



**Roll Call Number**

**Agenda Item Number**

50

**Date** April 21, 2014


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, as heretofore amended, by amending Section 46-74, relating to securing fire-damaged premises after fire event",

presented.

Moved by \_\_\_\_\_ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)

  
Glenna K. Frank  
Assistant City Attorney

(Council Communication No. 14-176)

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| COWNIE         |      |      |      |        |
| COLEMAN        |      |      |      |        |
| GATTO          |      |      |      |        |
| GRAY           |      |      |      |        |
| HENSLEY        |      |      |      |        |
| MAHAFFEY       |      |      |      |        |
| MOORE          |      |      |      |        |
| TOTAL          |      |      |      |        |

MOTION CARRIED

APPROVED

\_\_\_\_\_  
Mayor

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
City Clerk

## ORDINANCE NO. \_\_\_\_\_

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 Section 46-74, relating to securing fire-damaged premises after fire event.

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, by amending Section 46-74 relating to securing fire-damaged premises after fire event, as follows:

**Sec. 46-74. Securing fire-damaged premises ~~within 48 hours~~ after fire event.**

Section 110 of the international fire code is amended by adding a new section 110.5 to read as follows:

**Section 110.5 Securing fire-damaged premises ~~within 48 hours~~ after fire event.**

- (a) The following definitions apply to this section:  
*"Fire event"* means a response by the Des Moines Fire Department to extinguish a fire within a building, dwelling or other structure that commences with the dispatching of fire department resources and concludes with the fire officer in charge terminating the incident.  
*"Fire-damaged structure"* means a building, dwelling or other structure within the corporate limits of the city that has been partially burned during a fire event.  
*"Nuisance"* means injurious or dangerous to public safety, and constituting an emergency requiring immediate abatement pursuant to article VI, chapter 42 of the city code and/or other applicable city code section(s).  
*"Property owner"* means the record titleholder(s) and/or contract purchaser(s) of the real property upon which a fire-damaged structure is located.
- (b) A fire-damaged structure in an unsecured condition may be determined by a designated fire department official, in his or her sole discretion, to constitute a nuisance.
- (c) The designated fire department official may but is not required to give notice to the property owner(s) of such a determination of nuisance requiring immediate abatement, and a hearing regarding the existence of the nuisance pursuant to section 42-358.02(c) of this code may be held if practical under the circumstances, but shall not be required to be held if impractical under the circumstances, prior to abatement of the nuisance by the property owner or the city.
- (d) A fire-damaged structure determined to constitute a nuisance shall be secured by the property owner(s), at the property owner's sole expense, in accordance with this

section and within ~~forty-eight (48) hours of the fire event, unless additional time is requested by the property owner(s) and granted in writing by the time allowed by the designated fire department official, in his or her sole discretion, unless the designated fire official determines that securing of the fire-damaged structure during the fire event is required.~~

- (e) Prior to securing a fire-damaged structure determined to constitute a nuisance, the property owner(s) shall remove or cause to be removed all living beings from such structure.
- (f) The property owner(s) shall secure all windows, doors, and other structural openings of the fire-damaged structure determined to constitute a nuisance to prevent access by unauthorized persons.
- (g) A fire-damaged structure determined to constitute a nuisance which cannot be properly secured from access to the interior by the use of window locks, door locks, padlocks, or other appropriate locking mechanisms, shall be secured by the property owner(s) as follows:
  - (1) Completely enclosing over all structural openings (windows, doors, roof openings) on the exterior of such fire-damaged structure with plywood; or
  - (2) Completely enclosing such fire-damaged structure with a temporary snow fence of not less than forty-eight (48") inches in height; or
  - (3) By any different and/or additional measures set forth in any written notice given by the designated fire department official to the property owner(s).
- (h) If the property owner(s) fails to secure a fire-damaged structure determined to constitute a nuisance in accordance with the requirements of this section, or if the designated fire official determines that securing of the fire-damaged structure during the fire event is required, the fire chief or his or her designee, which designee may include the community development department director or his or her designee, may cause such fire-damaged structure to be secured and assess the costs thereof against the real property upon which such fire-damaged structure is located for collection in the same manner as a property tax, following hearing in accordance with article VI, chapter 42 of the city code and/or other applicable city code sections.
- (i) Property owner(s) shall be joint and severally liable for performing the actions required by this section and for any property assessments arising from failure to perform such actions.

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

FORM APPROVED:

  
 Glenna K. Frank  
 Assistant City Attorney