cellar space.

No basement or cellar space shall be used as a habitable room, dwelling unit or rooming unit unless all requirements for habitable space have been met:

- (1) Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height of not less than 7 feet.
Exception:
- (a) In one and two family dwellings, beams or girders maybe spaced not less than 4 feet on center and projecting not more than 6 inches below the required ceiling height.
 - (b) Basement rooms in one and two family dwellings occupied exclusively for laundry, study or recreation purposes, may have a ceiling height of not less than 6 feet 8 inches with not less than 6 feet 4 inches of clear height under beams, girders, ducts, and similar obstructions.
 - (c) Rooms occupied exclusively for sleeping, study or similar purposes may have a sloped ceiling over all or part of the room, but must have a clear ceiling height of at least 7 feet over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of 5 feet or more shall be included. The floor and walls must be impervious to leakage of underground and surface runoff water and be insulated against dampness
- (2) Bedroom requirements: Every bedroom shall comply with the requirements of Sections 404.4.1 through 404.4.5 of the International Property Maintenance Code for Occupancy Limitations.
- (3) A basement dwelling or rooming unit shall provide two means of exit with minimum dimensions as described in section 26-558(b), Emergency escape or rescue opening.
- (4) Area for sleeping purposes. Every bedroom occupied by one person shall contain at least 70 square feet of floor area, and every bedroom occupied by more than one person shall contain 50 square feet of floor area for each occupant thereof.

- (5) The minimum window area shall meet or exceed that required in section 402 of the International Property Maintenance Code, except where artificial illumination is supplied sufficient to provide an adequate amount of light at floor level for all habitable area.
- (6) The total window area capable of being opened in each room shall equal or exceed the minimum required under section 403 VENILATION of the International Property Maintenance code.

Sec. 60-125. Heating equipment and facilities.

- (a) Mechanical appliances. All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.
- (b) When the winter temperature is below 60 degrees Fahrenheit, every dwelling unit shall be provided with heating facilities capable of maintaining a minimum room temperature of 68 degrees at a point of 3 feet above the floor and 2 feet from exterior walls in all habitable rooms.

Sec. 60-126. Flush water closet and basic plumbing.

Dwelling units. Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

- (1) Rooming Houses: At least one water closet, lavatory and bathtub or shower shall be supplied for each four rooming units.
- (2) Privacy: Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms in a multiple dwelling.
- (3) Every sink, lavatory, bathtub or shower, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water.

- (4) Water heating facilities shall be properly installed, maintained, and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower, and laundry facility at a temperature of not less than 120 degrees Fahrenheit or 49 degrees Celsius. A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom, or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

Sec. 60-127. Handrails and guardrails.

- (a) Handrails shall have minimum and maximum heights of 34 inches and 38 inches respectively, measured vertically from the nosing of the treads and shall be provided on at least one side of the stairway. All required handrails shall be continuous the full length of the stairs for four or more risers from a point directly above the top riser of the flight to a point directly above the lowest riser of the flight. Continuous handrails shall be permitted to be interrupted by newel posts at turns and at one location in a straight stairs when the rail terminate into a wall or ledge and is offset and immediately continues. Ends shall be returned or shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have a space of not less than 1.5 inches between the wall and the handrail.
- (b) Handrail graspability. Handrails with circular cross section shall have an outside diameter of at least 1.25 inches and not greater than 2 inches or shall provide equivalent graspability.
- (c) Guard required. Porches, balconies or raised floor surfaces located more than 30 inches above the floor or below grade shall have guards not less than 42 inches in height. Open guards shall have balusters or ornamental patterns such that 4 inch diameter sphere cannot pass through.

Sec. 60-128. Light and ventilation.

- (a) LIGHT: Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be 8 percent of the floor area of

such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than three feet from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exception: Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet. The exterior glazing area shall be based on the total area being served.

- (b) VENTILATION: Every habitable space shall have at least one openable window. The total openable area of the window in every room shall be equal to at least 45% of the minimum glazed area required in section 29-551.

Exception: Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8% of the floor area of the interior room or space, but not less than 25 square feet. The ventilation opening to the outdoors shall be based on a total floor area being ventilated.

Bathrooms and toilet rooms. Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by Section 403.1, except that a window shall not be required in such spaces equipped with mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be recirculated.

Sec. 60-129. Electrical service.

- (a) Facilities required. Every occupied building shall be provide with an electrical system in compliance with the requirements of this section and section 605 of the International Property Maintenance code.
- (b) Service. The size and usage of appliance and equipment shall serve as a basis for determining the need for additional facilities in accordance with the ICC Electrical Code. Dwelling units shall be served by a three-wire 120/240 volt, single phase electrical service having a rating of not less than 60 amperes.

- (c) Electrical system hazard. Where it is found that the electrical service in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazards.
- (d) Every habitable space in a dwelling shall contain at least two separate and remote receptacles outlets. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault interrupters. Every bathroom shall contain at least one receptacle. Any new bathroom receptacle outlets shall have ground fault circuit interrupter protection.
- (e) Lighting fixtures. Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least one electric lighting fixture.

Sec. 60-130. Lighting of stairways.

Every common hall and stairway in residential occupancies, other than in one and two family dwellings, shall be lighted at all times with at least one 60 watt standard incandescent light bulb for each 200 square feet of floor area of equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet. In other than residential occupancies, means of egress, including exterior means of egress stairways shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of 1 footcandle at floors, landings and treads.

Sec. 60-131. Cooking in rooming units.

Cooking facilities: Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in a rooming unit or dormitory unit. Exception: Where specifically approved in writing by the code official.

Sec. 60-132. Fire exits and fire protection.

- (a) All multiple-dwelling structures shall comply with requirements of International Fire code and international Building Code and International Fire Code, relating to

stairwell enclosures.

- (b) Every dwelling unit shall have at least one means of exit, with minimum headroom of six feet six inches, leading to safe and open space at ground level; every dwelling unit in a multiple dwelling shall have access to two or more means of exit from the second floor and above floors. Where two means of exit are required, one shall be deemed the emergency exit and shall be remote from the primary means of exit or shall be separated by one-fifth of the perimeter of the area served and shall have a clear unobstructed opening leading to a safe open space at ground level. Emergency escape and rescue openings shall have a minimum net clear opening of 5.7 square feet. The minimum net clear opening height dimensions shall be 24 inches. The minimum net clear opening width dimension shall be 20 inches. The net clear opening dimensions shall be the result of normal operations of the opening. Emergency escape and rescue openings shall have the bottom of the clear opening not greater than 44 inches measured from the floor. If the opening is a door, the size of the opening must be a minimum of 24 inches wide and six feet six inches high.
- (c) All knockout panels in approved exit openings shall be a minimum of ten inches by ten inches in size, shall have only single strength glass, and shall be labeled directly on the panel "emergency exit - break glass," in contrasting colors at least one inch in height, and one-quarter inch stroke. Knockout panels shall be located not more than 42 inches from the floor to the top of the knockout panel and shall permit the lock or latch on the inside of the exit door to be operated quickly and easily. No more than one lock or latch shall be permitted on any approved exit door. No more than one intervening door containing a knockout panel shall be permitted in the exitway from any unit. No new installations of knockout panels shall be permitted.
- (d) Every exit doorway or change of direction of a corridor shall be marked with a lighted exit sign or other approved exit sign, having letters of contrasting color, at least six inches high.
- (e) Every exitway, hall, corridor, or exit door shall be kept completely clear of anything which might prevent easy and rapid exit from the building if a fire occurs.
- (f) (1) Except in single-family and duplex dwellings, type 2A rated fire extinguishers 5 pound minimum shall be provided on each floor, so located that they will be accessible to the occupants, and spaced so that no

person will have to travel more than 75 feet from any point to reach the nearest extinguisher.

- (2) All hand fire extinguishers shall be maintained in proper working condition at all times. Fire extinguishers shall be inspected at least once a year and shall have an approved tag showing the date of the last inspection or recharge and the identity of the licensed person inspecting or recharging it.
- (g) All fire alarm systems that have been installed shall be maintained in proper working condition at all times. Fire alarm systems shall be inspected at least once a year and shall have an approved tag showing the date of the last inspection and the identity of the licensed person inspecting it. All plans for the installation of a new fire alarm system shall be approved by the fire marshal before the system is installed.
- (h) Combustible materials shall not be stored in furnace rooms or under stairways unless the stairway is protected by a one-hour fire separation.
- (i) Smoke detectors:
 - 1. Every dwelling unit shall have an approved smoke detector on the ceiling or wall outside of each separate sleeping area in the immediate vicinity of the bedroom.
 - 2. Every room used for sleeping shall have an approved smoke detector.
 - 3. Every story within a dwelling unit, including basements, and cellars, but not including crawlspaces and unhabitable attics shall have an approved smoke detector. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

Sec. 60-133. Lead base paint.

- (a) No person shall apply lead-based paint to any surface of any dwelling or accessory structure within the city, nor shall any person apply lead-based paint to any surface of any structure or portion thereof used occasionally or during part of the day or night as a school, nursery, day care center, clinic, treatment center, or other facility catering to the needs of children under six years of age, but which during the remainder of the day or night is subject to this article.

- (b) Lead-based paint found in the following condition on a dwelling or accessory structure is declared to be a nuisance and an immediate health hazard, and the housing code enforcement officer shall order its removal whenever so found. All surfaces on which the paint is cracking, scaling, chipping, peeling or loose shall be thoroughly cleaned, washed, sanded, scraped, wire brushed, or otherwise corrected so as to remove all cracking, scaling, peeling, chipping, and loose paint, and then the surfaces that have been so treated shall be repainted with two coats of a suitable paint. Where the paint film integrity of any such surface cannot be maintained by such treatment, the paint shall be removed to the base surface, or the surface shall be completely recovered with a suitable material such as hardboard, plywood, drywall or plaster, before any repainting is undertaken.
- (c) Lead-based paint on the following surfaces shall be removed to the base surface to the extent indicated before repainting:
- (1) Interior window sills, complete removal,
 - (2) Handrails, complete removal.
 - (3) Those portions of stair treads not completely covered by carpeting or other suitable material, complete removal four inches back from the lip on top of the tread and from the lip to the riser on the bottom side.
 - (4) Any other area where there is demonstrable evidence of chewing activity or evidence that paint has been removed by lifting, peeling, pulling, or other means from the painted surface.
- (d) The presence of lead-based paint shall not prevent occupancy of a structure or issuance of an inspection certificate therefor if the structure is not in violation of subsection (b) or (c) of this section.

Sec. 60-134--60-144. Reserved.

DIVISION 7. ROOMING HOUSES, ROOMING UNITS,
DORMITORIES, AND DORMITORY ROOMS.

Sec. 60-145. Rooming houses and dormitories.

The 2000 International Property Maintenance Code, except for sections deleted in section 26-438, shall apply to roominghouses, rooming units, shelters, dormitories and dormitory rooms, as well as to dwellings and dwelling units.

Sec. 60-146--60-199. Reserved.

**Article II. Real Estate Installment
Contract Sales Inspection**

Sec. 60-200. Definitions.

For the purpose of this section, the following definitions shall apply:

City shall mean the City of Des Moines, Iowa.

Contract shall mean a real estate installment purchase agreement for the intended transfer of residential real estate between a buyer and seller. A real estate installment purchase agreement is one which is payable in more than four (4) installments, not including the down payment. This division does not apply to contracts for commercial property, vacant lots or new construction.

Contract buyer shall mean the person or entity purchasing or acquiring the real property.

Contract seller shall mean the person or entity offering or transferring the real property for sale, or anyone acting on behalf of the contract seller. Contract seller shall not mean the following professionals licensed in Iowa acting on behalf of a contract seller: attorneys, real estate brokers or salespersons.

Director shall mean the community development director of the city or his/her designee.

Inspection shall mean a physical examination of the real estate, which shall include, but not be limited to, a review of the structural components, exterior, roofing, plumbing, heating, cooling, electrical, insulation and ventilation, interior, fireplace and solid fuel burning appliances of the real estate.

Inspection report shall mean a report in a form approved by the neighborhood inspection division of the city and prepared by an inspector to describe an inspection.

Inspector shall mean the individual who performs the examination of the real estate.

Person shall mean an individual, a corporation, a limited liability company, a government or governmental subdivision or agency, a business trust, an estate, a trust, a partnership or an association, or any other legal entity, as defined in section 1-2 of this Code.

Transfer shall mean the conveyance by sale, exchange, contract or by any other method by which real property is purchased. For the purpose of this ordinance, transfer shall not mean the conveyance of real estate interests as detailed under Iowa Code Section 558A.1 (4) (a, b, c, d, e, f, g and h).

Sec. 60-201. Inspector certification and disqualification.

1. All inspectors who perform the inspections of real estate pursuant to a contract shall be a full or regular member in good standing of an eligible professional association for home inspectors. An eligible professional association must have the following attributes:
 - a. Not-for-profit status;
 - b. Standards for Practice for its members;
 - c. Code of Ethics for its members;
 - d. Requires examinations for membership;
 - e. Requires annual continuing education.

No real estate inspector shall be employed by an entity that is owned by a contract seller or its affiliate. The term affiliate means a parent, brother or sister entity meaning its parent entity has an ownership interest in each entity or shares a common manager), or a subsidiary entity or any other entity in which the contract seller, its parent, brother, sister or subsidiary entity owns five percent (5%) or more of such entity.
2. Members of professional associations who are eligible to perform inspections under this ordinance shall first obtain approval under the above standards. The community development director of the city or his/her designee shall have sole discretion to approve or deny and shall maintain a current list of inspectors in good standing.
3. The director shall have sole discretion to suspend or revoke an inspector's certification based upon any of the following:
 - a. Malfeasance;
 - b. Neglect of duty;
 - c. Incapacity;
 - d. Disqualification, suspension, or debarment from any activity related to the construction or real estate industry by an agency of any government.
 - e. Offering or giving gifts or gratuities to employees of the city in violation of state law; or
 - f. Failure to comply with the requirements of this division.
4. If the director determines that cause exists to disqualify an inspector from performing inspections pursuant to this division for any of the reasons set forth in the previous subsection, the director shall notify the affected inspector. The notice shall set forth the reasons supporting disqualification and the proposed period for

disqualification, and shall be sent to inspector by certified mail, return receipt requested.

Upon written request of the inspector filed within ten days of mailing of the notice of disqualification, the director shall schedule a hearing at which the inspector may present evidence or argument why he or she should not be disqualified. Such hearing shall be scheduled and held within ten (10) days of receipt of the written request. The director's recommendation shall be issued with thirty (30) days of the conclusion of the hearing and shall be mailed to all parties participating in the hearing. If the director's recommendation is to disqualify the inspector, the director shall set out the recommended period of disqualification, not to exceed three (3) years, and shall forward a copy thereof to the city council.

If the city council does not act upon the director's recommendation to disqualify an inspector within thirty (30) days of its receipt, the recommendation shall be considered accepted. Disqualification shall commence upon the earlier of the expiration of the thirty (30) day period or council action accepting the director's recommendation to disqualify.

Sec. 60-202. Procedures; Fee.

1. A person seeking to transfer real property by contract, or a broker, salesperson or agent acting on behalf of such person, shall obtain or update an inspection of the subject real estate not more than sixty (60) days prior to the execution of the contract.
2. The inspector shall prepare an inspection report of the physical examination of the real estate. The inspection report shall also include written certification that the inspector is a member of good standing in an eligible professional association, as detailed under section 26-241.
3. The inspection report shall be delivered to and received by the contract buyer and the neighborhood inspection division of the city at least fourteen (14) days prior to the execution of the contract. The inspection report may be delivered to the contract buyer by personal delivery, certified mail or by registered mail. Proof of delivery of the inspection report and a filing fee of \$75.00 shall be filed at least fourteen (14) days prior to the execution of the contract. Subsequent inspection reports and updates for the same property may be filed by the same contract seller without an additional filing fee prior to filing of the contract as provided in subsection 4.

4. Within seven (7) days following execution of the contract, the contract seller shall file with the neighborhood inspection division of the city copies of instruments transferring the real estate along with a filing fee in the amount set in the schedule of fees adopted by the city council by resolution.
5. The city shall have the right to inspect and reinspect any property for which an inspection is required under this division. All persons with ownership or management interests in the property shall allow inspection or reinspection upon reasonable notice by the city.
6. Any person who fails to perform an act required by this division or who commits an act prohibited by this division shall be guilty of a municipal infraction punishable by civil penalty as provided by section 1-15 of this Code.

Sec. 60-203. Ordinance not Limiting.

The responsibilities imposed under this ordinance shall not limit or abridge any duty, requirement, obligation or liability for disclosure created by another provision of law, or under contract between parties.

Secs. 60-204--60-299. Reserved.

Article III. Residential Public Nuisance Code.

DIVISION 1. GENERALLY

Sec. 60-300. Designation of unfit residential structures as public nuisances.

This article governs the designation of unfit residential structures and the procedure for abating nuisances.

Sec. 60-301. Defects.

A residential structure found to have any of the defects listed in this section shall be declared unfit for human habitation and a public nuisance. If so designated it shall be placarded by the Neighborhood Inspection Division. A structure which is a public nuisance and unfit for human habitation is one which:

- (1) Is so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a hazard to the health, safety or welfare of the occupants or to the public;

- (2) Lacks illumination, ventilation or sanitary facilities adequate to protect the health, safety and welfare of the occupants or the general public; or
- (3) Because of its general condition or location is unsanitary or otherwise dangerous to the health, safety or welfare of the occupants or to the public.

Sec. 60-302. Structure to be placarded.

At the time a structure is declared to be a public nuisance a Neighborhood Inspection Division Officer shall cause to be posted at each entrance to the structure or portion thereof a notice to read "**DANGER -- PUBLIC NUISANCE UNSAFE OR UNFIT FOR HUMAN OCCUPANCY. NEIGHBORHOOD INSPECTION DIVISION, CITY OF DES MOINES.**" This notice shall remain posted until the required repairs, demolition, or removal is completed. The notice shall not be removed and no person shall enter the building except to make the required repairs or to demolish the structure.

Sec. 60-303. Defacing and removing placard.

No person shall deface or remove the placard from any structure except as authorized by the Neighborhood Inspections Division.

Sec. 60-304. Vacation and abatement.

Any residential structure declared to be a public nuisance and unfit for human habitation or use, and so designated by the Neighborhood Inspection Division Officer, shall immediately be vacated and the nuisance shall be abated by the owner at the owner's expense or by the city. If the city abates the nuisance the abatement costs shall be collected as a personal judgment against the current owner and may be collected against any other person or entity who owned the property while declared a public nuisance. The city may also assess the abatement costs against the property to be collected as a property tax.

Sec. 60-305. Service by public utilities.

It shall be unlawful for any electric, gas or water company or other utility company in the city to service any residential structure the Neighborhood Inspection Division Officer has declared to be a public nuisance.

Sec. 60-306. Approval for occupancy.

The owner of a residential structure declared to be a public nuisance shall not allow it to be occupied until approval is secured from the Neighborhood Inspection Division.

Sec. 60-307. Filling excavations.

All demolition pursuant to this division, whether carried out by the owner or by the city, shall include filling the excavation in such manner as to eliminate all potential danger to the public health, safety or welfare.

Sec. 60-308. Public nuisance procedure: notice and hearing.

- (a) The owner of record, occupant, contract vendee of record, and mortgagee of record of a residential structure which has been declared to be a nuisance shall be notified in writing.
- (b) The notice shall contain:
 - (1) The name and last known address of those receiving notice;
 - (2) The legal description of the subject real estate and its street address;
 - (3) The name of the occupant, if known;
 - (4) A description of the conditions that constitute the nuisance and the remedial action required to abate the nuisance;
 - (5) The deadline for abatement of the nuisance.
- (c) The notice shall be served personally or by certified mail, return receipt requested.

Sec. 60-309. Referral to board of health.

Residential structures determined to be public nuisances under this article and against which no emergency procedure for removal has been undertaken pursuant to section 26-610 shall be referred to the city council acting as the Board of Health.

- (1) If the Board of Health finds that a public nuisance exists and confirms the action of the Neighborhood Inspection Division Officer, it shall direct the legal department to file an action for nuisance abatement in district court.
- (2) If the Board of Health finds that the residential structure is not a public nuisance it shall revoke the determination of the Neighborhood Inspection Division Officer and direct such other action as it finds appropriate.

Sec. 60-310. Emergency actions.

- (a) Whenever a Neighborhood Inspection Division Officer finds that a condition exists in or around a residential structure which constitutes an immediate and severe threat to the health, safety or welfare of the occupants or to the public, the officer may take any necessary action without notice to eliminate the immediate threat.
- (b) Whenever a Neighborhood Inspection Division Officer finds that a condition exists in or around a residential structure which threatens the health, safety or welfare of the occupants or the public, the officer may issue an order describing the condition and requiring that specified action be taken. If the owner does not comply with the order within the time specified, the officer may authorize the taking of the action specified in the order. Any costs incurred may be assessed against the property or collected as a personal judgment pursuant to legal action.
- (c) A copy of the order shall be sent to all owners and occupants at their last known addresses. The method by which such notice shall be given shall be that method which provides notice within the shortest practicable period of time. If an owner cannot be found information collected by the person attempting to locate such person shall be held on file.

Sec. 60-311--60-374. Reserved.

DIVISION 2. ADMINISTRATIVE REMOVALS

Sec. 60-375. Administrative removal of dangerous residential structures.

When a residential structure constituting a public nuisance threatening to the health and safety or welfare of the public cannot reasonably be abated except by demolition and removal, the structure may be removed pursuant to the administrative procedure set forth in this division.

Sec. 60-376. Notice and hearing.

The Neighborhood Inspection Division Officer shall notify each owner, tenant and any other person know to have a property interest in the real estate upon which such structure is located, that:

- (a) The structure is a public nuisance threatening to the health, safety, or welfare of the public which must be

- removed and the ground upon which it stands leveled;
- (b) Action must be taken by the owner within a period of time set by the officer;
 - (c) If the structure is not removed and the ground leveled within such time period, the matter of its removal will be heard, by the Board of Health on a date stated in the notice.
 - (d) If an owner or other person with a property interest wishes to contest the Neighborhood Inspection Division officer's determination or to otherwise contest the intended action at the hearing, the person must file a written statement with the city clerk within five days of receipt of the notice, setting forth the reasons why the action should not be ordered by the Board of Health. The city clerk shall distribute this filing to the Board of Health, the city manager, and the city attorney before the date of such hearing. Failure to file a statement shall be deemed a waiver of the right to present evidence in opposition to the Neighborhood Inspection Division officer's determination, or to otherwise contest such action.
 - (e) If an owner or person with a property interest in the premises cannot be found before the Board of Health meeting at which the action is to be considered, an affidavit shall be presented at that meeting, completed by the person who attempted to locate such person, describing the efforts made. If the Board of Health determines that such efforts to locate the legal interest holders were sufficient it will proceed with the hearing.
 - (f) If the Board of Health finds that a public nuisance exists and confirms the action of the Neighborhood Inspection Division Officer, it may:
 - (1) Order prompt demolition, removal and the leveling of the property and direct that all costs attendant to the action, including administrative costs, be either assessed against the property or collected from the owner thereof;
 - (2) Extend the time for the owner to demolish and remove the structure and level the property;
 - (3) Direct that the legal department file an action in district court to secure an order directing the abatement of the nuisance; or
 - (4) Determine that such property should not be demolished, and direct such other action as it finds appropriate.

Sec. 60-377. Certification of costs.

- (a) When action has been taken pursuant to section 26-630 or 26-631 the costs of the action shall be reported to the Board of Health.
- (b) If such costs are to be certified to the county treasurer for assessment against the property, notice of the hearing on such proposed action and the council meeting at which it is to be taken shall be given to the owner of the property, and after such hearing the Board of Health may certify such costs to the county treasurer.
- (c) If such costs are to be collected from the owner of the property, upon receipt of advice of such costs the legal department shall commence the appropriate action.

Secs. 60-378--60-449. Reserved.

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

FORM APPROVED:

David L. Phillips, 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. 05-1004), passed by the City Council of said City at a meeting held April 25, 2005 signed by the Mayor on April 25, 2005 and published as provided by law in the Business Record on May 9, 2005 Authorized by Publication Order No.4590.

Diane Rauh, City Clerk

