

ORDINANCE NO. 14,501

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 14,432 passed April 25, 2005 by amending Sections 60-2, 60-5, 60-6, 60-54, 60-55, 60-56, 60-57, 60-85, 60-86, 60-87, 60-88, 60-101, 60-102, 60-104, 60-106, 60-107, 60-108, 60-120, 60-121, 60-124, 60-126, 60-127, 60-132, 60-145, 60-202, 60-309, and 60-377, relating to the housing code to implement a new state law permitting late payment penalty and interest assessment of delinquent costs, to update various provisions and definitions, and to clarify the appeal process",

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, and amended by Ordinance No. 14,432 passed April 25, 2005, is hereby amended by amending Sections 60-2, 60-5, 60-6, 60-54, 60-55, 60-56, 60-57, 60-85, 60-86, 60-87, 60-88, 60-101, 60-102, 60-104, 60-106, 60-107, 60-108, 60-120, 60-121, 60-124, 60-126, 60-127, 60-132, 60-145, 60-202, 60-309, and 60-377, relating to the housing code to implement a new state law permitting late payment penalty and interest assessment of delinquent costs, to update various provisions and definitions, and to clarify the appeal process as follows:

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 "60-" 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. 60-5. 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 Article III. Any structure that was in compliance on the day previous to the adoption of this code will be allowed to remain.

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.

Cost: All inspection fees, re-inspection fees, fines, civil penalties, eviction costs, demolition costs, administrative costs and legal costs incurred by the Neighborhood Inspection Division in the enforcement of this article.

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/her 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 Chapter, except Article III, means the holder of legal title or contract purchaser of record.

Owner: For purposes of Article III, 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 over the age of one year, 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. 60-54. 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 section 60-55 and section 60-56 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 60-52 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 within

this time because of weather constraints or extraordinary circumstances 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 60-54 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. 60-85. 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 60-56(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.
 - (6) Collect costs as set out in § 60-88 of 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 to 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 60-86.

Sec. 60-88. Collection of costs.

All inspection fees, reinspection fees, fines, civil penalties, eviction costs, 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. Prior to filing an assessment for the collection of costs billed under Article I of this Chapter the owner shall be given a notice of right to an administrative hearing regarding the validity of the assessment.

Sec. 60-101. Duties.

The Housing Appeals Board shall:

- (1) Hold bimonthly hearings of appeals filed with the Neighborhood Inspection Division under section 60-102 and concerning properties referred to the board by the city council or Neighborhood Inspection Division;
- (2) Decide whether to grant variances under section 60-106;
- (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 when such action is deemed necessary and appropriate due to failure to comply or failure to appear before the Housing Appeals Board for a scheduled hearing.
- (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.
- (7) Hear appeals regarding costs assessed under Article I of this Chapter.

Sec. 60-102. Appeals process.

- (1) Appeal of a cited violation.
 - (a) Any owner objecting to a violation cited in the inspection 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.

(2) Assessment of costs.

- (a) The city may charge the owner of real property a late payment fee of twenty-five dollars and may add interest up to 1 $\frac{1}{2}$ % per month if costs imposed under Article I are not paid within thirty days of the date due.
- (b) The city shall send a notice of the late payment costs to such owner by first class mail to the owner's personal or business mailing address. The late payment fee and interest shall not accrue if such owner files an appeal with the city.

- (c) Any owner objecting to the collection of costs by assessment may file a written request for a hearing before the Housing Appeals Board. The appeal shall be filed within ten days from the date of the notice of late payment. An untimely appeal shall not be accepted, unless in the discretion of the Neighborhood Inspection Officer good cause is shown for the untimely filing.
- (d) The Neighborhood Inspection Officer shall notify the appellant and all board members of the date, time and location of the hearing.
- (e) Any unpaid costs and interest shall constitute a lien on the real property and may be collected in the same manner as a property tax. Before a lien is filed, the city shall send a notice of intent to file a lien to the owner of the real property by first class mail to such owner's personal or business mailing address.

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, by an action against the real property or by an assessment in the manner same as property tax against the real estate. 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. 60-106. Power to grant variances.

Upon application and after a hearing as provided in section 60-103, 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 60-56 and proceed to a hearing as set forth in sections 60-103 and 60-104.

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 60-54 shall be charged for such inspections.

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 60-127.
- (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 60-127 exterior 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. 60-124. Habitable space.

No area shall be used as a habitable space, 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 60-132(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 VENTILATION of the International Property Maintenance code.

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 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. One and two family dwellings with porches, balconies or raised floor surfaces located more than 30 inches above the floor or below grade shall have guards not less than 36 inches in height. Multiple family dwellings with 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. 60-132. 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) 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 uninhabitable 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.
- (i) Combustible materials shall not be stored in furnace rooms or under stairways unless the stairway is protected by a one-hour fire separation.
- (j) Charcoal burners and open flame cooking devices, which produce ashes or embers shall not be operated on combustible balconies or within 10 feet of combustible construction with the exception of:
 - 1. One and two family dwellings; or
 - 2. Where buildings and decks are protected by an automatic sprinkler system; or
 - 3. The cooking device is an LP-gas burner connected to (one) 20 pound LP gas container.

Sec. 60-145. Rooming houses and dormitories.

The 2000 International Property Maintenance Code, except for sections deleted in section 60-3, shall apply to roominghouses, rooming units, shelters, dormitories and dormitory rooms, as well as to dwellings and dwelling units.

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 60-201.
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. 60-309. 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 60-310 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. 60-377. Certification of costs.

- (a) When action has been taken pursuant to section 60-375 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.

Section 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

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. 05-2477), passed by the City Council of said City at a meeting held October 10, 2005 signed by the Mayor on

October 10, 2005 and published as provided by law in the Business Record on October 24, 2005 Authorized by Publication Order No. 4959.

Diane Rauh, City Clerk