

Date February 20, 2017

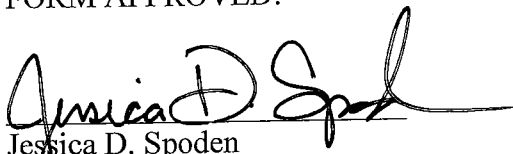
An Ordinance entitled, " AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 15,495 passed June 5, 2000, as heretofore amended, by repealing Chapter 60 thereof, and enacting a new Chapter 60 to provide for the protection of the public health and safety by: adoption of international property maintenance code, public nuisances code, and real estate contract sales inspections",

presented.

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

FORM APPROVED:

(First of three required readings)


 Jessica D. Spoden
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
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

53A

ORDINANCE NO. _____

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 15,495 passed June 5, 2000, as heretofore amended, by repealing Chapter 60 thereof, and enacting a new Chapter 60 to provide for the protection of the public health and safety by: adoption of international property maintenance code, public nuisances code, and real estate contract sales inspections.

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 repealing Chapter 60 thereof, and enacting a new Chapter 60 to provide for the protection of the public health and safety by: adoption of international property maintenance code, public nuisances code, and real estate contract sales inspections, as follows:

CHAPTER 60 HOUSING CODE

ARTICLE I. GENERAL

Sec. 60-1. Title.

This Chapter and all provisions incorporated in this Chapter, by reference or otherwise, shall be known as the Housing Code and hereafter will be referred to as this "Chapter".

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, 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 so as to provide the level of health and safety required herein.

Sec. 60-4. Application of other codes.

- (a) This Chapter shall adopt the International Property Maintenance Code ("IPMC"), 2015 edition, published by the International Code Council and any standard, national, and international codes adopted in the Municipal Code of the City of Des Moines.
- (b) Where the City of Des Moines Municipal Code is the subject of reference in this Chapter, it will be referred to as "the Municipal Code."

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 108.4, Placarding;
- (5) Section 111.2, Membership of the Board;
- (6) Section 111.3, Notice of Meeting;
- (7) Section 307.1, General; and
- (8) 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.
- (9) Definitions of housekeeping unit, operator, sleeping unit, rooming unit and any inspection or enforcement responsibilities imposed by the International Property Maintenance Code regarding such shall be of no force and effect.
- (10) Definition of costs of such demolition or emergency repairs shall be of no force and effect.

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

Sec. 60-6. Amendments and additions.

The remaining sections of this Chapter represent amendments and additions to the requirements contained in any of the referenced codes. In the event of a conflict between any of the provisions contained in any of the referenced codes and this Chapter, the requirements of this Chapter prevail.

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.

60-8. Right of entry.

The Administrator is authorized to enter at reasonable times to inspect. If entry onto real estate for the purposes described in this Chapter is refused, the Administrator may 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.

60-9. Identification. The Administrator shall carry proper identification when inspecting structures or premises in the performance of duties under this Chapter.

60-10. Modifications.

Whenever there are practical difficulties involved in carrying out the provisions of this Chapter, the Administrator shall have the authority to grant modifications for individual cases upon application of the owner(s) or owner's authorized management agent:

- (1) Before granting a modification, the Administrator shall find that:
 - (a) Compliance with a specific code violation relating to the structure or premise would make the strict letter of this code impractical;

- (b) The modification is in compliance with the intent and purpose of the Municipal Code; and
- (c) Such modification does not lessen the health, life, and fire safety requirements or the integrity of the structure.
- (2) An owner(s) or authorized management agent may appeal a denial of a modification to the Housing Appeals Board.

60-11. Alternative materials, methods and equipment.

The provisions of this Chapter are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this Chapter provided that any such alternative has been approved by the Administrator.

- (1) An alternative material or method of construction may be approved where the Administrator finds:
 - (a) The proposed design is satisfactory and complies with the intent of the provisions of this Chapter; and
 - (b) The material and method of work offered is at as least equivalent in quality, strength, effectiveness, fire resistance, durability, and safety of that prescribed in this Chapter.
- (2) The use of used materials that meet the requirements of this Chapter for new materials may be permitted. Materials, equipment, and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested where necessary, placed in good and proper working condition, and approved by the Administrator.
- (3) Materials, equipment, and devices approved by the Administrator shall be constructed and installed in accordance with such approval.
- (4) Where the alternative material, design, or method of construction is not approved, the Administrator shall issue a decision in writing and state the reasons the alternative was not approved.
- (5) An owner(s) or authorized management agent may appeal a denial of an alternative material, method or equipment to the Housing Appeals Board.

60-12. Stop Work Order.

- (a) Whenever the Administrator finds any work regulated by this Chapter is being performed in a manner contrary to the provisions of this Chapter or in a dangerous or unsafe manner, the Administrator is authorized to issue a stop work order.
- (b) A stop work order shall be in writing and shall be posted at the site of the violation(s) and a copy shall also be provided to the owner(s) of the property, to the owner's authorized management agent, and/or to the person doing the work. Upon issuance of a stop work order, the cited work shall cease immediately. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

- 53A
- (c) Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe conditions, shall be subject to enforcement as set out in this Chapter.

Sec. 60-13. Emergency action.

Whenever, in the opinion of the Administrator, there is imminent danger due to an unsafe condition(s), the Administrator may seek authority to have the property vacated and/or may order the necessary work to be done, with or without notice, including, but not limited to, the boarding up of openings, to render such structure temporarily safe whether or not any legal procedure herein described has been instituted; and may cause such other action to be taken as the Administrator deems necessary to meet such emergency.

Sec. 60-14. Costs of emergency actions.

Costs of emergency actions shall be billed to the owner(s) and if unpaid will be collected as a special assessment, personal judgment, or any other collection measure deemed appropriate.

Sec. 60-15. Collection of fees, fines, penalties and costs.

Costs due for fees, fines, penalties and costs imposed upon the owner in the enforcement of this Chapter 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.

Sec. 60-16. Closing streets or sidewalks.

When necessary for public safety, the Administrator shall temporarily close or order closing of structures, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

Sec. 60-17. Civil actions; alternative relief.

- (a) Any person who fails to perform an act required by this Chapter or who commits an act prohibited by this Chapter shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of the Municipal Code.
- (b) Proceeding with an administrative hearing, civil action, or emergency action as authorized in this Chapter does not preclude the city from seeking alternative relief from a court in the same action or as a separate action, including but not limited to an order for abatement, injunctive relief, or vacation of the property.
- (c) In addition to other remedies set forth in this Chapter, when it is determined by the Administrator that a nuisance exists and/or that a person is a habitual violator, the city may file a civil action in the district court seeking an order enjoining the person from further violation of this Chapter on real property owned or controlled by such person or real

property where such person acts as an agent, tenant, or lessee of any residential dwelling, commercial establishment and/or real property within the city. The city may further request that upon entry of the injunction the court allow the city to abate further violations without notice and/or seek an order of contempt.

Sec. 60-18. Ordinance not limiting.

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

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:

Accessory building means a structure on the same lot, separate from, and of a nature customarily incidental and subordinate to the principal residential structure that may be used for, but is not limited to, the storage of equipment, materials, vehicles, and other miscellaneous items of the occupants of the primary dwelling unit(s). Trailers, semi-trailers, tents, motor vehicles, and component parts thereof shall not be considered accessory buildings. A structure which might otherwise be considered an accessory building, but which is connected to the principal residential structure by a breezeway or other extension of the principal residential structure containing a functional roof and floor shall, for the purposes of this Chapter lose its status as an accessory building, become part of the principal residential structure, and shall be subject to all restrictions applicable to a principal residential structure.

Administrator means the administrator of the Neighborhood Inspection Zoning Division ("Division") or his/her designee. The Administrator shall be the authorized representative for the enforcement of this Chapter and for the administration of the Division.

Authorized management agent means any person appointed by the owner(s) who has charge, care, or control of a structure or premises which is let or offered for occupancy. Such person shall be authorized to accept service of communications from the City of Des Moines.

Anchored means secured in a manner that provides positive connection.

Basement means that portion of a building which is partially or completely below grade.

Bathroom means a room containing plumbing fixtures including a bathtub or shower.

Bedroom means any room or space used or intended to be used for sleeping purposes.

Bi-attached means a single-family dwelling unit constructed as two attached units in which each unit extends from the foundation to roof with required fire separation and with open space on at least two sides.

Boardinghouse means a building, other than a hotel, where for compensation meals or lodging and meals are provided for three or more persons.

Cellar means 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 means 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.

53A

Common area means area of common ownership in a building that contains a rental unit and shall be subject to inspection.

Condominium means a single-dwelling unit located within a multi-unit structure where each unit is separately held by deed.

Corporate limits means the City of Des Moines.

Cost means all inspection fees, re-inspection fees, fines, civil penalties, eviction costs, demolition costs, asbestos survey, landfill fees, title searches, mailings, postings, photographs, research fees, copy fees, administrative costs, and legal costs, and any other costs incurred from the enforcement of this Chapter incurred by the Division in the enforcement of this Chapter and for all other fees as set out in the schedule of fees as adopted by the city council.

Detached means a structural element which is physically disconnected from another and that connection is necessary to provide a positive connection.

Deterioration means to weaken, disintegrate, corrode, rust, or decay and lose effectiveness.

Duplex means a building containing two attached dwelling units under the same ownership.

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

Easement means that portion of land or property reserved for present or future use by a person or agency other than the owner(s) of the real estate. The easement shall be permitted to be for use under, on, or above said land or property.

Equipment Support means those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers, or saddles that transmit gravity load, lateral load, and operating load between the equipment and the structure.

Exit means 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 means the open space on the premises and on adjoining property under the control of the owner(s) or authorized management agent of such premises.

Extermination means 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 means any device which utilizes combustible fuel to produce heat for cooking, water heating, or room heating.

Garbage means animal or vegetable waste resulting from the handling, preparation, cooking, and/or consumption of food.

Good condition means no obvious maintenance required with all major components and materials still functional and contributing toward the extended life expectancy of the structure(s) and premise(s).

Good repair means fit for human habitation in accordance with all health codes. Everything operates as it should and the property is clean and well maintained inside and out. There is no wasting or neglect of the property and it is maintained in good condition.

53A

Grade means 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 means 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 means 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.

Historic building means any building or structure that is one or more of the following:

(1) Listed or certified as eligible for listing by the State Historic Preservation Office or the Keeper of the National Register of Historic Places in the National Register of Historic Places;

(2) Designated as historic under an applicable state or local law; or

(3) Certified as a contributing resource within a National Register or state or locally.

Imminent Danger means a condition which could cause serious or life-threatening injury or death at any time.

Infestation means the presence of insects, rats, vermin, or other pests within or contiguous to a structure or premises of insects, rodents vermin or other pests.

Junk means all old or scrap copper, brass, lead, or any other non-ferrous metal; old rope, rags, batteries, paper, trash, rubber debris, waste, used lumber or salvaged wood; dismantled or inoperable vehicles, unsafe vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel, or other old or scrap ferrous material; old discarded glass, tin ware, plastic, or old discarded household goods or hardware; cut brush, including dead or decaying plant material, except a contained compost pile or orderly stacked firewood if cut in lengths less than or equal to four feet and stored at least eighteen (18) inches above the ground surface.

Inoperable motor vehicle means a vehicle which cannot be driven upon the public street for reasons including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

Labeled means equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for specified purpose.

Lead-based paint means 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.

Let for occupancy or let means to permit, provide, or offer possession or occupancy of a dwelling, dwelling unit, duplex, rooming unit, boarding house, building, premise or structure by a person who is not the legal owner(s) of record thereof

Mobile home means any vehicle without motive power and so designed, constructed, or reconstructed as a dwelling unit 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

531
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 means any dwelling containing more than two dwelling units or rooming units. For purposes of this Chapter, 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.

Neglect means the lack of proper maintenance for a building, structure, or premise.

Occupancy means the purpose for which a building or portion thereof is utilize or occupied.

Occupant means any individual living or sleeping in a building, or having possession of a space within a building.

Neighborhood Inspection Zoning Division (hereinafter "Division") means 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.

Nuclear family member means the parent, grandparent, children, and grandchildren.

Openable area means 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 of the real estate who is requesting a rental certificate.

Owner, for the purposes of Article III, means any person, agent, firm or corporation having legal or equitable interest in the dwelling unit(s); or a recorded interest in the official records of the state or county as holding title to the real estate; or otherwise having control of the real estate or dwelling unit(s), including but not limited to the guardian of the estate of any such person, the executor or administrator of the estate of such person who is ordered to take possession or control of the real estate by the court.

Person means an individual, a corporation, a partnership, or any other group acting as a unit.

Pest elimination means the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible material that serve as the food or water; or by other approved pest elimination methods.

Premises means a lot, plot, or parcel of land, easement or public way, including any structure or mobile home thereon.

Public way means any sidewalk, street, alley, right-of-way or similar place of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

Rental building(s) and structure(s) means dwelling(s) and common area(s) which are occupied by one or more persons, none of whom are the owner(s).

Rooming house means a building arranged or occupied for lodging, with or without meals, and not occupied as a one or two-family dwelling.

Rooming unit means 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 means combustible and non-combustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke, and other combustible

53A

materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and other similar material.

Structure means that which is built or constructed or a portion thereof.

Tenant means a person, corporation, partnership or group, not the legal owner(s) of record, occupying a building or portion thereof as a unit.

Toilet room means a room containing a water closet, as defined in the Municipal Code, or urinal but not a bathtub or shower.

Townhome (row houses) means a single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from the foundation to roof and with open space on at least two sides.

Unlawful structure means one found in whole or in part to be occupied by more persons than permitted under this Chapter, or was erected, altered, or occupied contrary to law.

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

Workmanlike means repairs, maintenance work, alterations or installations that are a request, directly or indirectly, by the enforcement of this Chapter which shall be executed and installed in accordance with the manufacturer's instructions and executed in a skilled manner, generally plumb, level, square, in line, undamaged, without marring adjacent work, using compatible materials approved for the use, like in nature and look to remaining material if there is a partial replacement or repair to maintain the structure and premise in good condition.

Secs. 60-20—60-23. Reserved.

ARTICLE II. RESIDENTIAL 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 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) Housekeeping units, 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.

Secs. 60-26—60-29 Reserved.

Subdivision II. Inspections and Notice

Sec. 60-30. Rental Certificate required.

No owner(s) shall rent, let, lease, or otherwise allow the occupancy of any dwelling, 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 addresses, 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) 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.

- (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. 60-33. Inspection, Notice of Violation and Method of Service

- (a) The Administrator shall inspect the primary dwelling unit(s), accessory structure(s) and premise.
- (b) If the Administrator determines that the structure(s) and/or premises are being maintained in violation of this Chapter, the Administrator shall give notice of the violation to the owner(s) or authorized management agent 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) State that all health, safety, and maintenance violations must be corrected within thirty (30) days from receipt of this notice;
 - (5) Advise that if a violation still exists upon re-inspection, the Administrator will suspend a valid rental certificate and refer the owner(s) or authorized management agent the Housing Appeals Board;
 - (6) Advise that upon failure of the owner(s) or authorized management agent to arrange for a re-inspection within thirty (30) days from receipt of the notice, it will be presumed the violations have not been abated and Administrator will suspend a valid rental certificate and refer the owner(s) or authorized management agent to the Housing Appeals Board;
 - (7) Be mailed to the owner(s) of the premises or the authorized management agent designated by the application filed with the Division;
 - (8) Advise of the right to file an appeal of a violation set out in the notice of violation and the amount of the appeal fee; and
 - (9) Include 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.

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 may request an extension of time extension.

- (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;

53A

- (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.
- (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:

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

53A

<u>LICENSE CATEGORY II</u>	
<u>1 or 2 units</u> <u>Not more than 8 violations per unit</u>	<u>Certificate length 2.5 years</u>
<u>3 to 12 units—violations on renewal or initial</u> <u>not more than 1.5 violations per unit</u> <u>and common areas</u>	<u>Certificate length 1.5 years</u>
<u>13 plus units— violations on renewal or initial</u> <u>not more than 1 per unit and common areas</u>	<u>Certificate length 1.5 years</u>
<p>1. <u>Must have a valid application on file before issuance of the certificate;</u> 2. <u>Must have had no more than one founded maintenance complaints since the last inspection;</u> 3. <u>Must have no outstanding fees due the Division for the property; and</u> 4. <u>Must be current on taxes and special assessments due the Division for the property.</u></p>	

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

- (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.

53A

(3) Thereafter applications and re-inspections will occur in accordance with this article.

Secs. 60-36—60-39. Reserved.

DIVISION 2

Subdivision I. Hearings and Appeals

Sec. 60-40. Housing Appeals Board.

- (a) There is established a board known as the Housing Appeals Board (hereinafter "Board").
- (b) The Housing Appeals Board shall consist of not more than seven members; of which not less than three members who are qualified by experience and training to pass on matters pertaining to property maintenance, and one member who has a demonstrated interest in historic preservation. All members shall not be employed by the City of Des Moines. Each member shall serve a three-year term.
- (c) If the City Council by resolution finds that no suitable person with the required qualifications is available for appointment to fill a vacancy on the Housing Appeals Board that has remained open for at least two (2) months, then the City Council may appoint a representative of the general public to fill the vacancy. The member so appointed shall not be reappointed unless the City Council, by resolution, finds that no suitable person with the required qualifications is then available for appointment to the Housing Appeals Board.
- (d) The Housing Appeals Board shall 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.
- (e) Quorum shall be a majority of the appointed members at the time of the meeting; however, quorum shall not be less than three (3) members.

Sec. 60-41. Powers and duties.

The Housing Appeals Board shall:

- (1) Hold monthly hearings of appeals filed with the Administrator under this Article and concerning properties referred to the board by the Administrator.
- (2) Decide whether to grant variances and modifications.
- (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) Impose fines for any violation of this Article in the amount set forth in the schedule of administrative penalties adopted by the City Council by resolution. The Board shall have the authority to impose the maximum fine, a lesser fine, or to waive the fine upon good cause shown.
- (5) Direct that legal action be brought to enforce this Article when such action is deemed necessary.

- (6) Hear appeals of the amount of a penalty fine or assessment of a penalty fine.
- (7) Find that an owner(s) or authorized management agent is a habitual violator. A habitual violator is:
 - (a) An owner(s) or authorized management agent who fails to correct a violation within the time period given by the notice and who has been required to appear before the Housing Appeals Board for such failure three times or more on three separate occasions 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(s) is a habitual violator, an authorized management agent may also be deemed a habitual.
 - (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 the schedule of fees adopted by the City council by resolution. The owner(s) or authorized management agent will be placed on an accelerated inspection schedule by the Board, a category III certificate will be issued for each property. The fees as set forth in the schedule of fees adopted by the City Council by resolution shall be charged for such inspections.
- (8) Make specific recommendations to the City Council regarding matters pertaining to 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.

53A

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;

53A

- (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 benefit 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, if the Board finds in favor of the Administrator.
 - (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. 60-43. Hearing.

At the hearing the appellant and/or a person representing the appellant shall have the opportunity to be heard, the right to call witnesses, and to be represented by counsel. The Housing Appeals Board shall issue a ruling which must be based upon the evidence presented. The Administrator shall keep an accurate record of the proceedings. A copy of the minutes shall be issued to all members of the Housing Appeals Board prior to the next Housing Appeals Board meeting.

Sec. 60-44. Fines.

The Housing Appeals Board may impose a fine for any violation of this Chapter in the amount set forth in the schedule of administrative penalties adopted by the City Council by resolution, including but not limited to the following:

- (1) For each day the owner fails to arrange for an inspection within the time set forth in this Chapter.
- (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 re-inspection 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.

The Housing Appeals Board shall have the authority to impose the maximum fine, a lesser fine, or to waive the fine upon good cause shown.

Sec. 60-45 Housing Appeals Board Notices.

- (a) The Administrator shall notify the appellant and all board members of the date, time, and location of the hearing.
- (b) The Administrator shall send a notice of the decision of the Housing Appeals Board to the owner(s) or authorized management agent including the amount of the fine imposed if any.

Sec. 60-46. Stay upon appeal.

When an appeal is filed under this Article, the Administrator may stay all administrative proceedings regarding the appeal until the appeal is decided, unless a violation appealed from is deemed to be an immediate threat to the health, safety, and welfare of the occupants or public.

Secs. 60-47. — 60-49. Reserved.

Subdivision II. Sale of Real Estate

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.

53A

- (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) It shall be a violation for the owner(s) of any dwelling unit or structure who has received a notice of violation to sell on contract, transfer, lease, or otherwise dispose of such dwelling unit or structure to another until such owner(s) or the owner's authorized management agent shall bring the structure into compliance with the notice of violation as set out in this Article.
- (d) For dwellings and/or structures which have a valid rental certificate, the owner shall:
 - (1) Obtain an inspection prior to any sale on contract, transfer, lease, or other disposition of such dwelling unit or structure to another; and
 - (2) Abate any and all violations resulting from such inspection prior to any disposition of the dwelling or structure.

Secs. 60-51. — 60-59. Reserved.

DIVISION 3

Subdivision I. General Maintenance

Sec. 60-60. General Maintenance.

Equipment, systems, devices, and safeguards required by this Chapter or a previous regulation or code under which the structure or premise was constructed, altered, or repaired shall be maintained in good working order. No owner(s) or authorized management agent, or occupant shall cause any service, facility, equipment or utility that is required under this Article to be removed from, shut off from, or discontinued for any occupied dwelling except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this Chapter are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structure. Except as otherwise specified herein, the owner(s) authorized management agent shall be responsible for the maintenance of buildings and structures and premises. Any structure that was in compliance on the day previous to the adoption of this Chapter will be allowed to remain as legal non-conforming until such time as renovation shall dictate compliance with current codes.

Subdivision II. External Property Areas

Sec. 60-61. Requirements.

The owner(s) or authorized management agent shall maintain the structures and exterior property 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.

53A

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. 60-62. Repairs.

All repairs shall be done in a workmanlike manner and the site shall be maintained in a safe and sanitary condition. All work must be done in accordance with the 2015 International Property Maintenance Code, and any standard, national, and international codes as adopted by the Municipal Code of the City of Des Moines.

Sec. 60-63. 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.

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.

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.

Sec. 60-66. Weeds.

Premises and exterior property, including fence lines, shall be maintained free from weeds or plant growth in excess of 12 inches, and all noxious weeds shall be prohibited. Weed shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided however, this term shall not include cultivated flower beds.

Sec. 60-67. 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 re-infestation.

Sec. 60-68. Exhaust vents.

53A

Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particular wastes directly upon abutting or adjacent public or private property or that of another tenant.

Sec. 60-69. Accessory structures.

All accessory structures, including detached garages, sheds, fences, and walls, shall be structurally sound and in good condition. Structures shall be only used for tenant occupant use.

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 and approved spray booth.

Sec. 60-71. Defacement of property.

No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner(s) or authorized management agent to restore said surface to an approved state of maintenance and repair.

Sec. 60-72. Swimming pools.

Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

Sec. 60-73. Swimming pool enclosures.

Private swimming pools, hot tubs and spas, capable of containing water more than 24 inches in depth shall be completely surrounded by a fence or barrier not less than 48 inches in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is not less than 54 inches above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches for the gatepost. No existing pool enclosure shall be removed, replaced, or changed in a manner that reduces the effectiveness as a safety barrier.

Secs. 60-74—60-75 Reserved.

Subdivision III. General Maintenance Exterior Structure

Sec. 60-76. General Maintenance.

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.

Sec. 60-77. Structural members.

All structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead or live loads.

Sec. 60-78. 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.

Sec. 60-79. 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.

Sec. 60-80. Roofs and drainage.

The shingles and flashing shall be in good condition and weather tight. No more than one layer of shingles are allowed. 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.

Sec. 60-81. Decorative features.

Cornices, belt courses, corbels, terracotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

53A

Sec. 60-82. Overhang extensions.

Overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. Where required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

Sec. 60-83. 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.

Sec. 60-84. 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.

Sec. 60-85. 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.

- (1) 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 terminates into a wall or ledge and is offset and immediately continues. Ends shall be returned to shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have space of not less than one and one-half inches between the wall and the handrail.
- (2) Handrail grasp ability. Handrails with circular cross section shall have an outside diameter of at least one and one-quarter inches and not greater than two inches or shall provide equivalent grasp ability.
- (3) 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

53A

guards shall have balusters or ornamental patterns such that a four-inch diameter sphere cannot pass through.

Sec. 60-86. Windows, skylights and door frames.

Every window or skylight shall be fully supplied with window glass or an approved material which is glazed and without cracks or holes, door and frame shall be kept in sound condition, good repair and weather tight.

Sec. 60-87. Openable windows.

Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

Sec. 60-88. Screens.

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.

Sec. 60-89. 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.

Sec. 60-90. Basement hatchways.

Every basement hatchway shall be maintained to prevent the entrance of rodents, rain, and surface drainage water.

Sec. 60-91. Guards for basement windows.

Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against entry.

Sec. 60-92. Building security.

Doors, windows or hatchways for dwelling units, room units shall be provided with devices designed to provide security for the occupants and property within.

- (1) Doors providing access to a dwelling unit, rooming unit that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge

53A

or effort and shall have a minimum lock throw of 1 inch. Such deadbolt shall be installed according to the manufacture specifications and maintained in good condition. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

- (2) Openable windows located in whole or in part within 6 feet above ground level or a walking surface below that provide access to a dwelling unit or rooming unit that is rented, leased or let shall be equipped with a window sash locking device.
- (3) Basement hatchways that provide access to a dwelling unit or rooming unit is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

Sec. 60-93. Gates.

Exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

Sec. 60-94. Containers.

The operator of every establishment producing garbage or rubbish shall provide, and at all times cause to be utilized, approved leak proof containers provided with close-fitting covers for the storage of such materials until removed from the premise for disposal.

Sec. 60-95. Recycling.

Recycling bins shall be provided for all multi-family dwellings over four units.

Sec. 60-96. Dumpster enclosures.

All covered containers for garbage, rubbish and recycling shall be stored within a dumpster enclosure constructed in compliance with the Municipal Code of the City of Des Moines, Iowa.

Secs. 60- 97—60-99 Reserved.

Subdivision IV. Interior

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 exterior property.

Sec. 60-101. Structural members.

53A

All structural members shall be maintained structurally sound and capable of supporting the imposed loads.

Sec. 60-102. 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.

Sec. 60-103. Stairs and walking surfaces.

Every stair, ramp, landing, balcony, porch, deck, or other walking surface shall be maintained in sound condition and good repair.

Sec. 60-104. 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.

- (1) 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 terminates 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 space of not less than one and one-half inches between the wall and the handrail.
- (2) Handrail grasp ability. Handrails with circular cross sections shall have an outside diameter of at least one and one-quarter inches and not greater than two inches or shall provide equivalent grasp ability.
- (3) 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 a four-inch diameter sphere cannot pass through.

Sec. 60-105. Interior door.

53A

Every interior door shall fit 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. 60-106. Infestation.

All structures shall be kept free from insect and rodent infestation. Where insects or rodents are found, they shall promptly be exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.

(1) Owner. The owner(s) or of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

(2) Single occupant. The occupant of a single-family dwelling shall be responsible for extermination.

(3) Multiple occupancy. The owner(s) of a structure containing two or more dwelling units, a multiple occupancy, or a rooming house shall be responsible for extermination.

Secs. 60-107—60-109 Reserved.

Subdivision V. Habitable Space

Sec. 60-110. General.

No area shall be used as a habitable space, dwelling unit, or rooming unit unless all requirements for habitable space have been met.

Sec. 60-111. Minimum room widths.

A habitable room, other than a kitchen, shall be not less than seven (7) feet in any plan dimension. Kitchens shall have a minimum clear passageway of three (3) feet between counterfronts and appliances or counterfronts and walls.

Sec. 60-112. Minimum ceiling heights.

Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms, and habitable basement areas shall have a clear ceiling height of not less than seven (7) feet.

Exceptions:

(1) In one- and two-family dwellings, beams or girders may be spaced not less than four (4) feet on center and projecting not more than six (6) inches below the required ceiling height.

(2) 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 six (6) feet eight (8) inches, with not less than six (6) feet four (4) inches of clear height under beams, girders, ducts, and similar obstructions.

(3) 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 seven (7) feet over not less than one-third (1/3) 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 five (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.

Sec. 60-113. Bedroom and living room requirements.

Every living room shall contain not less than one hundred and twenty (120) square feet and every bedroom shall contain not less than seventy (70) square feet and every bedroom occupied by more than one person shall contain not less than fifty (50) square feet of floor area for each occupant thereof.

Sec. 60-114. Overcrowding.

Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements.

Subdivision VI. Light and Ventilation

Sec. 60-115. Light.

Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be eight (8) percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than three (3) feet from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

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

Sec. 60-116. Ventilation.

Every habitable space shall have at least one openable window. The total openable area of the window in every room shall be equal to at least forty-five (45) percent of the minimum glazed area required in Section 60-115 of this Article.

53A

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

Sec. 60-117. Common halls and stairways.

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

Sec. 60-118. Other spaces.

All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

Sec. 60-119. Bathrooms and toilet rooms.

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

Sec. 60-120. Clothes dryer exhaust.

Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted outside the structure in accordance with the manufacturer's instructions.

Secs. 60-121—60-125 Reserved.

Subdivision VII. Plumbing

Sec. 60-126. General.

Plumbing fixtures 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 are designed. Plumbing fixtures 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.

53A

Sec. 60-127. 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.

Sec. 60-128. Rooming Houses.

At least one water closet, lavatory and bathtub or shower shall be supplied for each four rooming units.

Location. Toilet rooms and bathrooms serving rooming units or dormitory units shall have access by traversing not more than on flight of stairs and shall have a common hall or passageway.

Sec. 60-129. 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.

Sec. 60-130. Proper connection.

Every 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 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. 60-131. Water heating facilities.

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 minimum temperature of 110 degrees Fahrenheit or 43 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.

53A

Sec. 60-132. Plumbing system hazards.

Where it is found that a plumbing system in a structure 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.

Secs. 60-133—60-135 Reserved.

Subdivision VIII. Electrical

Sec. 60-136. General.

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

Sec. 60-137. Facilities required.

Every occupied rental building shall be provided with an electrical system in compliance with the requirements of this Chapter.

Sec. 60-138. Service.

The size and usage of appliances and equipment shall serve as the basis for determining the need for additional facilities in accordance with the applicable standard, national, and international codes. Dwelling units shall be served by a three-wire 120/240 volt, single phase electrical service having a rating of not less than 60 amperes.

Sec. 60-139. Minimum requirements.

All electrical services with breaker panels containing six or more breakers must be protected with a main disconnect.

Sec. 60-140. Kitchen.

Every kitchen shall contain at least two separate and remote receptacle outlets, which shall be supplied by a separate 20 ampere branch circuit. Outlets whose receptacles are rendered inaccessible by stationary outlet appliances will not be considered as required outlets.

Sec. 60-141. Receptacles.

Every habitable space in a dwelling shall contain not less than two separate and remote receptacle outlets. Every laundry area shall contain not less than one grounding-type receptacle or

53A

a receptacle with a ground fault circuit interrupter. Every bathroom shall contain not less than one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection. All electrical outlets shall have the appropriate faceplate over of the location.

Sec. 60-142. Lighting fixtures.

Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room, and furnace room shall contain not less than one electric lighting fixture.

Sec. 60-143. Wiring.

Flexible cords shall not be used for permanent wiring, or for running through doors, windows, or cabinets, or concealed within walls, floors or ceilings.

Sec. 60-144. Electrical Hazard.

Where it is found that the electrical service in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the Administrator shall require the defects to be corrected eliminate the hazards.

Secs. 60-145—60-159 Reserved.

Subdivision IX. Cooking

Sec. 60-160. Cooking facilities.

Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in a rooming unit or dormitory unit. Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

Exception: Where specifically approved in writing by the Administrator.

Sec. 60-161. Food preparation.

All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

Sec. 60-162. Prohibited occupancy.

Kitchens and uninhabitable spaces shall not be used for sleeping purposes.

53A

Secs. 60-163—60-165 Reserved.

Subdivision X. Fire Safety

Sec. 60-166. General.

Systems, devices and equipment to detect a fire, acute and alarm, suppress or control a fire or any combination other of shall be maintained in operable condition at all times in accordance with the Municipal Code.

Sec. 60-167. Stair enclosures.

All multiple-dwelling structures shall comply with requirements of International Fire Code and International Building Code, relating to stairwell enclosures. All repairs or replacement of fire escapes, fire separations, or new construction shall be done under the International Building Code or the International Fire Code as adopted by the City of Des Moines.

Sec. 60-168. Exits.

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 third floor and above. 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. Exits existing under a previous code shall remain and be maintained in good working order.

Sec. 60-169. Basement egress.

A basement dwelling or rooming unit shall provide two means of exit with minimum dimensions as described in section 60-168 of this Article, Emergency escape or rescue opening.

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

53A

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 of knockout panels shall be permitted.

Sec. 60-171. Exit signs.

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.

Sec. 60-172. Clear path.

Every exit way, 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.

Sec. 60-173. Fire extinguishers.

Except in single-family and duplex dwellings, type 2A rated fire extinguishers, five 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. 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.

Sec. 60-174. Smoke detectors.

- (a) 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.
- (b) Every room used for sleeping shall have an approved smoke detector.
- (c) 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.

Sec. 60-175. Fire alarm systems.

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.

538

Sec. 60-176. Combustible materials.

Combustible materials shall not be stored in furnace rooms or under stairways unless the stairway is protected by a one-hour fire separation. 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;
- (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.

Secs. 60-177—60-179 Reserved.

Subdivision XI. Lead based paint

Sec. 60-180. General.

No person shall apply lead-based paint to any surface of any dwelling or accessory structure within the city.

Sec. 60-181. Hazard.

Lead-based paint found in the following conditions on a dwelling or accessory structure is declared to be a nuisance and an immediate health hazard, and the Administrator shall order its removal whenever so found. Those conditions include: any interior and exterior paint that is peeling, chipping, chalking, cracked, or any paint located on an interior or exterior surface or fixture that is damaged or deteriorated. Removal shall be done in accordance with all Federal and State requirements.

Sec. 60-182. Remediation.

Lead-based paint on the following surfaces shall be removed in accordance with Federal and State requirements:

- (1) Interior window sills.
- (2) Handrails.
- (3) Stair treads not completely covered by carpeting or other suitable material.
- (4) Friction surfaces, which means any interior or exterior surface that is subject to abrasion or friction, including but not limited to certain window, door, and floor surfaces.
- (5) Any other area where there is demonstrable evidence of chewing activity or evidence that paint has been damaged or deteriorated.

53A

Subdivision XII. Mechanical

Sec. 60-183. General.

Mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

Sec. 60-184. Heating equipment.

When the winter temperature is below 60 degrees Fahrenheit, every dwelling unit shall be provided with heating facilities capable of maintaining a minimum room temperature of 68 degrees at a point of three feet above the floor and two feet from exterior walls in all habitable rooms, bathrooms and toilet rooms.

Secs. 60-185—60-189 Reserved.

ARTICLE III. PUBLIC NUISANCE CODE

DIVISION 1. GENERAL

Sec. 60-190. General.

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

Sec. 60-191. Vacation and abatement.

Any structure, dwelling, mobile home, or equipment 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 by the city at the owner's expense. The owner of a mobile home is the holder of legal title to the real estate upon which the mobile home sits and shall be the person 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:

53A

- (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 has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or structure 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 remains on site after the demolition or destruction of the building or structure.

53A

- (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 is declared to be a public nuisance, the Administrator shall cause to be posted at each entrance to the structure or portion thereof a notice to read "DANGER — PUBLIC NUISANCE UNSAFE OR UNFIT FOR HUMAN OCCUPANCY. 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 from any structure except as authorized by the Administrator.

Sec. 60-195. Emergency measures to vacate.

If one or more of the following exists, the Administrator is hereby authorized and empowered to order and require the owner(s) and/or occupant(s) to vacate the premises immediately:

- (1) There is imminent danger of failure of collapse of a building or structure that endangers life;
- (2) Any structure or part of a structure has fallen and life is endangered by occupation of the structure; or
- (3) There is actual or potential danger to the building occupants or those in proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment.

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;
 - (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.

53A

(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.

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 residential structure that the Administrator has declared to be a public nuisance.

Sec. 60-199. Approval for occupancy.

The owner of a residential 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.

Secs. 60-200—60-205 Reserved.

DIVISION II. ADMINISTRATIVE REMOVALS

Sec. 60-206. General.

When a residential 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 structure may be removed pursuant to the administrative procedure set forth in this division.

53A

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 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. Certification of costs.

- (a) When action has been taken pursuant to the article the costs of the action 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.

53A

(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.

Secs. 60-209—60-219 Reserved.

ARTICLE IV

REAL ESTATE CONTRACT SALES INSPECTIONS

Sec. 60-220 General.

This Article provides regulations relating to sales of real property for the purpose of protecting the contract buyer(s) and to ensure the buyer(s) is aware of any defects in real estate which the buyer(s) is purchasing.

Sec. 60-221. Definitions.

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

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

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

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

Inspection shall mean a physical examination of the real estate and structure(s) to determine if the house would meet the code requirements set out in this Chapter, which shall include, but not be limited to, a review of the structural components, exterior, roofing, plumbing, heating, cooling, electrical, insulation and ventilation, interior, fireplace, and solid fuel burning appliances of the real estate.

Inspection report shall mean a report in a form approved by the Administrator and prepared by an inspector to describe an inspection.

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

Person shall mean an individual, a corporation, a limited liability company, a government or governmental subdivision or agency, a business trust, an estate, a trust, a partnership or an association, or any other legal entity.

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

53A

Sec. 60-222. Inspector certification.

- (a) All inspectors who perform the inspections of real estate pursuant to a contract shall be a full or regular member in good standing of an eligible professional association for home inspectors. An eligible professional association must have the following attributes:
 - (1) Not-for-profit status;
 - (2) Standards for Practice for its members;
 - (3) Code of Ethics for its members;
 - (4) Requires examinations for membership;
 - (5) Requires annual continuing education.
- (b) No real estate inspector shall be employed by an entity that is owned by a contract seller or its affiliate. The term affiliate means a parent, brother, or sister entity (meaning its parent entity has an ownership interest in each entity or shares a common manager), or a subsidiary entity or any other entity in which the contract seller, its parent, brother, sister or subsidiary entity owns five percent or more of such entity.
- (c) Members of professional associations who are eligible to perform inspections under this Chapter shall first obtain approval under the above standards. The Administrator shall have sole discretion to approve or deny the application
- (d) The Administrator shall maintain a current list of contract sales inspectors in good standing.

Sec. 60-223. Disqualification.

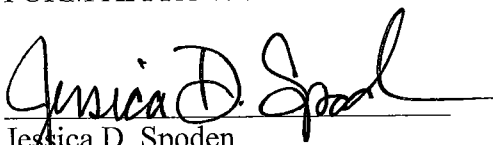
- (a) The Administrator shall have sole discretion to suspend or revoke a contract sales inspector's certification based upon any of the following:
 - (1) Malfeasance;
 - (2) Neglect of duty;
 - (3) Incapacity;
 - (4) Disqualification, suspension, or debarment from any activity related to the construction or real estate industry by an agency of any government;
 - (5) Offering or giving gifts or gratuities to employees of the city in violation of state law; or
 - (6) Failure to comply with the requirements of this division.
- (b) If the Administrator determines that cause exists to disqualify a contract sales inspector from performing inspections pursuant to this Article for any of the reasons set forth in the previous subsection, then:
 - (1) The Administrator shall notify the affected contract sales inspector of:
 - a. the reasons supporting disqualification; and
 - b. the proposed period for disqualification.
 - (2) Notice shall be sent to inspector by certified mail, return receipt requested.
 - (3) The contract sales inspector may file an appeal to of the determination as set out in Chapter 3 of the Municipal Code.

Sec. 60-224. Procedures; Fees.

- (a) 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.
- (b) The inspector shall prepare an inspection report of the physical examination of the real estate setting out violations of Article I of this Chapter and remedial action.
- (c) The inspection report shall also include written certification that the inspector is a member of good standing in an eligible professional association.
- (d) The inspection report shall be delivered to and received by the contract buyer at least fourteen (14) days prior to the execution of the contract. The inspection report shall be delivered to the contract buyer by personal service, notarized acceptance of service, certified mail or by registered mail with return receipt.
- (e) Proof of delivery of the inspection report to the contract buyer, the contract inspection report, and a filing fee in the amount set in the schedule of fees adopted by the City Council by resolution shall be filed with the Administrator at least (fourteen) 14 days prior to the execution of the contract.
- (f) Subsequent inspection reports and updates for the same property may be filed by the same contract seller without an additional filing fee within one (1) year of the original inspection report.
- (g) Within seven (7) days following execution of the contract, the contract seller shall file with the Administrator recorded copies of instruments transferring the real estate.
- (h) The city shall have the right to inspect and re-inspect any property for which an inspection is required under this article. All persons with ownership or authorized management interests in the property shall allow inspection or re-inspection upon reasonable notice by the city.

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