

★ **Roll Call Number**

**Agenda Item Number**

54

**Date** June 14, 2021

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Sections 60-3, 60-5, 60-7, 60-10, 60-11, 60-12, 60-15, 60-19, 60-30, 60-31, 60-32, 60-33, 60-34, 60-35, 60-40, 60-41, 60-42, 60-43, 60-44, 60-45, 60-50, 60-60, 60-76, 60-85, 60-104, 60-128, 60-144, 60-170, 60-183, 60-192, and 60-193, relating to the housing code",

presented.

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

FORM APPROVED:

(First of three required readings)

(Council Communication No. 21-261)

/s/ Megan Norberg  
Megan E. Norberg  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

**CERTIFICATE**

I, P. Kay Cmelik, 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, by amending Sections 60-3, 60-5, 60-7, 60-10, 60-11, 60-12, 60-15, 60-19, 60-30, 60-31, 60-32, 60-33, 60-34, 60-35, 60-40, 60-41, 60-42, 60-43, 60-44, 60-45, 60-50, 60-60, 60-76, 60-85, 60-104, 60-128, 60-144, 60-170, 60-183, 60-192, and 60-193, relating to the housing code.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended by amending Sections 60-3, 60-5, 60-7, 60-10, 60-11, 60-12, 60-15, 60-19, 60-30, 60-31, 60-32, 60-33, 60-34, 60-35, 60-40, 60-41, 60-42, 60-43, 60-44, 60-45, 60-50, 60-60, 60-76, 60-85, 60-104, 60-128, 60-144, 60-170, 60-183, 60-192, and 60-193, relating to the housing code, as follows:

**Sec. 60-3. Intent.**

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

**Sec. 60-5. Deletions.**

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

- (1) Section 107.1; Notice to Person Responsible;
- (2) Section 107.2; Form;
- (3) Section 107.3; Method of Service;
- (4) Section 107.4: Unauthorized tampering;

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

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

**60-7. Powers**

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- (d) The administrator shall keep and maintain all records of inspections, ~~certificates~~ licenses, extensions, ~~H~~housing ~~A~~appeals ~~B~~board actions, fines, variances, modifications, and all other records maintained by the division.

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**60-10. Modifications.**

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

- (1) Before granting a modification, the administrator shall find that:
  - (a) Compliance with a specific code violation relating to the structure or premise would make the strict letter of this code impractical;
  - (b) The modification is in compliance with the intent and purpose of the Municipal Code; and
  - (c) Such modification does not lessen the health, life, and fire safety requirements or the integrity of the structure.
- (2) An owner(s) or authorized management agent may appeal a denial of a modification to the ~~H~~housing ~~A~~appeals ~~B~~board.

**60-11. Alternative materials, methods and equipment.**

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- (5) An owner(s) or authorized management agent may appeal a denial of an alternative material, method or equipment to the ~~H~~housing ~~A~~appeals ~~B~~board.

**60-12. Stop work oOrder.**

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

(a) Costs due for fees, fines, penalties and costs imposed upon the owner in the enforcement of this chapter shall be payable within thirty (30) days of the date of notice which will be provided to the owner or authorized management agent as designated in the business account maintained with the division; and

~~(a)(b) billing and the invoice shall include notice that if unpaid will be collected as a special assessment, personal judgment, or any other collection measure deemed appropriate.~~

**Sec. 60-19. Definitions.**

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~~*Administrator* means the administrator of the Neighborhood Inspection Zoning Division (“division”) or his/her designee. The administrator shall be the authorized representative for the enforcement of this chapter and for the administration of the division.~~

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~~*Deterioration* means to weaken, disintegrate, corrode, rust, or decay and loses of effectiveness.~~

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

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

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

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

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

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

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*Habitable sSpace* means space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage, or utility space and similar areas are not considered habitable spaces.

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

- (1) Listed or certified as eligible for listing by the State Historic Preservation Office or the Keeper of the National Register of Historic Places in the National Register of Historic Places;
- (2) Designated as historic under an applicable state or local law; or
- (3) Certified as a contributing resource within a National Register or state or locally.

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

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*Neighborhood Inspection Zoning-dDivision* (hereinafter “division”) means the division within the city charged with the duty to inspect dwelling units, rooming houses, rooming units, premises, and structures for compliance with this article, and may also mean, as the context indicates, a member of that division.

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**Sec. 60-30. Rental ~~Certificate~~ license required.**

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

**Sec. 60-31. Required ~~o~~Owner(s) or ~~a~~Authorized ~~m~~Management ~~a~~Agent information.**

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**Sec. 60-32. Application for a business account and/or rental ~~certificate~~ license.**

- (a) Owners of rental properties must establish a business account with the City of Des Moines. The business account will allow the owner to manage all rental properties through this account
- (b) The owner must request a rental license for each rental unit, duplex or multifamily dwelling at least sixty (60) days prior to rental occupancy. The license will be issued upon passing a rental inspection.
- (c) Upon purchase of a property that has a current rental license the owner shall establish a business account and/or a rental license. The renewal inspection will be scheduled on the same schedule as the renewal for the previous owner.
- (d) If the information provided in the business account or rental license does not include the information required in section 60-31 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.

- (e) Sixty (60) days prior to the renewal date of the rental license, the division will email a notification to the property owner(s), and/or the management agent as designated in the business account maintained with the division 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 request a renewal inspection and failure to obtain the inspection will result in expiration of the rental license.
- (f) The owner or registered management agent will be required to update any information in the business account and/or rental license that has changed, request an inspection and pay the fee for the first renewal inspection.
- (g) 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.
- (h) It is the responsibility of the owner(s) or authorized management agent to contact the division to set the date and time of all inspections.
- ~~(a) At least thirty (30) days prior to initial occupancy as a rental property, the owner(s) of a new rental property shall apply to the division for inspection of the structure and all units therein. The rental property shall not be occupied without first obtaining a rental certificate.~~
- ~~(b) Prior to the renewal inspection of a structure, the division will send the property owner(s), as found on the Polk County or Warren County assessor's office a notice of expiration and application update that shall be signed and returned. The notice will include the expiration date of the current certificate and pertinent information for contacting the division. Failure by the division to send the notice of expiration does not eliminate the obligation of the owner(s) to submit an application and renew the certificate.~~
- ~~(c) The owner(s) of the property shall be required to sign and return the application, which will include the information required in this article.~~
- ~~(d) If this application is not returned and/or is incomplete, a research fee will be charged in the amount set forth in the schedule of fees adopted by the city council by resolution.~~
- ~~(e) It is the responsibility of the owner(s) or authorized management agent to contact the division to set the date and time of all inspections.~~

### **Sec. 60-33. Inspection, nNotice of vViolation and mMethod of sService**

- (a) The administrator shall inspect the primary dwelling unit(s), accessory structure(s) and premise.
- (b) If the administrator determines that the structure(s) and/or premises are being maintained in violation of this chapter, the administrator shall give-provide notice of the violation(s) to the owner(s) or authorized management agent of the premises as designated in the rental license(s) maintained with the division by email that the notice is available in their account. If the administrator does not have an email address for the owner, the administrator shall

provide notice by regular mail to the owner listed on the Polk County or Warren County Assessor websites. Such notice shall:

- (1) Be in writing;
- (2) Include a description of the real estate sufficient for identification;
- (3) Describe the violation and remedial action required;
- (4) State that all health, safety, and maintenance violations must be corrected within thirty (30) days from receipt of this notice;
- (5) Advise that if a violation still exists upon re-inspection, the administrator ~~has will~~ suspend a valid rental ~~certificate~~-license and refer the owner(s) or authorized management agent to the Housing Appeals Board;
- (6) Advise that upon failure of the owner(s) or authorized management agent to arrange for a re-inspection within thirty (30) days from receipt of the notice, it will be presumed the violations have not been abated and administrator will suspend a valid rental ~~certificate~~-license and refer the owner(s) or authorized management agent to the Housing Appeals Board;
- ~~(7)~~ Be mailed to the owner(s) of the premises or the authorized management agent designated by the application filed with the division;
- ~~(8)~~(7) Advise of the right to file an appeal of a violation set out in the notice of violation and the amount of the appeal fee; and
- ~~(9)~~(8) Include a statement of the right of the division to collect unpaid costs by personal judgment, collection, or assessment to be collected as a property tax.

#### **Sec. 60-34. Renovation aAgreement.**

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

- (1) An owner(s) or authorized management agent may make a ~~written~~ request accompanied by the fee set forth in the schedule of fees adopted by the city council by resolution, for an extension that is specific to the structure or premise and must show that:
  - (a) Strict compliance with this chapter is impractical;
  - (b) The extension does not violate the intent and purpose of the Municipal Code; and
  - (c) Such modification does not endanger the life, health, or safety of the occupants or the integrity of the structure.
- (2) At the administrator's discretion, proof of financial ability to complete the repair(s) may be requested and must be provided by the owner(s) or authorized management agent prior to approval.
- (3) Extensions of time will be entered into by the owner(s) or authorized management agent and the administrator through an executed renovation agreement.

- (4) Upon execution of a renovation agreement, a temporary rental ~~certificate~~-license will be issued which will expire upon the date set for completion of the repairs as set out in the agreement.
- (5) An owner(s) or authorized management agent may appeal a denial of an extension to the Housing Appeals Board.

**Sec. 60-35. Compliance and rental ~~certificate~~license.**

- (a) ~~(a)~~ Upon compliance, the division shall issue a rental ~~certificate~~-license. Notice of the issuance will be provided to the owner or authorized management agent as designated in the business account or rental license information maintained with the division and shall be by email that the notice is available in their account as provided in the records provided to the city.
- ~~(a)(b)~~ The ~~to the~~ owner(s) or authorized management agent will be notified of an invoice accompanied by a bill for all fees owed, provided to the owner or authorized management agent as designated in the business account or rental license information maintained with the division and shall be by email that the notice is available in their account as provided in the records provided to the city.
  - (1) Rental inspection fees and ~~re-inspection fees~~ will be charged in the amount set forth in the schedule of fees adopted by the city council by resolution.
  - (2) Costs due for fees, fines, penalties and costs imposed upon the owner in the enforcement shall be payable within thirty (30) days of the date of billing and if unpaid will be collected as a special assessment, personal judgment, or any other collection measure deemed appropriate.
  - (3) Structures referred to the legal department for prosecution will be inspected as necessary to enforce the code and associated costs, fees, fines, and penalties will be billed as set out in the schedule of fees adopted by the city council by resolution.
- (b) The rental ~~certificate~~-license issued under this article shall contain the following information:
  - (1) The owner(s) name(s);
  - (2) The name of the authorized management agent;
  - (3) Contact information for the owner(s) or the authorized management agent;
  - (4) The local address and type of structure;
  - (5) The number of units;
  - (6) The date of inspection;
  - (7) The date of issuance; and
  - (8) The license renewal-~~expiration~~ date.
- (c) ~~Certificates~~-A license will be issued for the following periods:

LICENSE CATEGORY I	
1 or 2 units — no violations on first inspection	<del>Certificate</del> - <u>License</u> length 3.5 years
3 plus units — no violations on first inspection	<del>Certificate</del> - <u>License</u> length 2.5 years

1. Must have a valid business account information application on file prior to inspection;
2. Must have had no founded maintenance complaints since the last inspection;
3. Must have no outstanding fees due or billings due the division for the property;
4. Must be current on property taxes and special assessments due the division for the property; and
5. Must have had no nuisance clean ups or impounds since the last renewal license certificate was issued.

LICENSE CATEGORY II

1 or 2 units Not more than 8 violations per unit	<del>Certificate</del> - <u>License</u> length 2.5 years
3 to 12 units—violations <del>on renewal or initial</del> not more than 1.5 violations per unit and common areas	<del>Certificate</del> - <u>License</u> length 1.5 years
13 plus units— violations <del>on renewal or initial</del> not more than 1 per unit and common areas	<del>Certificate</del> - <u>License</u> length 1.5 years
<ol style="list-style-type: none"> <li>1. Must have a valid <u>rental license information application</u> on file before <del>issuance</del>-<u>extension</u> of the <del>license</del><u>certificate</u>;</li> <li>2. Must have had no more than one founded maintenance complaints since the last inspection;</li> <li>3. Must have no outstanding fees due the division for the property; and</li> <li>4. Must be current on taxes and special assessments due the division for the property.</li> </ol>	

LICENSE CATEGORY III

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

- (d) A ~~current rental certificate~~-license issued under this article shall not be invalidated by sale or transferred upon the sale of the property.
- (e) The owner(s) of a multiple dwelling unit shall display a copy of the rental ~~certificate~~-license in a common hallway of each building or in the on-site management office. The owner(s)

of single-family and duplex dwellings must provide a copy of the rental ~~certificate~~license upon request.

- (f) Newly constructed or renovated rental structure(s) issued a certificate of occupancy will be required to make application for a rental ~~certificate~~license, pay a registration fee in the amount set forth in the schedule of fees adopted by the city council by resolution when the certificate of occupancy is issued.
  - (1) Residential apartment buildings will be issued a rental ~~certificate~~license valid for 2.5 years.
  - (2) Single-family dwellings, duplex structures, mobile homes, condominiums, and townhomes will be issued a rental ~~certificate~~license valid for 3.5 years.
  - (3) Thereafter applications and license re-inspections will occur in accordance with this article.

**Sec. 60-40. Housing Appeals Board.**

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

**Sec. 60-41. Powers and duties.**

The Housing Appeals Board shall:

- (1) Hold monthly hearings of appeals filed with the administrator under Article II and concerning properties referred to the board by the administrator.
- (2) Decide whether to grant variances and modifications.
- (3) Rule on requests for additional time, provided that the granting of such additional time does not endanger the life, health, or safety of the occupants or the integrity of the structure.

- (4) Impose fines for any violation of Article II in the amount set forth in the schedule of administrative penalties adopted by the cCity council by resolution. The Board shall have the authority to impose the maximum fine, a lesser fine, or to waive the fine upon good cause shown.
- (5) Direct that legal action be brought to enforce Article II when such action is deemed necessary.
- (6) Hear appeals of the amount of a penalty fine or assessment of a penalty fine.
- (7) Find that an owner(s) or authorized management agent is a habitual violator. A habitual violator is:
  - a. An owner(s) or authorized management agent who fails to correct a violation within the time period given by the notice and who has been required to appear before the Hhousing Aappeals Bboard for such failure three times or more on three separate occasions during a 12-month period shall be deemed a habitual violator if found by the board to have failed to correct the violations without good cause. Upon finding that the owner(s) is a habitual violator, an authorized management agent may also be deemed a habitual.
  - b. The Hhousing Aappeals Bboard is authorized to order the unified inspection of all properties owned or managed by a habitual violator. The fee for this unified inspection will be charged at regular inspection rates as set forth in the schedule of fees adopted by the cCity council by resolution. The owner(s) or authorized management agent will be placed on an accelerated inspection schedule by the Board, a category III ~~certificate~~-license will be issued for each property. The fees as set forth in the schedule of fees adopted by the cCity council by resolution shall be charged for such inspections.
- (8) Make specific recommendations to the cCity council regarding matters pertaining to Article II.

**Sec. 60-42. Appeals.**

- (a) *Appeal rights.* Any person directly affected by a decision of the administrator, issued under this chapter shall have the right to appeal to the Hhousing Aappeals Bboard provided that written application is filed within ten (10) days after the date the decision or order was mailed accompanied by payment of a filing fee charged in the amount set forth in the schedule of fees adopted by the city council by resolution. An application for appeal shall be based on a claim that:
  - (1) The true intent of this chapter or the rules legally adopted thereunder have been incorrectly interpreted;
  - (2) The provision of this chapter do not fully apply; or
  - (3) The requirement of this chapter are adequately satisfied by other means.
- (b) *Appeal of cited violation.* Any owner(s) and/or authorized management agent objecting to a violation cited in the inspection notice may file a written appeal with the division requesting a hearing before the Hhousing Aappeals Bboard. A written appeal shall be filed within ten (10) days of the date of the inspection notice accompanied by payment of a filing

fee charged in the amount set forth in the schedule of fees adopted by the city council by resolution. An appeal objecting to a violation cited in an inspection notice shall:

- (1) State those violations that are being contested; and
- (2) The reasons for contesting the stated violations.

The filing fee shall be refunded if the board finds that the objection is valid and grants the appeal.

- (c) *Variance.* Any owner(s) and/or authorized management agent requesting a variance may file a written request with the division requesting a hearing before the Housing Appeals Board. Requests for variances of fire safety requirements shall not be heard. A written request shall be accompanied by payment of a filing fee charged in the amount set forth in the schedule of fees adopted by the city council by resolution.

- (1) An appeal for a variance must:
  - a. Set out the code requirement from which the variance is sought;
  - b. Detail what effect the variance will have in the health and safety of the occupants and the integrity of the structure; and
  - c. Explain what effect the variance would have on the maintenance of the premise or building.
- (2) A variance will be granted if the owner(s) can prove:
  - a. Because of the design or construction of the structure, strict compliance would cause undue hardship;
  - b. Strict compliance with such section would be arbitrary; and
  - c. A variance would be in harmony with the intended spirit and general purpose of this chapter to secure the public health, safety, and welfare.
- (3) The Housing Appeals Board may set reasonable conditions and safeguards to promote the public health, safety, and welfare when granting a variance.
- (4) The administrator may request the revocation of a variance at any time and the Housing Appeals Board may revoke a variance upon a showing that the basis for granting the variance no longer exists or upon a showing that a condition of the variance has been violated.
- (5) Before revoking a variance the administrator shall notify the owner(s) or authorized management agent of the reason for the requested revocation and the date of the hearing.

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- (e) *Referral of owner(s) or authorized management agent by the administrator:*

- (1) An owner(s) or authorized management agent shall be referred to the Housing Appeals Board for failure to comply with an inspection notice.
- (2) The owner(s) shall be charged an administrative fee in the amount set forth in the schedule of fees adopted by the city council by resolution.
- (3) The division shall ~~send~~ provide notice of the hearing at least ten (10) days before the next Housing Appeals Board meeting by sending an email stating there is a notice in their account or by regular mail if their email is unknown.

- (4) Final inspections to determine compliance will be conducted by the division no later than seven (7) days before the scheduled hearing.
  - (5) If the owner(s) or authorized management agent appears before the Housing Appeals Board, they will be charged a fee in the amount set forth in the schedule of fees adopted by the city council by resolution for the cost of the hearing.
  - (56) If an owner(s) or authorized management agent referred to the Housing Appeals Board has brought the structure(s) into compliance prior to that board meeting, they shall be charged a fee in the amount set forth in the schedule of fees adopted by the city council by resolution.
  - (67) If an owner(s) or authorized management agent fails to appear before the Housing Appeals Board, the property will be referred to the legal division for legal action and the full penalty fine shall be imposed for failure to timely correct the violations.
- (f) *Appeal of amount of a penalty fine or pending assessment.*
- (1) An owner(s) or authorized management agent may appeal the amount of a penalty fine within (10) days of the ~~issuance of a rental certificate, issuance date the mail is sent informing the owner(s) or authorized management agent that the notice of an invoice for costs due, or notice of intent to assess costs due~~ is available in their account.
  - (2) The appeal must be made in writing to the division and be accompanied by the application fee as set out in the schedule of fees adopted the city council.

**Sec. 60-43. Hearing.**

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

**Sec. 60-44. Fines.**

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

- (1) For each day the owner fails to arrange for an inspection within the time set forth in this chapter.
- (2) For each violation not corrected within the time designated in the notice of violation ~~or, unless~~ within such time the owner has been granted an extension of time.
  - a. Failure to arrange for a timely re-inspection shall give rise to a presumption that the violation was not corrected and a fine shall be imposed accordingly;
  - b. Violations not corrected in the allotted time shall be subject to the maximum fine, retroactive to the original date set forth in the violation notice.

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

**Sec. 60-45. Housing Appeals Board Notices.**

- (a) The administrator shall notify the appellant and all board members of the date, time, and location of the hearing.
- (b) The administrator shall ~~send a notice of~~provide the decision of the Housing Appeals Board to the owner(s) or authorized management agent including the amount of the fine imposed if any, by sending an email stating there is a notice in their account or by regular mail if their email is unknown.

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

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- (b) A seller of a rental property shall inform the prospective buyer of the following at least fourteen (14) days prior to the closing:
- (1) Current status of the rental ~~certificate~~license;
  - (2) Any outstanding notice regarding violations of this article; and
  - (3) The existence of any court or administrative proceeding which pertains to violations of this article, stating the case numbers and names of all parties to the proceedings.

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**Sec. 60-60. General mMaintenance.**

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

**Sec. 60-76. General mMaintenance.**

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**Sec. 60-85. Handrails and guards.**

Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

- (1) Handrails shall have minimum and maximum heights of 34 inches and 38 inches respectively, measured vertically from the nosing of the treads and shall be provided on at least one side of the stairway. All required handrails shall be continuous the full length of the stairs for four or more risers from a point directly above the top riser of the flight to a point directly above the lowest riser of the flight. Continuous handrails shall be permitted to be interrupted by newel posts at turns and at one location in a straight stairs when the rail terminates into a wall or ledge and is offset and immediately continues. Ends shall be returned to shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have space of not less than one and one-half inches between the wall and the handrail.

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**Sec. 60-104. Handrails and guards.**

Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

- (1) Handrails shall have minimum and maximum heights of 34 inches and 38 inches respectively, measured vertically from the nosing of the treads and shall be provided on at least one side of the stairway. All required handrails shall be continuous the full length of the stairs for four or more risers from a point directly above the top riser of the flight to a point directly above the lowest riser of the flight. Continuous handrails shall be permitted to be interrupted by newel posts at turns and at one location in a straight stairs when the rail terminates into a wall or ledge and is offset and immediately continues. Ends shall be returned or shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have space of not less than one and one-half inches between the wall and the handrail.
- (2) Handrail grasp ability. Handrails with circular cross sections shall have an outside diameter of at least one and one-quarter inches and not greater than two inches or shall provide equivalent grasp ability.
- (3) Guard required. One- and two- family dwellings with porches, balconies, or raised floor surfaces located more than 30 inches above the floor or below grade shall have guards not less than 36 inches in height. Multiple-family dwellings with porches, balconies, or raised floor surfaces located more than 30 inches above the floor or below grade shall have guards not less than 42 inches in height. Open guards shall have balusters or ornamental patterns such that a four-inch diameter sphere cannot pass through.

**Sec. 60-128. Rooming ~~h~~Houses.**

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**Sec. 60-144. Electrical ~~h~~Hazard.**

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**Sec. 60-170. Knockout panels.**

(a) All knockout panels in approved exit openings shall be a minimum of ten inches by ten inches in size, shall have only single strength glass, and shall be labeled directly on the panel "emergency exit - break glass," in contrasting colors at least one inch in height, and one-quarter inch stroke. Knockout panels shall be located not more than 42 inches from the floor to the top of the knockout panel and shall permit the lock or latch on the inside of the exit door to be operated quickly and easily. No more than one lock or latch shall be permitted on any approved exit door. No more than one intervening door containing a knockout panel shall be permitted in the exit way from any unit. No new installations or repair of existing knockout panels shall be permitted.

~~(a)~~(b) All knockout panels are deemed to be a hazardous means of egress and shall be eliminated by the second license renewal inspection after June 1, 2021 and no later than June 1, 2025.

**Sec. 60-183. General.**

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

**Sec. 60-192. Unsafe or dDangerous structure or premise.**

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- (11) Any portion of a building or structure remaining on site after the demolition or destruction of the building or structure or whenever building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.
- (12) Whenever the condition or maintenance of the premise creates a nuisance that endangers the health and safety of the residents or public. Whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

- (13) Any structure that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or that contains unsafe equipment or is so damaged, decayed dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.
- (14) Unsafe equipment including any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within in the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.
- (15) Any structure that the administrator determines is unfit for human occupancy meaning that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

**Sec. 60-193. Structure to be placarded.**

At the time a structure or premises is declared to be a public nuisance, the administrator shall cause to be posted at each entrance to the premises, the structure or portion thereof a notice to read "**DANGER — PUBLIC NUISANCE UNSAFE OR UNFIT FOR HUMAN OCCUPANCY. ADMINISTRATOR NEIGHBORHOOD INSPECTION ZONING DIVISION, CITY OF DES MOINES.**" This notice shall remain posted until the required repairs, demolition, or removal is completed. The notice shall not be removed and no person shall enter the building except to make the required repairs or to demolish the structure.

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

FORM APPROVED:

*/s/ Megan Norberg* \_\_\_\_\_

Megan E. Norberg  
Assistant City Attorney

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

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Sections 60-3, 60-5, 60-7, 60-10, 60-11, 60-12, 60-15, 60-19, 60-30, 60-31, 60-32, 60-33, 60-34, 60-35, 60-40, 60-41, 60-42, 60-43, 60-44, 60-45, 60-50, 60-60, 60-76, 60-85, 60-104, 60-128, 60-144, 60-170, 60-183, 60-192, and 60-193, relating to the housing code.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended by amending Sections 60-3, 60-5, 60-7, 60-10, 60-11, 60-12, 60-15, 60-19, 60-30, 60-31, 60-32, 60-33, 60-34, 60-35, 60-40, 60-41, 60-42, 60-43, 60-44, 60-45, 60-50, 60-60, 60-76, 60-85, 60-104, 60-128, 60-144, 60-170, 60-183, 60-192, and 60-193, relating to the housing code, as follows:

**Sec. 60-3. Intent.**

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

**Sec. 60-5. Deletions.**

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

- (1) Section 107.1 Notice to Person Responsible;
- (2) Section 107.2 Form;
- (3) Section 107.3 Method of Service;
- (4) Section 107.4 Unauthorized tampering;

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

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

**60-7. Powers**

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- (d) The administrator shall keep and maintain all records of inspections, licenses, extensions, Housing Appeals Board actions, fines, variances, modifications, and all other records maintained by the division.

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**60-10. Modifications.**

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

- (1) Before granting a modification, the administrator shall find that:
  - (a) Compliance with a specific code violation relating to the structure or premise would make the strict letter of this code impractical;
  - (b) The modification is in compliance with the intent and purpose of the Municipal Code; and
  - (c) Such modification does not lessen the health, life, and fire safety requirements or the integrity of the structure.
- (2) An owner(s) or authorized management agent may appeal a denial of a modification to the Housing Appeals Board.

**60-11. Alternative materials, methods and equipment.**

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- (5) An owner(s) or authorized management agent may appeal a denial of an alternative material, method or equipment to the Housing Appeals Board.

**60-12. Stop work order.**

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

- (a) Costs due for fees, fines, penalties and costs imposed upon the owner in the enforcement of this chapter shall be payable within thirty (30) days of the date of notice which will be provided to the owner or authorized management agent as designated in the business account maintained with the division; and
- (b) the invoice shall include notice that if unpaid will be collected as a special assessment, personal judgment, or any other collection measure deemed appropriate.

**Sec. 60-19. Definitions.**

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*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.

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*Deterioration* means to weaken, disintegrate, corrode, rust, or decay and loss of effectiveness.

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

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

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

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

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

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

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*Habitable space* means space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage, or utility space and similar areas are not considered habitable spaces.

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

- (1) Listed or certified as eligible for listing by the State Historic Preservation Office or the Keeper of the National Register of Historic Places in the National Register of Historic Places;
- (2) Designated as historic under an applicable state or local law; or
- (3) Certified as a contributing resource within a National Register or state or locally.

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

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

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**Sec. 60-30. Rental license required.**

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

**Sec. 60-31. Required owner(s) or authorized management agent information.**

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**Sec. 60-32. Application for a business account and/or rental license.**

- (a) Owners of rental properties must establish a business account with the City of Des Moines. The business account will allow the owner to manage all rental properties through this account
- (b) The owner must request a rental license for each rental unit, duplex or multifamily dwelling at least sixty (60) days prior to rental occupancy. The license will be issued upon passing a rental inspection.
- (c) Upon purchase of a property that has a current rental license the owner shall establish a business account and/or a rental license. The renewal inspection will be scheduled on the same schedule as the renewal for the previous owner.
- (d) If the information provided in the business account or rental license does not include the information required in section 60-31 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.

- (e) Sixty (60) days prior to the renewal date of the rental license, the division will email a notification to the property owner(s), and/or the management agent as designated in the business account maintained with the division 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 request a renewal inspection and failure to obtain the inspection will result in expiration of the rental license.
- (f) The owner or registered management agent will be required to update any information in the business account and/or rental license that has changed, request an inspection and pay the fee for the first renewal inspection.
- (g) 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.
- (h) It is the responsibility of the owner(s) or authorized management agent to contact the division to set the date and time of all inspections.

### **Sec. 60-33. Inspection, notice of violation and method of service**

- (a) The administrator shall inspect the primary dwelling unit(s), accessory structure(s) and premise.
- (b) If the administrator determines that the structure(s) and/or premises are being maintained in violation of this chapter, the administrator shall provide notice of the violation(s) to the owner(s) or authorized management agent of the premises as designated in the rental license(s) maintained with the division by email that the notice is available in their account. If the administrator does not have an email address for the owner, the administrator shall provide notice by regular mail to the owner listed on the Polk County or Warren County Assessor websites. Such notice shall:
  - (1) Be in writing;
  - (2) Include a description of the real estate sufficient for identification;
  - (3) Describe the violation and remedial action required;
  - (4) State that all health, safety, and maintenance violations must be corrected within thirty (30) days from receipt of this notice;
  - (5) Advise that if a violation still exists upon re-inspection, the administrator will suspend a valid rental license and refer the owner(s) or authorized management agent to the Housing Appeals Board;
  - (6) Advise that upon failure of the owner(s) or authorized management agent to arrange for a re-inspection within thirty (30) days from receipt of the notice, it will be presumed the violations have not been abated and administrator will suspend a valid rental license and refer the owner(s) or authorized management agent to the Housing Appeals Board;

- (7) Advise of the right to file an appeal of a violation set out in the notice of violation and the amount of the appeal fee; and
- (8) Include a statement of the right of the division to collect unpaid costs by personal judgment, collection, or assessment to be collected as a property tax.

**Sec. 60-34. Renovation agreement.**

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

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

**Sec. 60-35. Compliance and rental license.**

- (a) Upon compliance, the division shall issue a rental license. Notice of the issuance will be provided to the owner or authorized management agent as designated in the business account or rental license information maintained with the division and shall be by email that the notice is available in their account as provided in the records provided to the city.
- (b) The owner(s) or authorized management agent will be notified of an invoice for all fees owed, provided to the owner or authorized management agent as designated in the business account or rental license information maintained with the division and shall be by email that the notice is available in their account as provided in the records provided to the city.
  - (1) Rental inspection fees will be charged in the amount set forth in the schedule of fees adopted by the city council by resolution.

- (2) Costs due for fees, fines, penalties and costs imposed upon the owner in the enforcement shall be payable within thirty (30) days of the date of billing and if unpaid will be collected as a special assessment, personal judgment, or any other collection measure deemed appropriate.
- (3) Structures referred to the legal department for prosecution will be inspected as necessary to enforce the code and associated costs, fees, fines, and penalties will be billed as set out in the schedule of fees adopted by the city council by resolution.
- (b) The rental license issued under this article shall contain the following information:
  - (1) The owner(s) name(s);
  - (2) The name of the authorized management agent;
  - (3) Contact information for the owner(s) or the authorized management agent;
  - (4) The local address and type of structure;
  - (5) The number of units;
  - (6) The date of inspection;
  - (7) The date of issuance; and
  - (8) The license renewal date.
- (c) A license will be issued for the following periods:

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

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

1. Must have valid rental license information on file before extension of the license;
2. Must have had no more than one founded maintenance complaint since the last inspection;
3. Must have no outstanding fees due the division for the property; and
4. Must be current on taxes and special assessments due the division for the property.

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

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

**Sec. 60-40. Housing Appeals Board.**

- (a) There is established a board known as the Housing Appeals Board (hereinafter “Board”).
- (b) The Housing Appeals Board shall consist of not more than seven members; of which not less than three members who are qualified by experience and training to pass on matters pertaining to property maintenance, and one member who has a demonstrated interest in historic preservation. All members shall not be employed by the City of Des Moines. Each member shall serve a three-year term.

- (c) If the city council by resolution finds that no suitable person with the required qualifications is available for appointment to fill a vacancy on the Housing Appeals Board that has remained open for at least two (2) months, then the City council may appoint a representative of the general public to fill the vacancy. The member so appointed shall not be reappointed unless the city council, by resolution, finds that no suitable person with the required qualifications is then available for appointment to the Housing Appeals Board.
- (d) The Housing Appeals Board shall elect a chair from among themselves who will serve for a term of one year. The chair shall be the administrative officer and shall preside at meetings and hearings.
- (e) Quorum shall be a majority of the appointed members at the time of the meeting; however, quorum shall not be less than three (3) members.

**Sec. 60-41. Powers and duties.**

The Housing Appeals Board shall:

- (1) Hold monthly hearings of appeals filed with the administrator under Article II and concerning properties referred to the board by the administrator.
- (2) Decide whether to grant variances and modifications.
- (3) Rule on requests for additional time, provided that the granting of such additional time does not endanger the life, health, or safety of the occupants or the integrity of the structure.
- (4) Impose fines for any violation of Article II in the amount set forth in the schedule of administrative penalties adopted by the city council by resolution. The Board shall have the authority to impose the maximum fine, a lesser fine, or to waive the fine upon good cause shown.
- (5) Direct that legal action be brought to enforce Article II when such action is deemed necessary.
- (6) Hear appeals of the amount of a penalty fine or assessment of a penalty fine.
- (7) Find that an owner(s) or authorized management agent is a habitual violator. A habitual violator is:
  - a. An owner(s) or authorized management agent who fails to correct a violation within the time period given by the notice and who has been required to appear before the Housing Appeals Board for such failure three times or more on three separate occasions during a 12-month period shall be deemed a habitual violator if found by the board to have failed to correct the violations without good cause. Upon finding that the owner(s) is a habitual violator, an authorized management agent may also be deemed a habitual.
  - b. The Housing Appeals Board is authorized to order the unified inspection of all properties owned or managed by a habitual violator. The fee for this unified inspection will be charged at regular inspection rates as set forth in the schedule of fees adopted by the city council by resolution. The owner(s) or authorized management agent will be placed on an accelerated inspection schedule by the Board, a category III license will be issued for each property. The fees as set forth in the schedule of fees adopted by the city council by resolution shall be charged for such inspections.

- (8) Make specific recommendations to the city council regarding matters pertaining to Article II.

**Sec. 60-42. Appeals.**

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

- (3) The Housing Appeals Board may set reasonable conditions and safeguards to promote the public health, safety, and welfare when granting a variance.
- (4) The administrator may request the revocation of a variance at any time and the Housing Appeals Board may revoke a variance upon a showing that the basis for granting the variance no longer exists or upon a showing that a condition of the variance has been violated.
- (5) Before revoking a variance the administrator shall notify the owner(s) or authorized management agent of the reason for the requested revocation and the date of the hearing.

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(e) *Referral of owner(s) or authorized management agent by the administrator:*

- (1) An owner(s) or authorized management agent shall be referred to the Housing Appeals Board for failure to comply with an inspection notice.
- (2) The owner(s) shall be charged an administrative fee in the amount set forth in the schedule of fees adopted by the city council by resolution.
- (3) The division shall provide notice of the hearing at least ten (10) days before the next Housing Appeals Board meeting by sending an email stating there is a notice in their account or by regular mail if their email is unknown.
- (4) Final inspections to determine compliance will be conducted by the division no later than seven (7) days before the scheduled hearing.
- (5) If the owner(s) or authorized management agent appears before the Housing Appeals Board, they will be charged a fee in the amount set forth in the schedule of fees adopted by the city council by resolution for the cost of the hearing.
- (6) If an owner(s) or authorized management agent referred to the Housing Appeals Board has brought the structure(s) into compliance prior to that board meeting, they shall be charged a fee in the amount set forth in the schedule of fees adopted by the city council by resolution.
- (7) If an owner(s) or authorized management agent fails to appear before the Housing Appeals Board, the property will be referred to the legal division for legal action and the full penalty fine shall be imposed for failure to timely correct the violations.

(f) *Appeal of amount of a penalty fine or pending assessment.*

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

**Sec. 60-43. Hearing.**

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

**Sec. 60-44. Fines.**

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

- (1) For each day the owner fails to arrange for an inspection within the time set forth in this chapter.
- (2) For each violation not corrected within the time designated in the notice of violation or within such time the owner has been granted an extension of time.
  - a. Failure to arrange for a timely re-inspection shall give rise to a presumption that the violation was not corrected and a fine shall be imposed accordingly;
  - b. Violations not corrected in the allotted time shall be subject to the maximum fine, retroactive to the original date set forth in the violation notice.
- (3) The Housing Appeals Board shall have the authority to impose the maximum fine, a lesser fine, or to waive the fine upon good cause shown.

**Sec. 60-45. Housing Appeals Board notices.**

- (a) The administrator shall notify the appellant and all board members of the date, time, and location of the hearing.
- (b) The administrator shall provide the decision of the Housing Appeals Board to the owner(s) or authorized management agent including the amount of the fine imposed if any, by sending an email stating there is a notice in their account or by regular mail if their email is unknown.

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

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- (b) A seller of a rental property shall inform the prospective buyer of the following at least fourteen (14) days prior to the closing:
  - (1) Current status of the rental license;
  - (2) Any outstanding notice regarding violations of this article; and
  - (3) The existence of any court or administrative proceeding which pertains to violations of this article, stating the case numbers and names of all parties to the proceedings.

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**Sec. 60-60. General maintenance.**

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

**Sec. 60-76. General maintenance.**

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**Sec. 60-85. Handrails and guards.**

Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

- (1) Handrails shall have minimum and maximum heights of 34 inches and 38 inches respectively, measured vertically from the nosing of the treads and shall be provided on at least one side of the stairway. All required handrails shall be continuous the full length of the stairs for four or more risers from a point directly above the top riser of the flight to a point directly above the lowest riser of the flight. Continuous handrails shall be permitted to be interrupted by newel posts at turns and at one location in straight stairs when the rail terminates into a wall or ledge and is offset and immediately continues. Ends shall be returned to shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have space of not less than one and one-half inches between the wall and the handrail.

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**Sec. 60-104. Handrails and guards.**

Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

- (1) Handrails shall have minimum and maximum heights of 34 inches and 38 inches respectively, measured vertically from the nosing of the treads and shall be provided on at least one side of the stairway. All required handrails shall be

continuous the full length of the stairs for four or more risers from a point directly above the top riser of the flight to a point directly above the lowest riser of the flight. Continuous handrails shall be permitted to be interrupted by newel posts at turns and at one location in straight stairs when the rail terminates into a wall or ledge and is offset and immediately continues. Ends shall be returned or shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have space of not less than one and one-half inches between the wall and the handrail.

- (2) Handrail grasp ability. Handrails with circular cross sections shall have an outside diameter of at least one and one-quarter inches and not greater than two inches or shall provide equivalent grasp ability.
- (3) Guard required. One- and two- family dwellings with porches, balconies, or raised floor surfaces located more than 30 inches above the floor or below grade shall have guards not less than 36 inches in height. Multiple-family dwellings with porches, balconies, or raised floor surfaces located more than 30 inches above the floor or below grade shall have guards not less than 42 inches in height. Open guards shall have balusters or ornamental patterns such that a four-inch diameter sphere cannot pass through.

**Sec. 60-128. Rooming houses.**

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**Sec. 60-144. Electrical hazard.**

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**Sec. 60-170. Knockout panels.**

- (a) All knockout panels in approved exit openings shall be a minimum of ten inches by ten inches in size, shall have only single strength glass, and shall be labeled directly on the panel "emergency exit - break glass," in contrasting colors at least one inch in height, and one-quarter inch stroke. Knockout panels shall be located not more than 42 inches from the floor to the top of the knockout panel and shall permit the lock or latch on the inside of the exit door to be operated quickly and easily. No more than one lock or latch shall be permitted on any approved exit door. No more than one intervening door containing a knockout panel shall be permitted in the exit way from any unit. No new installations or repair of existing knockout panels shall be permitted.
- (b) All knockout panels are deemed to be a hazardous means of egress and shall be eliminated by the second license renewal inspection after June 1, 2021 and no later than June 1, 2025.

**Sec. 60-183. General.**

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

**Sec. 60-192. Unsafe or dangerous structure or premise.**

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- (11) Any portion of a building or structure remaining on site after the demolition or destruction of the building or structure or whenever building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.
- (12) Whenever the condition or maintenance of the premise creates a nuisance that endangers the health and safety of the residents or public.
- (13) Any structure that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or that contains unsafe equipment or is so damaged, decayed dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.
- (14) Unsafe equipment including any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within in the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.
- (15) Any structure that the administrator determines is unfit for human occupancy meaning that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

**Sec. 60-193. Structure to be placarded.**

At the time a structure or premises is declared to be a public nuisance, the administrator shall cause to be posted at each entrance to the premises, the structure or portion thereof a notice to read "**DANGER — PUBLIC NUISANCE UNSAFE OR UNFIT FOR HUMAN OCCUPANCY. ADMINISTRATOR NEIGHBORHOOD INSPECTION DIVISION, CITY OF DES MOINES.**" This notice shall remain posted until the required repairs, demolition, or

removal is completed. The notice shall not be removed and no person shall enter the building except to make the required repairs or to demolish the structure.

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

FORM APPROVED:

*/s/ Megan Norberg* \_\_\_\_\_

Megan E. Norberg  
Assistant City Attorney