

ORDINANCE NO. 13,692

AN ORDINANCE to amend the Municipal Code of Des Moines, 1991, adopted by Ordinance No. 11,651, passed April 15, 1991, as heretofore amended, by repealing Sections 14-5 and 14-6, subsection (c) of Section 14-21, Sections 14-22 and 14-23, subsection (c) of section 14-26, and Section 14-29 thereof, and enacting new Sections 14-5 and 14-6, subsection (c) of Section 14-21, Sections 14-22 and 14-23, subsection (c) of section 14-26, and Section 14-29, all relating to the Housing Code and the inspection of dwellings occupied under authority of an unrecorded contract.

BE IT ORDAINED by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of Des Moines, 1991, adopted by Ordinance No. 11,651, passed April 15, 1991, as amended by Ordinance No. 11,787 passed March 2, 1992, and by Ordinance No. 11,806 passed April 27, 1992, as amended by Ordinance No. 11,883 passed September 8, 1992, as amended by Ordinance No. 11,888 passed September 21, 1992, as amended by Ordinance No. 11,961 passed April 5, 1993, be and is hereby amended by repealing Sections 14-5 and 14-6, subsection (c) of Section 14-21, Sections 14-22 and 14-23, subsection (c) of section 14-26, and Section 14-29 thereof, and enacting new Sections 14-5 and 14-6, subsection (c) of Section 14-21, Sections 14-22 and 14-23, subsection (c) of section 14-26, and Section 14-29, all relating to the Housing Code and the inspection of dwellings occupied under authority of an unrecorded contract, as follows:

**14-5. SCOPE AND APPLICABILITY.**

(a) The provisions of this subchapter shall apply uniformly to the maintenance, repair, equipment, use and occupancy of all residential buildings and structures now in existence or hereafter constructed, rehabilitated or converted to such residential use within the corporate limits, irrespective of when or under what code or codes such buildings or structures are or were originally constructed or rehabilitated, excepting those buildings and structures specifically excluded from the provisions of this subchapter by section 14-21.

(b) For purposes of this subchapter, from and after May 1, 1999, a dwelling which is occupied by one or more persons, none of whom are a record titleholder, shall be treated as a rental property for which an inspection certificate is required for lawful occupancy.

#### **14-6. DEFINITIONS.**

Unless otherwise expressly stated or the context clearly indicates a different intention, for the purposes of this subchapter, the following terms shall have the meanings in this section and shall be so construed wherever they appear in this subchapter and in the American Public Health Association, Public Health Service, Recommended Housing Maintenance and Occupancy Ordinance, 1975 Edition:

(A)

**"APHA Ordinance"** means the American Public Health Association, Public Health Service, Recommended Housing Maintenance and Occupancy Ordinance, 1975 Revision.

**"Appropriate authority"** means the housing code enforcement officer, except that in section IV of the APHA Ordinance, such term means the city engineer.

(B)

**"Basement space"** means a portion of a building between floor and ceiling, which is partly below and partly above grade but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling.

(C)

**"Cellar space"** 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.

**"Condominium"** is a single dwelling unit located within an apartment-like structure but regarding which each unit is separately held by deed in conformity with section 499B.5, Code of Iowa.

**"Corporate unit"** means the city of Des Moines.

(D)

**"Duplex"** shall mean a building containing two dwelling units interconnected under the same ownership.

**"Dwelling"** means any building or structure wholly or partly used or intended to be used for living or sleeping by human occupants. "Single family dwelling" for purposes of the housing code means any structure intended to be occupied by a single family and includes two (2) units that are so constructed that they are separated by a one-hour fire wall and have separate utility systems.

(E)

**"Exit"** means a continuous and unobstructed means of exit to a public way, and shall include intervening doors, doorways, corridors, exterior exit balconies, ramps, stairways, smoke proof enclosures, horizontal exits, exit passageways, exit courts, and yards.

(F)

**"Fuel burning appliance"** means any device which utilizes combustion fuel to produce heat for cooking, water heating or room heating.

(G)

**"Grade"** (adjacent ground elevation) 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, when the property line is more than five feet from the

building, then between the building and a line five feet from the building.

(H)

**"Housing code enforcement officer"** means the supervisor of the housing code enforcement division. He or she shall be the authorized representative for the enforcement of this subchapter and for the administration of the division.

**"Housing code enforcement division"** means the division within the city of Des Moines charged with the duty of inspection of dwelling units, rooming houses, rooming units, premises and structures for compliance with this subchapter and may also mean, as the context indicates, a member of that division.

(I)

(J)

(K)

(L)

**"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.

(M)

**"Mobile Home"** means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public street and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home is factory-built housing built on a chassis. A mobile home shall 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 applying thereto, whether or

not wheels, axles, hitch 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 subchapter 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.

(N)

(O)

**"Owner"** for purposes of this subchapter, except Article XII and Article XIII, means any person legally charged with the care or control of any premises, dwelling or dwelling unit, including any person acting in a representative or fiduciary capacity for such person.

**"Owner"** for purposes of Article XII and Article XIII of this subchapter, shall mean any person who has an interest of record, including any titleholder, contract purchaser, tenant under a recorded lease or any executor, administrator, trustee, conservator, or other fiduciary, mortgagee or other lien holder and any holder of an unrecorded interest of which the city has actual knowledge.

(P)

**"Plumbing"** means and includes the practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, and appurtenances in connection with any of the following: sanitary drainage or storm drainage facilities; the venting system and the public or private drainage or storm drainage facilities and the public or private water supply systems within or adjacent to any building, structure or conveyance; the practice and materials used in the installation, maintenance, extension, or alteration of the stormwater, liquid wastes, or sewerage, and water-supply systems of any premises to their connection with any point of public disposal or other acceptable terminal.

(Q)

(R)

**"Record titleholder"** shall mean any person holding title of record by deed, contract of sale, or judicial determination and shall include a bona fide contract purchaser of such dwelling, for value. The term **"record titleholder"** shall also include the occupant official representatives, and the members of their families, of a bona fide religious organization which is titleholder. **"Rental property"** means a dwelling which is occupied by one or more people, none of whom are a record titleholder.

**"Rooming unit"** means any room or group of rooms forming a single habitable unit used or intended to be used for living (excluding cooking) and sleeping, which may or may not have access to a kitchen in that building, external to such room or group of rooms.

(S)

**"Shall"** means,

(1) with respect to the functions and powers of the housing code enforcement officer and that officer's subordinates, any employees and agents of the city and any board authorized and empowered hereunder, a direction and authorization to act in the exercise of sound discretion, good faith and reasonable judgment;

(2) with respect to the obligations upon owners and occupants of premises and their agents, a mandatory requirement to act in compliance with this subchapter at the risk of civil and criminal liability upon failure so to act.

**"Space heater"** means a self-contained heating appliance of either the circulating type or the radiant type and designed primarily to heat only one room.

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**14-21. POWERS, DUTIES, EXCEPTIONS, AND ENFORCEMENT.**

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(c) The provisions of this subchapter shall not apply to:

(1) Buildings, structures and uses owned, licensed and operated by any governmental unit or governmental agency.

(2) Prior to May 1, 1999, owner occupied single family dwellings. Commencing May 1, 1999, this exemption shall only apply to single family dwellings occupied by a record titleholder.

(3) Transient shelters, group or similarly used residences.

(4) Residential structures in which ownership passes to a governmental unit pursuant to a governmental purchase program where such structures will be temporarily occupied by the previous owner.

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**14-22. APPLICABILITY.**

Prior to May 1, 1999, nothing in this article shall be construed to apply to owner-- occupied dwellings. Commencing May 1, 1999, nothing in this article shall be construed to apply to single family dwellings occupied by a record titleholder.

**14-23. INSPECTION CERTIFICATE REQUIRED.**

(a) No person shall rent, let, lease, or otherwise allow the occupancy of any dwelling, dwelling unit, or rooming unit unless that person holds a valid inspection certificate therefor.

§(b) Commencing May 1, 1999, no person shall occupy or allow the occupancy of any dwelling, dwelling unit, or rooming unit unless either: 1) a valid inspection certificate has been issued for such dwelling unit; or 2) the dwelling is occupied by a record titleholder.

**14-26. PROCEDURE FOR INSPECTION, CERTIFICATION AND NOTICE.**

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(c) Any person owning rental residential property in the city shall provide to the housing code enforcement officer, in writing, the name and local business address of a natural person 18 years of age or older, who is customarily present in an office in Polk or Warren County, Iowa for the purpose of transacting business, or who actually resides in Polk or Warren County, Iowa, and who shall be designated by the owner as his or her authorized agent for receiving notice of violation pursuant to this code. The name of such authorized agent and such local business address shall be provided at the time of filing application for certificate of inspection or within three months from the effective date of this ordinance, whichever shall first occur. A person who becomes titleholder or contract purchaser of a rental residential property shall provide the information required in this subsection within five days from the date of such transfer. An owner who is a natural person and who meets the address requirement of this subsection as to either the location of his or her residence or the place of transacting business may designate himself or herself an agent. The term "**local business address**" as used in this section shall refer to an address within Polk or Warren County, Iowa.

**14-29. NOTICE ON SALE OF DWELLING.**

(a) Every person owning a rental property in the city of Des Moines, including property occupied under authority of an

unrecorded contract for sale, and offering such property for sale shall inform the prospective buyer of the following:

(1) Current status of the housing certificate of the city of Des Moines.

(2) Any notice regarding violations of the housing code that is outstanding due to failure to correct violations.

(3) Full information regarding any court action presently filed against the property.

(b) Every person owning a rental property in the city of Des Moines shall give notice in writing to the housing code enforcement officer within two business days after having sold, transferred, conveyed or otherwise disposed of ownership of, interest in, or control of any dwelling. This notice shall include the name and address of the person succeeding to the ownership or control thereof.

(c) Each contract seller of an interest in residential property shall give notice in writing of such contract to the housing code enforcement officer within two business days after transfer of possession of the property to the contract purchaser. The notice shall identify the address of the affected property, the name and address of all parties named in the contract, and the interests in the property conveyed or received by each party. The contract seller shall also provide a copy of the real estate contract or memorandum of contract recorded with the county recorder pursuant to Iowa Code section 558.46, showing the date, book, and page of such recorder, to the housing code enforcement officer within ten days of such recording.

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

FORM APPROVED:

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Roger K. Brown

Assistant City Attorney