



Roll Call Number

Agenda Item Number

54

Date December 9, 2024

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended, by repealing and replacing Chapter 61, relating to property maintenance",

presented.

(Council Communication No. 24-505)

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

Second by _____.

FORM APPROVED:

(First of three required readings)

/s/ Chas M. Cahill

Chas M. Cahill
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN				
SIMONSON				
VOSS				
COLEMAN				
WESTERGAARD				
MANDELBAUM				
GATTO				
TOTAL				
MOTION CARRIED			APPROVED	

CERTIFICATE

I, LAURA BAUMGARTNER, 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.

Mayor

City Clerk

ORDINANCE NO. _____

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended, by repealing and replacing Chapter 61, relating to property maintenance.

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 and replacing Chapter 61, as follows:

CHAPTER 61 PROPERTY MAINTENANCE

ARTICLE I. GENERAL AND PROPERTY MAINTENANCE

DIVISION 1—GENERAL

Sec. 61-1. Title.

~~This article of Chapter 61, shall be known as the "City of Des Moines Vacant Property Registration Ordinance."~~

Sec. 61-2. Purpose.

~~It is the intent of the City of Des Moines, through the adoption of this article, to establish a mechanism to protect residential and commercial neighborhoods from becoming blighted through the lack of maintenance and security due to vacant properties; to establish a vacant property registration program; to ensure properties are free of exterior code violations prior to sale or occupation and to set forth guidelines for the maintenance of vacant properties.~~

Sec. 61-3. Powers of department.

~~Department employees designated by the department director may enter, when there is evidence of vacancy, onto and into open unobstructed property and structures to investigate, locate, and identify nuisances that occur in the city. Designated department employees shall have full authority to declare a condition to be a nuisance and issue appropriate notices provided for by this article and such designated employees may take such further action as required and permitted by this article. Designated department employees shall have all powers and authority necessary to cause the abatement of the nuisance in accordance with this article. If entry onto real property for the purposes described in this section is refused, an administrative search warrant may be obtained as provided in section 1-19 of the Municipal Code.~~

Sec. 61-4. General.

~~The administrator shall maintain a data base of all vacant properties in the city, cause inspections to be made to determine the condition of dwellings, commercial structures mobile homes, similar~~

dwellings, accessory structures, and premises located within the corporate limits, and may issue notices as provided in this article.

Sec. 61-5. Interference prohibited.

Interference with, or obstruction of, the City's lawful removal of a violation by the city is prohibited.

Sec. 61-6. Definitions.

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

Administrator means the administrator of the Neighborhood Inspection 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.

Accessible premise means a property that is physically accessible through a compromised or breached gate, fence, wall, or other barriers, intended to provide physical security to the property, or by the absence of such barrier.

Accessible structure means a structure or building that is unsecured, compromised or breached in such a way as to allow access to the interior space by unauthorized persons.

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.

Authorized management agent means a property manager, property management or maintenance company, or similar person or entity responsible for the maintenance of real property as agent of an owner, mortgagee, or other responsible party, or any person appointed by the owner(s) or mortgage holder who has charge, care, or control of a structure or premises. Such person shall be authorized to accept service of communications from the City of Des Moines.

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.

Evidence of vacancy means any condition or circumstance that on its own, or combined with other conditions or circumstances present, would lead a reasonable person to believe that a property is vacant. Such conditions may include, but not are limited to, disconnection of utility services, broken windows and or doors, overgrown or dead vegetation, including lawns, shrubbery and other plantings; accumulation of abandoned personal property, trash or waste; visible lack of maintenance of any building or structure on the property; graffiti on or other

defacement of buildings or structures on the property; and any other condition or circumstance reasonably indicating that the premise is not occupied.

~~*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.~~

~~*Foreclosure* means the process, either judicial or extra-judicial, invoked by the owner or holder of a mortgage, by which a property placed as security for a real estate loan in which the mortgage holder is notified of a default, the filing of a foreclosure, sold at public or private sale to satisfy the debt of the borrower in the event of a default by the borrower under the terms of the promissory note or mortgage.~~

~~*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, the property is clean and well maintained inside and out, and there is no wasting or neglect of the property, and it is maintained in good condition.~~

~~*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.~~

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

~~*Infection* means the presence of insects, rats, vermin, or other pests within or contiguous to a structure or premises of insects, rodent's vermin or other pests.~~

~~*Improvements* shall include, but not be limited to, parking lots, grass, ground covers bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf whether shown on an approved site plan or not.~~

~~*Inoperable and/or unsafe vehicle or boat* is any motor vehicle, recreational vehicle, trailer, semitrailer, or boat that meets one or more of the following criteria:~~

- ~~(1) lacks a current registration or any component part, engine or parts that render it incapable of use and/or unsafe for its intended use;~~
- ~~(2) with a missing, broken, or shattered windshield or any exposed broken glass edges;~~
- ~~(3) with a missing fender, door, hood, steering wheel, trunk top, or trunk handle;~~
- ~~(4) that has become a habitat of rats, mice, snakes, or other vermin or insects;~~
- ~~(5) that is left unattended on jacks, blocks, or elevated in any other way which constitutes a threat to the public health, safety or welfare;~~
- ~~(6) that because of its condition or method of storage constitutes a threat to public health and safety.~~

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:

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.

Mortgagee means the person or entity that is the owner or holder of a mortgage, deed of trust or similar instrument encumbering real property as security for a promissory note or other debt.

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 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.

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

Neighborhood Inspection Division (hereinafter "division") means the division within the city charged with the duty to inspect premises, and structures for compliance with this article, and may also mean, as the context indicates, a member of that division.

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 the purposes of Chapter 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.

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

Secure, means the closing and locking of windows, doors, gates, and other openings of such size that may allow access to enclosed areas of the property or to buildings and structures on the property. Walls and fences surrounding the property, or any portion of the property shall be maintained in good repair. Broken windows shall be secured by replacing or repairing and

reglazing. Boarding of broken windows shall be used only as a temporary corrective measure secured in accordance with the International Property Maintenance Code.

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

Vacant property means any property, including any building or structure thereon, that is not legally occupied.

Workmanlike manner means repairs, maintenance work, alterations or installations that are a request, directly or indirectly, pursuant to 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.

Sec. 61-7. Applicability.

- ~~(a) This article shall apply to vacant properties with residential, accessory, or commercial occupancies or improvements located thereon.~~
- ~~(b) This article shall also apply to properties that are the subject of a foreclosure action as set out in this article.~~
- ~~(c) This article shall be considered cumulative and not superseding of, or subject to, any other law or provision relating to the same subject but shall rather be an additional remedy available to the city above and beyond any other state, county or local law or regulation.~~

Sec. 61-8. Exemptions.

~~Property shall be exempt from the registration requirement of this article if either of the following conditions exist:~~

- ~~(a) The property is not the subject of foreclosure and is listed in the applicable multiple listing service(s) or other substantial competent evidence of actively marketing and the property has remained vacant less than one hundred eighty (180) days and the outward appearance is being maintained; or~~
- ~~(b) The property is under construction and the contractor has applied for and is covered by a valid building permit(s);~~
- ~~(c) At such time either of the qualifications for exemption ceases to exist, the property shall be subject to the registration requirements of this article.~~

Sec. 61-9. Properties in foreclosure.

~~(a) Any mortgagee who holds a mortgage on real property located within the city shall perform an inspection of the property that is the security for the mortgage, upon default by the mortgagor, prior to the issuance of a notice of default.~~

~~(1) If a property is found to be vacant or shows evidence of vacancy, as defined in this article, any mortgagee who holds a mortgage on the real property shall comply with the registration requirements of this article, within ten (10) days of the inspection.~~

~~(b) Any mortgagee who files a foreclosure or Notice of Lis Pendens shall comply with the registration requirements of this chapter, within ten (10) days of the filing.~~

- (c) ~~Any mortgagee who holds a mortgage on real property which is in default and is the subject of an outstanding notice of default, Notice of Lis Pendens, or foreclosure action as of the date of the adoption of this code, shall perform an inspection of the property by December 1, 2022. If the property is found to be vacant or shows evidence of vacancy, the mortgagee shall register the property in accordance with this article, within ten (10) days of the inspection.~~

~~Sec. 61-10. Registration of vacant structure.~~

~~Any owner of property located within the city who has a vacant structure(s) or within 10 days of vacating a structure(s) shall register the property as required by this chapter.~~

~~Sec. 61-11. Required owner and authorized management agent information.~~

- (a) ~~Owner(s) of property subject to vacant property registration in the city who reside in Polk County or any county contiguous thereto shall provide the neighborhood service department with a physical address, email address, tax identification number and telephone numbers.~~
- (b) ~~Owner(s) of property subject to vacant property registration located in the city who reside outside Polk County or any contiguous county shall provide the administrator with their a physical address, email address, tax identification number and telephone numbers and 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.~~
- (c) ~~The name of insurance carrier, agent, and contact information.~~

~~Sec. 61-12. Application for a business account for a vacant property.~~

- (a) ~~Owners of vacant properties must establish a business account with the City of Des Moines. The business account will allow the owner to manage all properties through this account~~
- (b) ~~The owner must register all vacant properties as set out in this article.~~
- (c) ~~Upon purchase of a property that has a current registration the owner shall establish a business account and register the property. The renewal registration will be scheduled on the same schedule as the renewal for the previous owner, unless the owner has plans to occupy the structure within 30 days of purchase.~~
- (d) ~~If the information provided in the business account does not include the information required in section 61-11 of this article a research fee will be charged in the amount set forth in the schedule of fees adopted by the city council by resolution for compensation for staff time in collecting the additional information. Each search for information will result in an additional research fee.~~
- (e) ~~The owner or registered management agent are required to update any information in the business account and/or vacant property registration that has changed and pay the fee for the renewal of the vacant property registration.~~
- (f) ~~The owner(s) of the property shall be required to update the business account information anytime a change in information is made, including but not limited to mailing address,~~

physical address, email information, change in authorized management agent or sale of the property.

Sec. 61-13. Parties responsible for compliance.

- (a) The property owner and/or authorized management agent, as defined in this article, shall comply with all provisions of this article, including but not limited to, maintenance of real property for which they are responsible in accordance with the provisions of this article, and in accordance with all other applicable provisions of the city code.
- (b) In all instances, the responsibility of a mortgagee to comply with this article shall be and remain in effect from the date that the mortgagee gives the owner notice of a default under the terms of the mortgage, or files a Notice of Lis Pendens, whichever first occurs, until such time as the subject property is sold or transferred to a new owner or the original owner is put back in possession of the property.

Sec. 61-14. Registration of vacant structure.

For so long as the property remains vacant, or subject to a Notice of Lis Pendens or a foreclosure action, a registration fee shall be due from the owner or authorized management agent, as applicable under the circumstances, each year not later than the fifteenth day of the month following the month in which the original registration was made. The annual registration fee shall be set out in the schedule of fees adopted by the city council for each year it remains registered.

Sec. 61-15. Inspection obligations of owner, mortgagee and/or authorized management agent.

- (a) A property owner or authorized management agent accepting appointment as the agent of the owner, or the mortgagee shall inspect the property not less than monthly to ensure that the property is in compliance with this article.
- (b) If inspection reveals noncompliance:
 - (1) the owner or authorized management agent shall immediately give written notice of the noncompliance to the party responsible for repairs, if not themselves, and
 - (2) provide the information in writing to the neighborhood services department;
 - (3) the owner, authorized management agent, or mortgagee, shall have ten (10) business days to begin the action necessary to bring the property into compliance, and not more than thirty (30) days to complete such action.
- (c) The neighborhood services department shall cause the property to be inspected to determine if the violation has been abated and the inspection fees shall be billed to the owner in the amount set out in the schedule of fees adopted by the city council.

Sec. 61-16. Maintenance requirements.

All exterior features must be maintained in good repair and in sound condition. Additionally, structures must be resistant to water, rodents, and deterioration from weather. Repairs must be made with materials that match the existing structure.

- ~~(1) Structure must include an exterior roof in good repair, including shingles, sheathing, rafters, soffits, and fascia.~~
- ~~(2) Structure must have a fascia, soffit (in the area around the roof eaves) and soffit screens~~
- ~~(3) Gable vents/vent opening must be properly screened to prevent access by animals and other pests.~~
- ~~(4) Exterior walls must be capable of supporting a normal load.~~
- ~~(5) Exterior walls and other surfaces of any structure must be maintained to resist water and deterioration from weather by application of paint or other protective materials.~~
- ~~(6) Outermost layer of paint shall not peel or deteriorate to expose underlying layers of paint to the weather.~~
- ~~(7) Window glass must be maintained in a weathertight and watertight condition.~~
- ~~(8) Window screens must be in good repair capable of providing ventilation.~~
- ~~(9) Exterior doors must be weathertight, watertight, in addition to being secure in a position by a locking device in proper working order.~~
- ~~(10) Porch of any structure must be safe to use, capable of supporting a normal load, be weathertight, watertight, rodent proof, insect proof.~~
- ~~(11) Crawl space opening(s) of a foundation wall must be secured against animals and rodents with screen repairs completed in a workmanlike manner according to standards acceptable in the construction industry.~~
- ~~(12) Exterior stairs must be capable of supporting the normal load.~~
- ~~(13) Handrails must be constructed and maintained to conform to the city building code.~~
- ~~(14) Railings are required for any unenclosed portion of a structure more than three feet above ground level or for any steps containing four or more risers~~
- ~~(15) All railings must be capable of supporting normal load~~
- ~~(16) Accessory structure including garages, storage buildings buffer walls, fences, etc. must be maintained in good repair and sound structural condition.~~
- ~~(17) Windows, doors, and other openings must be in good condition and locked.~~
- ~~(18) Required landscaping must be maintained to be in compliance with any approved site plan.~~
- ~~(19) The property shall be mowed, kept clear of weeds, volunteer trees and snow shall be cleared as required by this code.~~
- ~~(20) Parking areas, driveways and sidewalks shall be kept in good condition as required in this code.~~
- ~~(21) The premise shall be kept clear of junk, debris, garbage, graffiti, inoperable and unlicensed vehicles.~~
- ~~(22) The premise shall be kept free of all infestations.~~
- ~~(23) Pools and spas shall be maintained so the water remains free and clear of pollutants and debris. Pools and spas shall comply with the enclosure requirements of the city code.~~
- ~~(24) All fire suppression systems must be functioning as intended.~~
- ~~(25) Other features of the site not specifically listed in this section that when in poor state of repair constitute a threat to the public safety or preclude the reasonable enjoyment of adjacent properties.~~

~~Sec-61-17. Security requirements.~~

- ~~(a) The owner or authorized management agent shall secure properties subject to this article, so they are not accessible to unauthorized persons.~~
- ~~(b) Should the city find the structure open and unsecured the property will be immediately boarded as an emergency with no prior notice.~~
- ~~(c) Broken and/or boarded windows shall be secured with glass by replacement or repair and reglazing.~~
- ~~(d) Boarded up, broken doors or other entry points shall be repaired in a workmanlike manner.~~

~~**Sec. 61-18. Additional authority as to maintenance and security.**~~

~~The neighborhood services department shall have authority to require the owner, mortgagee, and property authorized management agent to implement additional maintenance and security measures as may be reasonably required to prevent further decline of the property.~~

~~**Sec. 61-19. Notices.**~~

- ~~(a) Notice to abate a violation shall be given prior to city action to abate a violation, except that in the event of an emergency, such notice as is practical under the circumstances, if any is practical, shall be given; provided, however, that nothing herein shall require notice in an emergency if impractical. If notice to abate a nuisance is given pursuant to this article, said notice shall contain the following information:
 - ~~(1) A description, to the extent possible, of the conditions that constitute the violation;~~
 - ~~(2) A description of the location of the violation;~~
 - ~~(3) A statement that the person liable for the presence of the violation must correct the violation within the reasonable time set forth in the notice and in accordance with this article; and~~
 - ~~(4) A statement that upon failure to comply with this chapter within the time set forth in the notice, the person so notified of the violation shall be deemed liable for the nuisance, and that the city may enter onto the real property and cause the conditions which constitute the nuisance to be abated and assess the costs of abatement against the real property for collection in the same manner as a property tax, following administrative hearing process if a hearing is requested or court action as applicable.~~
 - ~~(5) If the department elects to follow the administrative hearing procedure set forth in this code, the notice shall also contain a statement that the person notified, or the person's duly authorized agent as identified in a notarized statement provided by the person notified, may file a written request for an administrative hearing as set forth in section 61-21 of this article.~~
 - ~~(6) Notice of costs of abatement shall be given prior to city assessment of such costs. If notice of costs of abatement is given following administrative hearing procedure or emergency action pursuant to this article, said notice shall contain the following information:
 - ~~(7) A statement that upon failure to make full payment as directed in the notice within the time set forth in the notice, the city may assess the costs of abatement against the real property for collection in the same manner as a property tax, following administrative hearing if requested.~~~~~~

- (8) ~~A statement that the person notified, or the person's duly authorized agent as identified in a notarized statement provided by the person notified, may file a written request for an administrative hearing on costs of abatement only, as set forth in section 61-21 of this article.~~

~~Sec. 61-20. Service of notice.~~

~~Notices given pursuant to this article shall be served by certified mail and regular mail, postage prepaid, to all persons deemed responsible for the violation, and to all other parties required by law or by departmental policy or procedure to receive such notices, at their last known mailing addresses as shown by the records of the county auditor, and if deemed appropriate by the department director or his/her designee, at their last known mailing addresses as shown by any other available public record. In addition to and concurrently with mailing, notice may be delivered by a peace officer, process server, or any other method deemed appropriate. Failed attempts to locate the person responsible for the violation shall be documented by the department.~~

~~Sec. 61-21. Administrative hearings.~~

- (a) ~~Recipients of notices pursuant to this article are entitled to administrative hearings, and administrative hearings shall not be held, if the department elects to solely bring civil action to abate the nuisance and collect costs for abatement rather than to follow the administrative hearing procedure, as stated in the notice.~~
- (b) ~~Recipients of notices pursuant to this article for which the department elects to follow the administrative hearing procedure, as stated in the notice, may request an administrative hearing as follows:~~
- ~~(1) Requests shall be made in writing, and either hand delivered to the city clerk no later than seven (7) calendar days from the date of the notice or sent to the city clerk via regular mail postmarked by official U.S. postal service cancellation and not by postage meter no later than seven (7) calendar days from the date of the notice.~~
 - ~~(2) Each request for hearing shall contain the name, address, electronic mail (e-mail) address, and daytime telephone number of any person requesting a hearing and of any attorney and/or agent duly authorized by the person who has received the notice to represent him/her at the hearing.~~
 - ~~(3) Each request for hearing shall set out the requester's basis for the appeal.~~
 - ~~(4) Failure to request a hearing within seven (7) calendar days from the date of the notice shall be deemed a waiver of the right to contest the validity of the determination of nuisance and/or determination of costs stated in the notice, as applicable. The information set forth in the notice will be deemed to be valid and abatement and/or assessment of abatement costs will proceed as indicated in the notice.~~
- (c) ~~All administrative hearings requested in compliance with this section shall proceed as follows:~~
- ~~(1) Shall be scheduled by the city clerk to occur as soon as practical following the date of the notice.~~
 - ~~(2) Shall be held before a hearing officer and be conducted informally. The department and the person in receipt of the notice may be represented by counsel or duly authorized agent, and examine witnesses, and present evidence.~~

- ~~(3) The person requesting the hearing shall be notified in writing by regular mail or by electronic mail (e-mail), or by phone of the date and time for the hearing at least three (3) business days in advance thereof.~~
- ~~(4) For hearings following notice to abate a nuisance, the hearing officer shall either find that a nuisance exists, or void or reverse the notice. If the hearing officer finds that a nuisance exists and evidence of plans for abatement are presented at the hearing by the recipient of the notice, the hearing officer may grant additional reasonable time for the abatement of the nuisance by the recipient of the notice prior to city abatement of the nuisance.~~
- ~~(5) For hearings following notice of costs of abatement, the hearing officer shall either uphold the amount billed, reduce the amount billed, or waive the costs, and shall not determine any other issue relating to the nuisance abatement including but not limited to any issue that may have been raised at a hearing following notice to abate a nuisance. Any costs not waived by the hearing officer may be assessed against the real property for collection in the same manner as a property tax.~~
- ~~(6) If an owner(s) or their representative fails to appear at the hearing, they shall be considered in default and the requested relief shall not be granted.~~
- ~~(d) The determination of the hearing officer shall be in writing, including findings of fact, and is the final administrative decision of the city.~~
 - ~~(1) Any party aggrieved by the determination of the hearing officer pursuant to this article may challenge whether the officer exceeded proper jurisdiction or otherwise acted illegally by commencing a certiorari action in the district court for Polk County, Iowa. The petition to initiate a certiorari action must be filed within thirty (30) days after the entry of the final determination unless an extension of time is allowed by the reviewing court pursuant to Division XIV of the Iowa Rules of Civil Procedure. The city manager is hereby authorized to initiate a certiorari on behalf of the city when the city manager, in consultation with the city attorney, deems it necessary and appropriate.~~
 - ~~(2) The filing of an action in the district court challenging the determination of the hearing officer does not automatically stop the city from taking action pursuant to such determination. Unless the city has been served with an order from the district court directing otherwise, the city may proceed with enforcement of a determination.~~
- ~~(e) Request for an administrative hearing does not stay an action by the city for alternative relief as allowed by law.~~

Sec. 61.22. Nuisancees enforced by civil action:

~~Notices pursuant to this article for which the department elects to proceed by civil action shall be served in the manner set forth in section 61.20 of this article and shall contain all information set forth in section 61.19 of this article as well as a statement that the city may file a civil action and seek a court order relating to the existence, abatement, and recovery of abatement costs of the nuisance.~~

Sec. 61.23. Emergency actions:

~~If the department determines that a nuisance exists which constitutes an emergency requiring immediate abatement, the city may perform any emergency action necessary to abate the nuisance without prior notice or abatement hearing.~~

~~Sec 61-24. Renovation agreement.~~

- ~~(a) 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 they may request an extension of time.~~
- ~~(b) An owner(s) or authorized management agent may make a request accompanied by the fee set forth in the schedule of fees adopted by the city council by resolution, for an extension that is specific to the structure or premise and must show that:~~
- ~~(c) Strict compliance with this chapter is impractical; and~~
- ~~(d) The extension does not violate the intent and purpose of the Municipal Code; and~~
- ~~(e) 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:
 - ~~(1) Extensions of time will be entered into by the owner(s) or authorized management agent and the administrator through an executed renovation agreement.~~
 - ~~(2) Upon execution of a renovation agreement, a temporary rental license will be issued which will expire upon the date set for completion of the repairs as set out in the agreement.~~
 - ~~(3) An owner(s) or authorized management agent may appeal a denial of an extension pursuant to section 61-21 of this article.~~~~

~~Sec. 61-25. 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 authorization to make repairs.~~
- ~~(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.~~

~~61-26. Right of entry.~~

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

CHAPTER 61 PROPERTY MAINTENANCE

ARTICLE I. GENERAL AND PROPERTY MAINTENANCE

DIVISION 1 - GENERAL

Sec. 61-1. Title.

Chapter 61 shall be known as "Property Maintenance." And hereafter referred to as this "Chapter".

Sec. 61-2. Scope.

It is the intent of the City of Des Moines, through the adoption of this Chapter, to establish a mechanism to ensure all properties are free of exterior code violations and to set forth guidelines for the maintenance of all properties; to protect residential and commercial districts from becoming blighted through the lack of maintenance and security due to vacant properties; to establish a Vacant Property Registration program; and to establish the Improving Our Neighborhoods subsidy program.

Unless otherwise specified herein, the provisions of Article I and Article II of this Chapter shall apply to the maintenance, repair, use, and Occupancy of all Equipment, Structures, Accessory Structures, and Premises now in existence or hereafter constructed, rehabilitated, or renovated within the Corporate Limits.

Sec. 61-3. Intent.

Unless otherwise specified herein, this Chapter shall be interpreted to ensure public health, safety, and welfare as they are affected by the condition of such properties within the City. This Chapter shall further be interpreted to require Structures to be maintained in Good Condition and Good Repair using a Workmanlike level of maintenance so as to stabilize and improve the building stock of the City. Existing Structures that do not comply with these provisions shall be altered or repaired to provide the level of Workmanship, health and safety required herein.

Sec. 61-4. Conflicting Provisions.

If the provisions of this Chapter are inconsistent with one another or if they conflict with provisions found in other adopted ordinances or regulations of the City, the more restrictive

provision governs unless otherwise expressly stated. The more restrictive provision is the one that imposes more stringent controls.

Sec. 61-5. Powers.

- (1) 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 its provisions. Such interpretations and polices shall be consistent 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.
- (2) The Administrator is authorized, subject to any approval required by the Municipal Code, to consult with and engage any subject matter expert as the Administrator deems necessary to interpret and enforce any provisions of this Chapter requiring specialized knowledge, training, or experience.
- (3) The Administrator shall keep and maintain all records of inspections, licenses, extensions, administrative hearings, fines, modifications, contracts, and all other records maintained by the Division for such time period as required by any applicable Federal, State, or local law or policy.
- (4) The Administrator is authorized to enter into renovation agreements and agreements to extend time for compliance with this Chapter.
- (5) The Administrator is authorized to enter into contractual agreements in fulfillment of the Improving Our Neighborhoods Program, established within Article III.

Sec. 61-6. Exemptions.

Property shall be exempt from the requirements of this Chapter if either of the following conditions exist.

- (a) The property is under construction and the contractor has applied for and is covered by a valid building or trade permit(s).
- (b) The Structure(s) and/or Premises are owned, licensed, and/or operated by any governmental unit or governmental agency.

At such time either of the qualifications for exemption cease to exist, the property shall be subject to the requirements of this Chapter.

Sec. 61-7. Identification.

The Administrator, or any designee thereof, shall carry proper City-issued identification when inspecting Structures or Premises in the performance of duties under this Chapter.

Sec. 61-8. 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 Structure means a Structure on the same lot, separate from, and of a nature customarily incidental and subordinate to the principal Structure. Trailers, semi-trailers, tents, motor vehicles, and component parts thereof shall not be considered Accessory Structures. A Structure which might otherwise be considered an Accessory Structure, but which is connected to the principal Structure by a breezeway or other extension of the principal Structure containing a functional roof and floor shall, for the purposes of this Chapter lose its status as an Accessory Structure, be deemed part of the principal Structure, and be subject to all restrictions applicable to a principal Structure.

Administrator means the administrator of the Division or their designee. The Administrator is the code official for this Chapter and 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 any Structure or Premises. Such person shall be authorized to accept service of communications from the City.

City means the City of Des Moines, Iowa.

Corporate Limits means the geographical limits of the City of Des Moines as set forth in Municipal Code Section 2-1.

Cost(s) 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 expenditure of time or money 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.

Department means the Neighborhood Services Department of the City.

Deterioration means the state of being weakened, disintegrated, corroded, rusted, or decayed.

Director means the Neighborhood Services Director.

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.

Equipment means tangible personal property that is generally non-expendable, functionally complete for its intended purpose, and may or may not be considered a fixture to the Premises.

Evidence of Vacancy means any condition or circumstance that on its own, or combined with other conditions or circumstances present, would lead a reasonable person to believe that a property is vacant. Such conditions may include, but not are limited to, disconnection of utility services, broken windows and or doors, overgrown or dead vegetation, including lawns, shrubbery and other plantings; accumulation of abandoned personal property, trash or waste; visible lack of maintenance of any building or Structure on the property, including Accessory Structures; graffiti on or other defacement of buildings or Structures on the property; and any other condition or circumstance reasonably indicating that the premise is not occupied.

Exterior Property means the open space on the Premises, adjacent Public Way(s) and on adjoining property under the control of the Owner(s) or Authorized Management Agent of such Premises that is outside of any Structure located on the 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.

Foreclosure means the process, either judicial or non-judicial, invoked by the Owner(s) or holder of a mortgage, by which a property placed as security for a real estate loan in which the mortgage holder is notified of a default, the filing of a foreclosure, sold at public or private sale to satisfy the debt of the borrower in the event of a default by the borrower under the terms of the promissory note or mortgage.

Garbage or Rubbish may be used interchangeably and mean animal or vegetable waste resulting from the handling, preparation, cooking, and/or consumption of food and all other combustible and non-combustible waste materials.

Good Condition means structurally sound with no obvious maintenance or repair required and all major components and materials still functioning as intended.

Good Repair means fit for human habitation in accordance with all applicable 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.

Grade means the finished ground level adjoining any Structure at all exterior walls.

Habitual Violator means any person who is found to have violated this article three or more times within a 36-month period at any address in the City.

Infestation means the presence of insects, rats, vermin, or other pests within or contiguous to a Structure or Premises of insects, rodent's vermin or other pests.

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.

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 Motor 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.

Legally Occupied means a Structure or Premises that complies with all applicable provisions of the Municipal Code including, but not limited to Building Code, Electrical Code, Fire Code, Nuisance Code, and any other applicable state, national, and international codes as adopted by the Municipal Code.

Mortgagee means the person or entity that is the Owner(s) or holder of a mortgage, deed of trust or similar instrument encumbering real property as security for a promissory note or other debt.

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 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.

Municipal Code means the City of Des Moines Municipal Code when it is the subject of reference in this Chapter.

Neglect means the lack of proper maintenance for a Structure or Premises or any part thereof.

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

Occupant means any individual living or sleeping in a Structure or portion thereof or having possession of a space within a Structure.

Overhang Extension means any portion of a Structure or any element anchored thereto that extends beyond the Structure's exterior walls at a height of eight feet or more above Grade.

Owner, for the purposes of Chapter means any person, agent, firm or corporation having legal or equitable interest in the Premises; 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.

Premises means a lot, plot, or parcel of land, Easement, or Public Way, including any Structure or other improvement 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.

Property Improvement Division (hereinafter "Division") means the division within the City charged with the duty to inspect Premises and Structures for compliance with this article, and may also mean, as the context indicates, a member of that division.

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

Vacant Property means any property, including any building or Structure thereon, shows Evidence of Vacancy and that is not Legally Occupied.

Workmanlike means repairs, maintenance work, alterations or installations that are required, directly or indirectly, by this Chapter which shall be executed and installed in accordance with the manufacturer's instructions 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 Premises in Good Condition, and in compliance with all applicable code requirements.

Sec. 61-9—61.12. Reserved.

DIVISION 2 - NOTICE OF VIOLATION, APPEAL, COMPLIANCE, AND COSTS

Sec. 61-13. Inspections.

The Administrator or designee shall be authorized to inspect or cause to be inspected property located within the City to ensure compliance with this Chapter.

Sec. 61-14. Alternative Materials and Methods.

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

- (1) An alternative material, design or method of construction may be approved by City staff where it is found:
 - (a) The proposed material, design or method of construction is satisfactory and complies with the intent of the provisions of this Chapter; and
 - (b) The proposed material, design or method of construction is not less than the 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 Condition, and approved by the Administrator.
- (3) Materials, design, Equipment, and devices approved shall be constructed and installed in accordance with any conditions of 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, design, or method of construction to the Director.

Sec. 61-15. Renovation Agreement.

- (1) If an Owner cannot abate any violations of this Chapter within the time allowed in the Notice of Violation because of weather constraints or extraordinary circumstances not of the Owner(s)' or Authorized Management Agent's making or are beyond the Owner's or Authorized Management Agent's control they may request an extension of time to abate such violation(s).
- (2) An Owner(s) or Authorized Management Agent may make a request accompanied by the fee set forth in the schedule of fees adopted by the City council, for an extension that is specific to the property and must show that:
 - (a) Timely compliance with this Chapter is impractical;
 - (b) The extension does not violate the intent and purpose of the Municipal Code; and
 - (c) Such extension does not endanger the life, health, or safety of the Occupants or the integrity of the Structure or any neighboring Structure.
- (3) At the Administrator's discretion, information regarding the proposed extension, including, but not limited to proposed scope of work, project budget, project schedule, and proof of financial ability to complete the repair(s) identified in the proposed scope of work may be

requested and, if requested, must be provided by the Owner(s) or Authorized Management Agent prior to approval.

- (4) If an extension of time is granted, the Owner(s) or Authorized Management Agent and the Administrator shall enter into a written renovation agreement setting forth the terms and conditions of any approved time extension.
- (5) An Owner(s) or Authorized Management Agent may appeal a denial of an extension to the Director.

Sec. 61-16. Notice to Abate.

- (1) Notice to abate a violation shall be given prior to City action to enforce the provisions of this Chapter, except that in the event of an emergency, such notice as is practical under the circumstances, if any is practical, shall be given; provided, however, that nothing herein shall require notice in an emergency if impractical. If notice to abate a violation is given pursuant to this article, said notice shall contain the following information:
 - (a) A description, to the extent possible, of the conditions that constitute the violation;
 - (b) A description of the location of the violation;
 - (c) A statement that the person liable for the presence of the violation must correct the violation within the reasonable time set forth in the notice and in accordance with this article; and
 - (d) A statement that upon failure to comply with this chapter within the time set forth in the notice, the person so notified of the violation shall be deemed liable for the violation, and that the City may enter onto the real property and cause the conditions which constitute the violation to be abated and assess the costs of abatement against the real property for collection in the same manner as a property tax, following administrative hearing process if a hearing is requested or court action as applicable.
 - (e) If the Division elects to follow the administrative hearing procedure set forth in this Article, the notice shall also contain a statement that the person notified, or the person's duly authorized agent as identified in a notarized statement provided by the person notified, may file a written request for an administrative hearing as set forth in section 61-18 of this article.
- (2) Notice of costs of abatement shall be given prior to City assessment of such costs. If notice of costs of abatement is given following administrative hearing procedure or emergency action pursuant to this article, said notice shall contain the following information:
 - (a) A statement that upon failure to make full payment as directed in the notice within the time set forth in the notice, the City may assess the costs of abatement against the real property for collection in the same manner as a property tax, following administrative hearing if requested.
 - (b) A statement that the person notified, or the person's duly authorized agent as identified in a notarized statement provided by the person notified, may file a written request for an administrative hearing on costs of abatement only, as set forth in section 61-18 of this article.

Sec. 61-17. Service of notice.

Notices given pursuant to this article shall be served by certified mail and regular mail, postage prepaid, to all persons deemed responsible for the violation, and to all other parties required by law or by departmental policy or procedure to receive such notices, at their last known mailing addresses as shown by the records of the county auditor, and if deemed appropriate by Administrator or his/her designee, at their last known mailing addresses as shown by any other available public record. In addition to and concurrently with mailing, notice may be delivered by a peace officer, process server, or any other method deemed appropriate. Failed attempts to locate the person responsible for the violation shall be documented by the Division.

Sec. 61-18. Administrative hearings.

- (1) Recipients of notices pursuant to this article are not entitled to administrative hearings, and administrative hearings shall not be held, if the Division elects to solely bring civil action to abate the violation and collect costs for abatement rather than to follow the administrative hearing procedure, as stated in the notice.
- (2) Recipients of notices pursuant to this article for which the Division elects to follow the administrative hearing procedure, as stated in the notice, may request an administrative hearing as follows:
 - (a) Requests shall be made in writing, and either hand-delivered to the city clerk no later than seven (7) calendar days from the date of the notice or sent to the city clerk via regular mail postmarked by official U.S. postal service cancellation and not by postage meter no later than seven (7) calendar days from the date of the notice.
 - (b) Each request for hearing shall contain the name, address, electronic mail (e-mail) address and daytime telephone number of any person requesting a hearing and of any attorney and/or agent duly authorized by the person who has received the notice to represent him/her at the hearing.
 - (c) Each request for hearing shall set out the requester's basis for the appeal.
 - (d) Failure to request a hearing within seven (7) calendar days from the date of the notice shall be deemed a waiver of the right to contest the validity of the determination of violation and/or determination of costs stated in the notice, as applicable. The information set forth in the notice will be deemed to be valid, and abatement and/or assessment of abatement costs will proceed as indicated in the notice.
- (3) All administrative hearings requested in compliance with this section shall proceed as follows:
 - (a) Shall be scheduled by the city clerk to occur as soon as practical following the date of the notice.
 - (b) Shall be held before a hearing officer and be conducted informally. The Department and the person in receipt of the notice may be represented by counsel or duly authorized agent, and examine witnesses, and present evidence.
 - (c) The person requesting the hearing shall be notified in writing by regular mail or by electronic mail (e-mail), or by phone of the date and time for the hearing at least three (3) business days in advance thereof.
 - (d) For hearings following notice to abate a violation, the hearing officer shall either find that a violation exists, or void or reverse the notice. If the hearing officer finds that a violation exists and evidence of plans for abatement are presented at the

hearing by the recipient of the notice, the hearing officer may grant additional reasonable time for the abatement of the violation by the recipient of the notice prior to city abatement of the violation.

- (e) For hearings following notice of costs of abatement, the hearing officer shall either uphold the amount billed, reduce the amount billed, or waive the costs, and shall not determine any other issue relating to the violation abatement including but not limited to any issue that may have been raised at a hearing following notice to abate a violation. Any costs not waived by the hearing officer may be assessed against the real property for collection in the same manner as a property tax.
- (f) If an Owner(s) or their representative fails to appear at the hearing, they shall be considered in default and the requested relief shall not be granted.
- (4) The determination of the hearing officer shall be in writing, including findings of fact, and is the final administrative decision of the city.

 - (a) Any party aggrieved by the determination of the hearing officer pursuant to this article may challenge whether the officer exceeded proper jurisdiction or otherwise acted illegally by commencing a certiorari action in the district court for Polk County, Iowa. The petition to initiate a certiorari action must be filed within thirty (30) days after the entry of the final determination unless an extension of time is allowed by the reviewing court pursuant to Division XIV of the Iowa Rules of Civil Procedure. The city manager is hereby authorized to initiate a certiorari on behalf of the city when the city manager, in consultation with the city attorney, deems it necessary and appropriate.
 - (b) The filing of an action in the district court challenging the determination of the hearing officer does not automatically stop the city from taking action pursuant to such determination. Unless the city has been served with an order from the district court directing otherwise, the city may proceed with enforcement of a determination.
- (5) Request for an administrative hearing does not stay an action by the city for alternative relief as allowed by law.

Sec. 61-19. Violations Enforced by Civil Action.

Notices pursuant to this article for which the Department elects to proceed by civil action shall be served in the manner set forth in section 61-17 of this article and shall contain all information set forth in section 61-17 of this article as well as a statement that the City may file a civil action and seek a court order relating to the existence, abatement, and recovery of Costs of the violation.

Sec. 61-20. Civil Infractions; Alternative Relief.

- (1) 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.
- (2) 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 authorization to make repairs.

- (3) In addition to other remedies set forth in this chapter, when it is determined by the Administrator that a violation 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. 61-21. Penalty for Non-Compliance.

- (1) If, after notice of violation of this Chapter and a reasonable amount of time has been afforded to the Owner to correct any violations has passed and the Owner has failed to correct such violations, the Owner shall be guilty of a municipal infraction punishable by a civil penalty as provided by Sec. 1-15 of this Code.
- (2) The Administrator 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, including but not limited to the following:
- (a) For each day the Owner fails to arrange for an inspection within the time set forth in this Chapter.
- (b) For each violation not corrected within the time designated in the notice of violation or within such time the Owner has been granted an extension of time, may be subject to the maximum fine, retroactive to the original date set forth in the violation notice.
- (3) The Administrator shall have the authority to impose the maximum fine, a lesser fine, or to waive the fine upon good cause shown.

Sec. 61-22. Collection of Costs.

- (1) Costs imposed upon the Owner in the enforcement of this Chapter shall be payable to the City within thirty (30) days of the date of notice which will be provided to the Owner or Authorized Management Agent; and
- (2) The invoice shall include notice that if unpaid the amount due will be collected as a special assessment, personal judgment, or any other collection measure the City deems appropriate.

Sec. 61-23. Ordinance Not Limiting.

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

Sec. 61-24—61.25. Reserved.

DIVISION 3 – MAINTENANCE STANDARDS

Subdivision I. Exterior Property Area

Sec. 61-26. General Maintenance.

Equipment, systems, devices, and safeguards required by this Chapter or a previous regulation or code under which the Structure or Premises was constructed, altered, or repaired shall be maintained in Good Repair. 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(s). Except as otherwise specified herein, the Owner or their Authorized Management Agent shall be responsible for the maintenance of Structures and Premises. Items that previously passed inspections but are through subsequent inspection found to be in violation of this Chapter are subject to enforcement.

Sec. 61-27. Repairs.

All repairs shall be done in a Workmanlike manner and the Premises shall be maintained in a safe and sanitary condition. All work must be done in accordance with any other applicable standard, national, and international codes as adopted by the Municipal Code.

Sec. 61-28. Sanitation.

All Exterior Property and Premises shall be maintained in a clean, safe, and sanitary condition.

Sec. 61-29. Grading and Drainage.

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

This section shall not apply to any retention areas and reservoirs approved by the City.

Sec. 61-30. Sidewalks, Driveways, and Parking Spaces.

- (1) All privately-owned sidewalks, driveways, parking spaces and similar areas shall be kept in Good Repair and maintained free from hazardous conditions. A defective condition exhibits one or more of the following characteristics:

 - (a) Covered in whole or in part with weeds or other plants, Garbage, Junk, Rubbish, debris, solid waste, bird or animal droppings or any violations, obstructions or hazards which makes or tends to make pedestrian travel either dangerous or impractical.
 - (b) Trip hazards or other breaks, shifts or separations or Deterioration as visible from a public space.

(2) Gravel drives or parking areas must be maintained with a surface area consisting of a uniform layer of gravel evenly distributed, and must be free of bare spots, ruts, and vegetation. The consistency of the surface must be tightly bound and consistently graded. All defects must be repaired with clean fill material consistent with the existing drive or parking area that does not contain dirt, sticks, construction debris or other foreign material.

Sec. 61-31. Nuisance Vegetation.

Properties must be maintained in compliance with Chapter 42, Article XII.

Sec. 61-32. Rodent Harborage.

All Structures, Exterior Property and Premises shall be kept free from rodent harborage and Infestation. Where rodents are found, they shall be promptly exterminated by an approved process which will not be injurious to human health. After Extermination, proper precautions shall be taken to eliminate rodent harborage and prevent further re-Infestation.

Sec. 61-33. Accessory Structures.

All Accessory Structures shall be structurally sound and in Good Condition.

Sec. 61-34. Motor Vehicles.

No Owner shall allow for Inoperable Motor Vehicles or motor vehicles that are in violation of other provisions of the Municipal Code on the property.

Sec. 61-35 – 61-42. Reserved.

Subdivision II - Exterior Structure

Sec. 61-43. General Maintenance.

- (1) The exterior of a Structure shall be maintained in Good Repair, structurally sound and sanitary so as not to pose a threat to public health, safety, or welfare. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeled, flaked, and chipped paint shall be eliminated, and surfaces repainted.
- (2) All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust or 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.
- (3) Soffit, fascia, and trim must be in Good Repair and impervious to weather.

Sec. 61-44. Premises Identification.

Principal Structures shall have approved address numbers, building numbers, or building identification placed in a position to be plainly legible from the Public Way fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or Roman letters. Numbers or letters shall be not less than 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

Sec. 61-45. Structural Members.

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

Sec. 61-46. 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. 61-47. 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. 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 watertight.

Sec. 61-48. Roofs and Drainage.

The shingles and flashing shall be in Good Condition and weather tight. 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.

Sec. 61-49. Overhang Extensions.

Overhang Extensions shall be maintained in Good Repair and be properly anchored so as to be kept in a Good 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. 61-50. 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 loads.

Sec. 61-51. Chimneys and Towers.

All chimneys, cooling towers, smokestacks, 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. 61-52. 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. 61-53. Windows, Skylights and Door Frames.

- (1) Every door and frame, window or skylight shall be kept in Good Condition, Good Repair and weather tight. All glazing materials shall be maintained free from cracks and holes.
- (2) Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in Good Condition. All doors must be secured from unwanted entry.
- (3) Every basement hatchway shall be maintained to prevent the entrance of rodents, rain, and surface drainage water and secure from unwanted entry.

Sec. 61-54 – 61-61. Reserved.

ARTICLE II. VACANT PROPERTY REGISTRY

Sec. 61-62. General.

- (1) The Administrator shall cause inspections to be made to determine the condition of all Structures and Premises exhibiting Evidence of Vacancy within the Corporate Limits and may issue notices as provided in this Chapter.
- (2) This article shall apply to Vacant Properties with residential, accessory, or commercial occupancies or Improvements located thereon.
- (3) This article shall also apply to properties that are the subject of a Foreclosure action as set out in this article.

This article shall be considered cumulative and not superseding of, or subject to, any other law or provision relating to the same subject but shall rather be an additional remedy available to the city above and beyond any other state, county or local law or regulation.

Sec. 61-63. Vacant Property Registration and Licensing Required.

- (1) Any Owner(s) of any Vacant Property located within the City shall register the property as required by this Chapter within 10 days of a property becoming vacant.
- (2) No Owner(s) shall own any Vacant Property unless that Owner(s) holds a valid Vacant Property registry business license for such property.

Sec. 61-64. Exceptions.

In addition to the exemptions provided in Section 61-6, Property shall not be required to comply with the requirements of this article if all of the following conditions exist:

- (1) The property is not the subject of Foreclosure; and
- (2) The property is listed in the applicable multiple listing service(s) or other substantial competent evidence of active marketing; and
- (3) The property has remained vacant less than one hundred eighty (180) days; and
- (4) The outward appearance of the property is being maintained.

At such time any of the conditions for the exception ceases to exist, the property shall be subject to the requirements of this article.

Sec. 61-65. Properties in Foreclosure.

Any Mortgagee who files a Foreclosure or Notice of Lis Pendens on a Vacant Property shall comply with the registration requirements of this chapter, within ten (10) days of such filing.

Sec. 61-66. Required Owner or Authorized Management Agent Information.

- (1) Owner(s) of Vacant Property who reside in Polk County or any county contiguous thereto shall provide the Division with their physical address, email address, tax identification number and telephone numbers.
- (2) Owner(s) of Vacant Property who reside outside Polk County or any contiguous county shall provide the Administrator with their physical address, email address, tax identification number and telephone numbers and 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.
- (3) Owner(s) of Vacant Property shall provide the Division with the name of insurance carrier, agent, and contact information that provides coverage to the Vacant Property.

Sec. 61-67. Application for Vacant Property License.

- (1) Every Owner of any Vacant Property within the City shall establish a business account with the City by submitting a complete Vacant Property license application. Each Owner shall only be required to establish a single business account with the City and may associate all the Owner's vacant properties with that single account.
- (2) All the information set forth in Sec. 61-66 shall be required for a Vacant Property registry business account and Vacant Property registry license application to be considered complete.
- (3) No Vacant Property registry license will be issued unless a complete application has been submitted.
- (4) Upon transfer of a property that has a current Vacant Property registry business license and will continue to be a Vacant Property:

- (a) the transferee shall establish a business account and a Vacant Property registry business license;
- (b) the property shall remain subject to any active notice of violation previously issued under this Chapter and the violations must be abated so as to bring the property into compliance with this Chapter;
- (c) the renewal inspection will be scheduled on the same schedule as the renewal for the previous Owner; and
- (d) an administrative fee in the amount set forth in the schedule of fees adopted by the City Council may be charged for the transfer of an existing license to a new Owner.
- (5) The Owner(s) or Authorized Management Agent(s) shall be required to update the business account information provided in the application within ten (10) days of any change in information, including but not limited to a change in the telephone number(s), mailing address, physical address, email information, Authorized Management Agent or ownership of the property.
- (6) The Owner(s) of the property shall be required to update the business account information anytime a change in information is made, including but not limited to mailing address, physical address, email information, change in Authorized Management Agent or sale of the property.
- (7) If the information provided in the Vacant Property registry business license application does not include the information required in section 61-66 of this article, a research fee will be charged in the amount set forth in the schedule of fees adopted by the City council by resolution for compensation for staff time in collecting the additional information. Each request for information will result in an additional research fee.
- (8) Sixty (60) days prior to the expiration date of the Vacant Property registry business license, the Division will mail or email a notification to the property Owner(s), and the Authorized Management Agent that the notice of the expiration of the license is in their account. The notice will include the expiration date of the license and pertinent information for contacting the Division. Failure by the Division to send the notice of expiration does not eliminate the obligation of the Owner(s) to submit a renewal application and payment for the Vacant Property registry business license.

Sec. 61-68. Compliance and Vacant Property Registration License.

- (1) Upon submission and approval of a completed Vacant Property registry business license application, establishment of a business account with the Division, completion of satisfactory inspection, and payment of all required Costs, the Division shall issue a Vacant Property registry business license. Notice of the license issuance will be provided by email or regular mail to the Owner or Authorized Management Agent as designated in the business account or Vacant Property registry business license application maintained with the Division.
- (2) The Division shall send an invoice by email or regular mail to Owner(s) and Authorized Management Agent at the email or physical address on file with the Division for all Costs owed.

- (a) Inspection fees will be charged in the amount set forth in the schedule of fees adopted by the City council.
 - (b) Costs imposed upon the Owner in the enforcement of this Article shall be payable within thirty (30) days of the date of billing and if unpaid will be collected as a special assessment, personal judgment, or any other collection measure the City deems appropriate.
 - (c) Properties referred for legal action will be inspected as necessary to enforce this Article and any and all associated Costs will be billed as set out in the schedule of fees adopted by the City council.
- (3) The Vacant Property registry business license issued under this article shall contain the following information:
- (a) The Owner(s) name(s);
 - (b) The name of the Authorized Management Agent;
 - (c) Contact information, including email and physical addresses and telephone number(s) for the Owner(s) and the Authorized Management Agent;
 - (d) The local address;
 - (e) The date of issuance; and
 - (f) The license expiration date.

Sec. 61-69. Revocation of Vacant Property License.

- (1) If an Owner fails to comply with the provisions of this Chapter following notice and an opportunity to comply, the Administrator may revoke or suspend the Vacant Property registry business license for the property.
- (2) Operation of a Vacant Property without a Vacant Property registry business license may be prosecuted as a municipal infraction.
- (3) An Owner may appeal the revocation or suspension of a vacant registry business license by requesting an administrative hearing, pursuant to Sec. 61-18.
- (4) Structures that are under enforcement per Chapter 60, Article III of the Municipal Code shall have their Vacant Property registry business licenses revoked.

Sec. 61-70. Registration of Vacant Structure.

For so long as the property remains vacant, or subject to a Notice of Lis Pendens or a Foreclosure action, a registration fee shall be due from the Owner or Authorized Management Agent, as applicable under the circumstances, each year not later than the fifteenth day of the month following the month in which the original registration was made. The annual registration fee shall be set out in the schedule of fees adopted by the city council for each year it remains registered.

Sec. 61-71. Security Requirements.

- (1) The Owner or Authorized Management Agent shall secure vacant Structures subject to this article, so they are not accessible to unauthorized persons.
- (2) Broken and/or boarded windows shall be secured with glass by replacement or repair and reglazing.
- (3) Boarded up, broken doors or other entry points shall be repaired in a Workmanlike manner.
- (4) Should the City find the Structure open and unsecured the Structure will be immediately boarded as an emergency action with no prior notice.

Sec. 61-72. Additional Authority as to Maintenance and Security.

The Division shall have authority to require the Owner, Mortgagee, and Authorized Management Agent implement additional maintenance and security measures as may be reasonably required to prevent decline of the Vacant Property.

Sec. 61-73. Emergency Actions.

If the Administrator determines that a violation exists which constitutes an emergency requiring immediate abatement, the City may perform any emergency action necessary to abate the violation without prior notice or abatement hearing.

Sec. 61-74. Cost of Emergency Actions.

Costs of emergency actions 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 the City deems appropriate.

Sec. 61-75 – Sec. 61-84. Reserved.

ARTICLE III. IMPROVING OUR NEIGHBORHOODS PROGRAM

Sec. 61-85. Establishment of the Improving Our Neighborhoods Program.

- (1) The city council finds, determines, and declares it to be conducive to the benefit of residents and the health of the City's neighborhoods and in compliance with the requirements of this Chapter, that a subsidy program be established to assist qualifying property Owners(s) to make repairs to the exterior of their properties, which help to encourage home ownership and investment in the community. This program shall be named the Improving Our Neighborhoods Program (hereinafter "ION Program"). The city council shall have the right to suspend or terminate this program.
- (2) The Administrator shall establish ION Program policies, procedures, and guidelines (hereinafter "ION Policies and Procedures").

Section 2. This ordinance shall be in full force and effect beginning on February 1, 2025. All enforcement actions, court cases, notices of violation pending, or vacant property registry business licenses issued, prior to the effective date hereof shall continue to be governed by the

provisions of Chapter 61 in effect at the time the violation upon which such enforcement action, court case, or notice of violation is based occurred or such vacant property registry business licenses was issued.

FORM APPROVED:

/s/ Chas M. Cahill

Chas M. Cahill

Assistant City Attorney