

ORDINANCE NO. 15,746

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Sections 60-2, 60-3, 60-5, 60-7, 60-8, 60-19, 60-24, 60-25, 60-30, 60-31, 60-32, 60-34, 60- 35, 60-42, 60-50, 60-61, 60-64, 60-65, 60-67, 60-70, 60-100, 60-126, 60-130, 60-132, 60-136, 60- 137, 60-144, 60-170, 60-190, 60-191, 60-192, 60-193, 60-194, 60-196, 60- 197, 60- 198, 60-199, 60-206, 60-207, 60-208, and adds and enacts new Sections 60- 200 and 60-209, relating to the Housing 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, as heretofore amended, is hereby amended by amending Sections 60-2, 60-3, 60-5, 60-7, 60-8, 60-19, 60-24, 60-25, 60-30, 60-31, 60-32, 60-34, 60-35, 60-42, 60-50, 60-61, 60-64, 60-65, 60-67, 60-70, 60-100, 60-126, 60-130, 60-132, 60-136, 60-137, 60-144, 60-170, 60-190, 60-191, 60-192, 60-193, 60-194, 60-196, 60-197, 60-198, 60- 199, 60- 206, 60-207, 60-208, and adds and enacts new Sections 60-200 and 60-209, relating to the Housing Code, as follows:

Sec. 60-2. Scope.

The provisions of this chapter shall apply to all existing residential and nonresidential structures, mobile homes, and all existing premises, and the maintenance, repair, equipment, use, and occupancy of all residential rental buildings, accessory structures, and premises now in existence or hereafter constructed, rehabilitated, renovated, or converted to residential use within the corporate limits, including but not limited to single and two-family dwellings, multiple family dwellings, common areas, rooming houses, rooming units, boardinghouses, homeless shelters, dormitories and dormitory rooms. These provisions shall constitute the requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, a reasonable level of safety from fire and other hazards for a reasonable level of sanitary maintenance and for a workmanlike level of continued property maintenance to maintain and improve the city's housing stock.

Sec. 60-3. Intent.

This chapter shall be interpreted to ensure public health, safety, and welfare as they are affected by the occupancy and maintenance of residential structures and premises occupied, and/or under notice of violation, as rental units to require structures to be maintained in a good condition using a workmanlike level of maintenance so as to stabilize and improve the housing stock of the City of Des Moines. Existing structures that do not comply with these provisions shall be altered or repaired to provide the level of workmanship, health and safety required herein. Further, the chapter shall be interpreted to require all structures to be maintained in a habitable condition.

Sec. 60-5. Deletions.

The following sections and/or references are hereby deleted from the 2015 International Property Maintenance Code, and are of no force or effect in this chapter:

- (1) Section 107.1, Notice to Person Responsible;
- (2) Section 107.2, Form;
- (3) Section 107.3, Method of Service;
- (4) Section 107.4. Unauthorized tampering;
- (5) Section 107.5. Penalties;
- (6) Section 107.6. Transfer of Ownership;
- (7) Section 108.4, Placarding;
- (8) Section 111.2, Membership of the Board;
- (9) Section 111.3, Notice of Meeting;
- (10) Section 307.1, General; and
- (11) The International Property Maintenance Code shall have no force and effect to the following: owner-occupied structures, housekeeping units, nonresidential occupancies, and hotels. However, the IPMC shall be of full force and effect as it relates to any and all properties deemed a public nuisance under this chapter and to any and all properties under article III.

Definitions in this article, which differ from the IPMC, shall control.

60-7. Powers

- (a) The administrator is hereby authorized and directed to enforce the provisions of this chapter. The administrator shall have the authority to render interpretations of this chapter and to adopt policies and procedures to clarify the application of the provisions. Such interpretations and polices shall be with the intent and purpose as set out in this chapter. Such policies and procedures shall not have the effect of waiving requirements specifically provided in this chapter.
- (b) The administrator shall make all of the required inspections, or shall accept reports of inspections by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual.

- (c) The administrator is authorized to engage such expert opinion(s) as deemed necessary to report upon unusual technical issues that arise with the assistance of the building official, subject to the approval of the appointing authority.
- (d) The administrator shall keep and maintain all records of inspections, certificates, extensions, housing appeals board actions, fines, variances, modifications, and all other records maintained by the division.
- (e) The administrator is authorized to enter into renovation agreements and agreements to extend time for compliance with this chapter.

60-8. Right of entry.

The administrator is authorized to enter at reasonable times onto and into open unobstructed property and structures to inspect, and a property owner or occupant is required to allow such inspection. If entry onto real estate for the purposes described in this chapter is refused, the administrator may pursue a municipal infraction and/or obtain an administrative search warrant as provided by law to gain entry onto the real estate for the purpose of inspection or otherwise as provided by law.

Sec. 60-19. 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:

Owner, for purposes of this chapter, except article III, means the holder of legal title or contract purchaser of record of the real estate.

ARTICLE II. RENTAL PROPERTY MAINTENANCE CODE

DIVISION 1

Subdivision I. Powers, Duties and Enforcement

Sec. 60-24. General.

The administrator shall cause inspections to be made to determine the condition of dwellings, rental dwellings, dwelling units, common areas, rooming houses, rooming units, dormitories, mobile homes, similar dwellings, accessory structures, and premises located within the corporate limits, and may issue notices as provided in this article.

Sec. 60-25. Exceptions.

The following are exempt from this Article:

- (a) Buildings, structures, and uses owned, licensed, and/or operated by any governmental unit or governmental agency.
- (b) Single-family dwellings occupied by the owner(s), as defined in this chapter, or members of the owner's nuclear family. The owner(s) must register the names of the nuclear family members who reside in the dwelling with the administrator of the neighborhood inspection zoning division (hereinafter known as the "division") every (3) three years or notify the division if there is a change in occupancy when it occurs.
- (c) A duplex, where at least one of the units of which is occupied by the owner(s), as defined in this article, and the other unit is occupied by a member of that owner's nuclear family, as defined by this chapter.
- (d) Nonresidential occupancies, and hotels.
- (e) Residential structures in which ownership passes to a governmental unit.
- (f) Where a nonresidential business or activity or a state-licensed or state-approved use occupies a portion of the 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.

Sec. 60-30. Rental Certificate required.

No owner(s) shall rent, let, lease, or otherwise allow the occupancy of any dwelling, mobile home, dwelling unit, or rooming unit unless that owner(s) holds a valid rental certificate for the rental property.

Sec. 60-31. Required Owner(s) or Authorized Management Agent information.

- (a) Owner(s) of residential rental property in the city who reside in Polk County or any county contiguous thereto shall provide the administrator with a physical address, email address, tax identification number and telephone numbers.
- (b) Owner(s) of residential rental property located in the city who reside outside Polk County or any contiguous county shall provide the administrator with the name physical addresses, email address, tax identification number, and telephone number 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 the 'authorized management agent' responsible for maintenance of the property and for receiving notice and service of process.

Sec. 60-32. Application for rental certificate.

- (a) At least thirty (30) days prior to initial occupancy as a rental property, the owner(s) of a new rental property shall apply to the division for inspection of the structure and all units therein. The rental property shall not be occupied without first obtaining a rental certificate.
- (b) Prior to the renewal inspection of a structure, the division will send the property owner(s), as found on the Polk County or Warren County assessor's office a notice of expiration and application update that shall be signed and returned. The notice will

include the expiration date of the current certificate and pertinent information for contacting the division. Failure by the division to send the notice of expiration does not eliminate the obligation of the owner(s) to submit an application and renew the certificate.

- (c) The owner(s) of the property shall be required to sign and return the application, which will include the information required in this article.
- (d) If this application is not returned and/or is incomplete, a research fee will be charged in the amount set forth in the schedule of fees adopted by the city council by resolution.
- (e) It is the responsibility of the owner(s) or authorized management agent to contact the division to set the date and time of all inspections.

Sec. 60-34. Renovation Agreement.

Any maintenance items which cannot be completed within this time because of weather constraints or extraordinary circumstances not of the owner(s) or authorized management agents making or are beyond the owner's or authorized management agent's control they may request an extension of time.

- (1) An owner(s) or authorized management agent may make a written request accompanied by the fee set forth in the schedule of fees for an extension that is specific to the structure or premise and must show that:
 - (a) Strict compliance with this chapter is impractical;
 - (b) The extension does not violate the intent and purpose of the Municipal Code; and
 - (c) Such modification does not endanger the life, health, or safety of the occupants or the integrity of the structure.
- (2) At the administrator's discretion, proof of financial ability to complete the repair(s) may be requested and must be provided by the owner(s) or authorized management agent prior to approval.
- (3) Extensions of time will be entered into by the owner(s) or authorized management agent and the administrator through an executed renovation agreement.
- (4) Upon execution of a renovation agreement, a temporary rental certificate will be issued which will expire upon the date set for completion of the repairs as set out in the agreement.
- (5) An owner(s) or authorized management agent may appeal a denial of an extension to the housing appeals board.

Sec. 60-35. Compliance and rental certificate.

- (a) Upon compliance, the division shall issue a rental certificate to the owner(s) or authorized management agent accompanied by a bill for all fees owed.
 - (1) Rental inspection fees and re-inspection fees will be charged in the amount set forth in the schedule of fees adopted by the city council by resolution.
 - (2) Costs due for fees, fines, penalties and costs imposed upon the owner in the enforcement shall be payable within thirty (30) days of the date of billing and if

unpaid will be collected as a special assessment, personal judgment, or any other collection measure deemed appropriate.

(3) Structures referred to the legal department for prosecution will be inspected as necessary to enforce the code and associated costs, fees, fines, and penalties will be billed as set out in the schedule of fees adopted by the city council by resolution.

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

- (1) The owner(s) name(s);
- (2) The name of the authorized management agent;
- (3) Contact information for the owner(s) or the authorized management agent;
- (4) The local address and type of structure;
- (5) The number of units;
- (6) The date of inspection;
- (7) The date of issuance; and
- (8) The expiration date.

(c) Certificates will be issued for the following periods:

LICENSE CATEGORY I	
1 or 2 units — no violations on first inspection	Certificate length 3.5 years
3 plus units — no violations on first inspection	Certificate length 2.5 years
1. Must have a valid application on file prior to inspection; 2. Must have had no founded maintenance complaints since the last inspection; 3. Must have no outstanding fees due or billings due the division for the property; 4. Must be current on property taxes and special assessments due the division for the property; and 5. Must have had no nuisance clean ups or impounds since the last renewal certificate was issued.	

LICENSE CATEGORY II	
1 or 2 units Not more than 8 violations per unit	Certificate length 2.5 years
3 to 12 units—violations on renewal or initial not more than 1.5 violations per unit and common areas	Certificate length 1.5 years
13 plus units— violations on renewal or initial not more than 1 per unit and common areas	Certificate length 1.5 years

1. Must have a valid application on file before issuance of the certificate;
2. Must have had no more than one founded maintenance complaints since the last inspection;
3. Must have no outstanding fees due the division for the property; and
4. Must be current on taxes and special assessments due the division for the property.

LICENSE CATEGORY III	
1 to 2 units—more than 8 violations on renewal or initial or HAB referral	Certificate length 1.5 years
3 through 12 units—more than 1.5 violations per unit per building and common areas on renewal or initial or HAB referral	Certificate length 9 months
13 plus units—more than 1 violation per unit per building and common areas on renewal or initial or HAB referral	Certificate length 9 months

- (d) A current rental certificate issued under this article shall not be invalidated by sale or transfer of the property.
- (e) The owner(s) of a multiple dwelling unit shall display a copy of the rental certificate in a common hallway of each building or in the on-site management office. The owner(s) of single-family and duplex dwellings must provide a copy of the rental certificate upon request.
- (f) Newly constructed or renovated rental structures issued a certificate of occupancy will be required to make application for a rental certificate, 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.
 - (1) Residential apartment buildings will be issued a rental certificate valid for 2.5 years.
 - (2) Single-family dwellings, duplex structures, mobile homes, condominiums, and townhomes will be issued a rental certificate valid for 3.5 years.
 - (3) Thereafter applications and re-inspections will occur in accordance with this article.

Sec. 60-42. Appeals.

- (a) *Appeal rights.* Any person directly affected by a decision of the administrator, issued under this chapter shall have the right to appeal to the housing appeals board provided that written application is filed within ten (10) days after the date the decision or order was mailed accompanied by payment of a filing fee charged in the amount set forth in the schedule of fees adopted by the city council by resolution. An application for appeal shall be based on a claim that:
 - (1) The true intent of this chapter or the rules legally adopted thereunder have been incorrectly interpreted;
 - (2) The provision of this chapter do not fully apply; or
 - (3) The requirement of this chapter are adequately satisfied by other means.
- (b) *Appeal of cited violation.* Any owner(s) and/or authorized management agent objecting to a violation cited in the inspection notice may file a written appeal with the division requesting a hearing before the housing appeals board. A written appeal shall be filed within ten (10) days of the date of the inspection notice accompanied by payment of a filing fee charged in the amount set forth in the schedule of fees adopted by the city council by resolution. An appeal objecting to a violation cited in an inspection notice shall:
 - (1) State those violations that are being contested; and
 - (2) The reasons for contesting the stated violations.The filing fee shall be refunded if the board finds that the objection is valid and grants the appeal.
- (c) *Variance.* Any owner(s) and/or authorized management agent requesting a variance may file a written request with the division requesting a hearing before the housing appeals board. Requests for variances of fire safety requirements shall not be heard. A written request shall be accompanied by payment of a filing fee charged in the amount set forth in the schedule of fees adopted by the city council by resolution.
 - (1) An appeal for a variance must:
 - a. Set out the code requirement from which the variance is sought;
 - b. Detail what effect the variance will have in the health and safety of the occupants and the integrity of the structure; and
 - c. Explain what effect the variance would have on the maintenance of the premise or building.
 - (2) A variance will be granted if the owner(s) can prove:
 - a. Because of the design or construction of the structure, strict compliance would cause undue hardship;
 - b. Strict compliance with such section would be arbitrary; and
 - c. A variance would be in harmony with the intended spirit and general purpose of this chapter to secure the public health, safety, and welfare.
 - (3) The housing appeals board may set reasonable conditions and safeguards to promote the public health, safety, and welfare when granting a variance.
 - (4) The administrator may request the revocation of a variance at any time and the housing appeals board may revoke a variance 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.

- (5) Before revoking a variance the administrator shall notify the owner(s) or authorized management agent of the reason for the requested revocation and the date of the hearing.
- (d) *Appeal denial of a modification, alternative material, method or equipment or renovation agreement.* An appeal of a denial by the administrator of a request for modification, request for use of an alternative material, method or equipment or a renovation agreement may be filed by an owner(s) or authorized management agent within ten (10) days of the denial and shall be accompanied by payment of a nonrefundable filing fee charged in the amount set forth in the schedule of fees adopted by the city council by resolution. An appeal of a denial shall include:
- (1) The code requirement for which the modification, request for use of an alternative material, method or equipment or a renovation agreement is sought;
 - (2) Details of the reason(s) for the requested modification, request for use of an alternative material, method or equipment or a renovation agreement;
 - (3) What affect the modification, request for use of an alternative material, method or equipment, or a renovation agreement will have on the health and safety of the occupants;
 - (4) What affect the modification, request for use of an alternative material, method or equipment, or a renovation agreement will have on the ongoing maintenance of the premise or structure; and
 - (5) The burden is on the owner(s) or authorized management agent to prove that a modification, request for use of an alternative material, method or equipment, or a renovation agreement outweighs any resulting detriment to the public health, safety, and welfare and ongoing maintenance of the building.
- (e) *Referral of owner(s) or authorized management agent by the administrator:*
- (1) An owner(s) or authorized management agent shall be referred to the housing appeals board for failure to comply with an inspection notice.
 - (2) The owner(s) shall be charged an administrative fee in the amount set forth in the schedule of fees adopted by the city council by resolution.
 - (3) The division shall send notice of the hearing at least ten (10) days before the next housing appeals board meeting.
 - (4) Final inspections to determine compliance will be conducted by the division no later than seven (7) days before the scheduled hearing.
 - (5) If an owner(s) or authorized management agent referred to the housing appeals board has brought the structure(s) into compliance prior to that board meeting, they shall be charged a fee in the amount set forth in the schedule of fees adopted by the city council by resolution.
 - (6) If an owner(s) or authorized management agent fails to appear before the housing appeals board, the property will be referred to the legal division for legal action and the full penalty fine shall be imposed for failure to timely correct the violations.
- (f) *Appeal of amount of a penalty fine or pending assessment.*

- (1) An owner(s) or authorized management agent may appeal the amount of a penalty fine within (10) days of the issuance of a rental certificate, issuance of an invoice for costs due, or notice of intent to assess costs due.
- (2) The appeal must be made in writing to the division and be accompanied by the application fee as set out in the schedule of fees adopted the city council.

Sec. 60-50. Notice of sale of rental property.

- (a) Every owner(s) of a rental property shall give notice in writing to the administrator within two business days after closing when the rental property is transferred. This notice shall include the name and address of the buyer. The notice shall identify:
 - (1) The address of the affected property;
 - (2) The name and address of all parties named in the transfer and the interest(s) in the property conveyed or received by each party;
 - (3) The buyer shall also provide a copy of the recorded deed, real estate contract, or memorandum of contract recorded with the county recorder pursuant to state law, within ten (10) days of recording; and
 - (4) The ownership records and responsibility for the care and upkeep of the real estate will remain the seller's responsibility until the Division has a copy recorded deed or contract transferring the real estate.
- (b) A seller of a rental property shall inform the prospective buyer of the following at least fourteen (14) days prior to the closing:
 - (1) Current status of the rental certificate;
 - (2) Any outstanding notice regarding violations of this article; and
 - (3) The existence of any court or administrative proceeding which pertains to violations of this article, stating the case numbers and names of all parties to the proceedings.
- (c) If a property remains a rental property after a transfer, it shall remain subject to any active notice of violation previously issued under this article and the violations must be abated so as to bring the property into compliance with this article.

Sec. 60-61. Requirements.

The owner(s) or authorized management agent shall maintain the structures and exterior property and premises in compliance with the requirements in this article and any code as adopted and referenced in the Municipal Code. A person shall not permit another person to occupy premises which are not in a safe and sanitary 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.

Sec. 60-64. Grading and drainage.

All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water. All properties shall have positive drainage away from foundation or mobile home.

Exception: Approved retention areas and reservoirs.

Sec. 60-65. 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.

- (1) A defective condition exists when it exhibits one or more of the following characteristics:
 - a. Vertical separations equal to three-fourth inch (3/4") or more;
 - b. Horizontal separations equal to three-fourth inch (3/4") or more;
 - c. Holes or depressions equal to three-fourth inch (3/4") or more;
 - d. Spalling over fifty percent (50%) of a single square or panel of sidewalk with one or more depressions equal to one-half inch (1/2") or more;
 - e. A single square or panel of sidewalk cracked in such a manner that no part thereof has a piece greater than one (1) square foot, or is cracked in such a manner that it constitutes danger or potential danger to the public;
 - f. A sidewalk with any part thereof missing to the full depth;
 - g. A deviation on the staked and constructed grade equal to three-fourth inch (3/4") or more;
 - h. Covered in whole or in part with weeds or other plants, garbage, junk, rubbish, debris, solid waste, bird or animal droppings or any nuisances, obstructions or hazards which makes or tends to make pedestrian travel either dangerous or impractical.
- (2) Gravel drives or parking areas must be maintained with a surface area consisting of a uniform layer of gravel evenly distributed, and must be free of bare spots, ruts, and vegetation. The consistency of the surface must be tightly bound and consistently graded. All defects must be repaired with clean fill material consistent with the existing drive or parking area that does not contain dirt, sticks, construction debris or other foreign material.

Sec. 60-67. Rodent harborage.

All structures, exterior property and premises 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 re-infestation.

Sec. 60-70. Motor vehicles.

Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept, or stored on any premises, and no vehicle shall at any time be in a state of

major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless inside an approved spray booth.

Sec. 60-100. 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(s) of a structure containing a rooming house, a dormitory, two or more dwelling units, shall maintain, in a clean and sanitary condition, the shared, public, or common areas of the structure and premises.

Sec. 60-126. General.

Plumbing fixtures and connections to an approved water source shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures and connections are designed. Plumbing fixtures and connections shall be maintained in a safe, sanitary and functional conditions. All plumbing repairs and or replacement of plumbing components must be installed in accordance with the Uniform Plumbing Code as adopted by the Municipal Code.

Sec. 60-130. Proper connection.

Every mobile home, sink, lavatory, bathtub, shower, water closet, or other plumbing fixture shall be properly connected to either a public water system or a private water system tested in accordance with state law. All mobile homes, kitchen sinks, lavatories, laundry facilities, bathtubs, and showers shall be supplied with hot and cold running water in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

Sec. 60-132. Plumbing system hazards.

Where it is found that a plumbing system in a structure or its connection constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, deterioration or damage or for similar reason, the Administrator shall require the defects to be corrected to eliminate the hazard.

Sec. 60-136. General.

Electrical equipment, connections, wiring and appliances shall be properly installed and maintained in a safe and approved manner with required permits.

Sec. 60-137. Facilities required.

Every occupied rental building and rental mobile home shall be provided with an electrical system and connection in compliance with the requirements of this chapter.

Sec. 60-144. Electrical Hazard.

Where it is found that the electrical service in, or connecting to, 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 administrator shall require the defects to be corrected eliminate the hazards.

Sec. 60-170. Knockout panels.

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 exit way from any unit. No new installations or repair of existing knockout panels shall be permitted.

Sec. 60-190. General.

When a structure, dwelling, mobile home, equipment, or premise is found by the administrator to be unsafe or dangerous, or when a structure, dwelling, mobile home, or equipment, or premise is found unfit for human occupancy, or is found unlawful, such structure, dwelling, mobile home, equipment, or premise shall be deemed a public nuisance pursuant to the provisions of this chapter.

Sec. 60-191. Vacation and abatement.

Any structure, dwelling, mobile home, equipment, or premise declared to be a public nuisance and unfit for human habitation or use, and so designated by the administrator, shall immediately be vacated and the nuisance shall be abated. The owner(s) shall be responsible for the vacation and abatement of the nuisance at such owner's expense. If not complied by such owner(s), then the nuisance may be abated by the city at the owner's expense. As indicated by section 60-19, the owner of land upon which a mobile home sits is a responsible owner in the event that mobile home is declared to be a public nuisance. Both the owner of the mobile home and the owner of the land upon which the mobile home sits shall be responsible for vacation and abatement of the public nuisance.

Sec. 60-192. Dangerous structure or premise.

For the purpose of this article, any structure or premise that has any or all of the conditions or defects described below shall be considered dangerous and a public nuisance:

- (1) Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings.
- (2) The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn or loose, torn or otherwise unsafe so as to not provide safe and adequate means of egress.
- (3) Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
- (4) Any portion of a building, or any member, appurtenance or ornamentation on the exterior of the structure that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
- (5) The building or structure, or part of a structure, because of dilapidation, deterioration, decay, faulty construction, the removal of movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
- (6) The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.
- (7) The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
- (8) Any building or structure that has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure or as provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
- (9) A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise is determined by the administrator to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness of disease.
- (10) Any building or structure, because of lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the administrator to be a threat to life or health.
- (11) Any portion of a building or structure remaining on site after the demolition or destruction of the building or structure.

- (12) Whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

Sec. 60-193. Structure to be placarded.

At the time a structure or premises is declared to be a public nuisance, the administrator shall cause to be posted at each entrance to the premises, the structure or portion thereof a notice to read "**DANGER — PUBLIC NUISANCE UNSAFE OR UNFIT FOR HUMAN OCCUPANCY. ADMINISTRATOR NEIGHBORHOOD INSPECTION ZONING 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. 60-194. Defacing and removing placard.

No person shall deface or remove the placard, except as authorized by the administrator.

Sec. 60-196. Public nuisance notice procedure.

- (a) The owner(s) 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, lot number;
 - (3) The name of the occupant(s), if known;
 - (4) A description of the conditions that constitute the nuisance and the remedial action required to abate the nuisance;
 - (5) A deadline for abatement of the nuisance;
 - (6) A statement of the right of the division to collect unpaid costs by personal judgment, collection, or assessment to be collected as a property tax.
- (c) The notice shall be served personally or by certified mail, return receipt requested.

Sec. 60-197. Referral to city council.

Any and all structures and/or accessory structures determined to be public nuisances under this Article, which are not brought into compliance in the time required and against which no emergency procedure for removal has been undertaken pursuant to this article shall be referred to the city council.

- (1) If the city council finds that a public nuisance exists and confirms the action of the administrator, it shall direct the legal division to file an action for nuisance abatement in district court.
- (2) If the city council finds that the residential structure is not a public nuisance, it shall revoke the determination of the administrator and direct such other action as it finds appropriate.
- (3) If the city abates the nuisance, the city council shall direct the abatement costs to be collected as a personal judgment against the current owner(s) of the structure

and the real estate 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.

- (4) City council authorizes the administrator to enter into renovation agreements and extensions of time, including requesting the legal department to set aside a judgment(s) or dismiss a pending legal action(s), where this is necessary, and when it is deemed that the structure(s) and/or accessory structure(s) can be successfully renovated.

Sec. 60-198. Service by public utilities.

It shall be unlawful for any electric, gas, water, or other utility company in the city to provide service to any building, structure and/or accessory structure that the administrator has declared to be a public nuisance.

Sec. 60-199. Approval for occupancy.

The owner of a building, structure and/or accessory structure declared to be a public nuisance shall not allow it to be occupied or used until approval is secured from the administrator.

Sec. 60-200. Fees.

- (a) Inspection fees and re-inspection fees and all other cost associate with the action will be charged in the amount set forth in the schedule of fees adopted by the city council by resolution.
- (b) Costs due for fees, fines, penalties and costs imposed upon the owner in the enforcement of this article shall be payable within thirty (30) days of the date of billing and if unpaid will be collected as a special assessment, personal judgment, or any other collection measure deemed appropriate.
- (c) Structures referred to the legal department for prosecution will be inspected as necessary to enforce the code and associated costs, fees, fines, and penalties will be billed as set out in the schedule of fees adopted by the city council by resolution.

Sec. 60-206. General.

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

Sec. 60-207. Notice of hearing and appeal.

- (a) The administrator shall notify the owner(s) of the real estate upon which such structure is located, that:

- (1) The structure or premises is a public nuisance threat to the health, safety, or welfare of the public which must be removed and the ground(s) upon which it stands leveled; and
 - (2) The matter of its removal will be heard by the city council on a date stated in the notice.
- (b) If the owner(s) wishes to contest the determination or to otherwise contest the intended action at the hearing:
- (1) The person must file a written statement with the city clerk within five (5) days of receipt of the notice, setting forth the reasons why the action should not be ordered by the city council.
 - (2) The city clerk shall distribute this filing to the administrator, city council, the city manager, and the city attorney before the date of such hearing.
 - (3) Failure to file a statement shall be deemed a waiver of the right to present evidence in opposition to determination, or to otherwise contest such action.
- (c) If the owner(s) cannot be found before the city council 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, and describing the efforts made. If the city council determines that such efforts to locate the legal interest holders were sufficient it will proceed with the hearing.
- (d) If the city council finds that a public nuisance exists and confirms the determination of the administrator, 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 division 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 action as is deemed appropriate.

Sec. 60-208. Fees.

- (a) Inspection fees and re-inspection fees and all other costs associated with the action will be charged in the amount set forth in the schedule of fees adopted by the city council by resolution.
- (b) Structures referred to the legal department for prosecution will be inspected as necessary to enforce the code and associated costs, fees, fines, and penalties will be billed as set out in the schedule of fees adopted by the city council by resolution.

Sec. 60-209. Collection of costs.

- (a) When action has been taken pursuant to the article the costs of the action, if remain unpaid within thirty (30) days of billing, shall be reported to the city council.

- (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(s), and after such hearing the city council may certify such costs to the county treasurer.
- (c) If such costs are to be collected from the owner of the real estate as a personal judgment, upon receipt of advice of such costs the legal division 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:

Jessica D. Spoden, 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. 19- 0220), passed by the City Council of said City at a meeting held February 11, 2019 signed by the Mayor on February 11, 2019 and published and provided by law in the Business Record on March 1, 2019. Authorized by Publication Order No. 10610.

Diane Rauh, City Clerk