

AN ORDINANCE RELATING CHAPTER 53 PROPERTY MAINTENANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARNAVILLO, IOWA:

Section 1. Chapter 53, the Chapter heading, and all sections of the Code of Ordinances are amended by deleting the heading and sections and inserting in lieu thereof the following:

CHAPTER 53 PROPERTY MAINTENANCE CODE

53.01	Title	53.05	Definitions
53.02	Purpose	53.06	Maintenance Standards
53.03	Interpretation	53.07	Violations
53.04	Abrogation and Greater Restrictions		

53.01 TITLE. This ordinance may be referred to as the "Property Maintenance Code", and is herein referred to as "this Code."

53.02 PURPOSE. The purpose of this Code is to protect the public health, safety, and welfare, esthetics and property values, by establishing minimum standards for maintenance, appearance, condition, and occupancy, and for essential utilities, facilities, and other physical components and conditions to make residential premises fit for human habitation, and to make non-residential premises fit for use according to the purpose for which they were developed; by fixing certain responsibilities and duties upon the owners and managers, and distinct and separate responsibilities and duties upon the occupants; by authorizing and establishing penalties for violations; and providing for proper repair, demolition, or vacation premises which do not comply with this Code.

52.03 INTERPRETATION. This provision of this Code shall be interpreted and applied as minimum requirements, and shall not be deemed a limitation or repeal for any other power granted by the Code of Iowa.

Nothing in this Code shall be construed to abrogate the Federal or State Constitutions, nor to grant power to the City that are otherwise reserved by or for Federal and State government.

52.04 ABROGATION AND GREATER RESTRICTIONS. It is not the intent of this Code to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. Where two or more provisions apply the higher standard shall prevail.

52.05 DEFINITIONS. Words used in the Code shall have the same meaning as that defined by the Zoning Ordinance, unless otherwise defined by this Code.

1. Abandoned Building. Any Building or portion of a building under construction which has stood with an incomplete exterior shell for more than one year, or any completed building or portion thereof which has stood unoccupied for longer than six (6) months, and which is unsecured or has Housing Code or Building Code violations.
2. Deterioration. A state of conditions caused by lack of maintenance or excessive use, characterized by holes, breaks, rot, crumbling, peeling paint, rusting, or other evidence of physical decay or neglect.
3. Enforcement Officer. The Mayor, Council, Police Officer, City Administrator, Public Works Director or other City staff as may be assigned.
4. Exposed to Public View. Any premises or any part thereof which may be lawfully viewed by the public or from adjoining premises.
5. Exterior. Yards and other open outdoor spaces on premises, and the external surfaces of any structure.
6. Extermination. The control and elimination of insects, rodents and vermin.
7. Infestation. The presence of insects, rodents, vermin, or other pests on the premise to the extent that they constitute a health hazard, are deemed by an Enforcement Officer to be in threat of spreading to adjoining premises, or are exposed to the public view.
8. Junk. All old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances, iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or rear yard is not considered junk.
9. Nuisance. Physical conditions that are dangerous or detrimental to the health or safety of persons on or near premises where the conditions exist, or anything that is injurious to the senses or interferes with the comfortable enjoyment of life or property.
10. Owner. Any person who alone, jointly, or severally with others, holds legal or equitable title to any premises, with or without accompanying actual possession thereof.
11. Premises. A lot, parcel, tract or plot of land, contiguous and under common ownership or control, together with the buildings and structures thereon.
12. Public Authority. Any officer or any department or branch of the City, County, or State charged with regulating health, fire, zoning, building regulations, public safety or other activities concerning property in the City.
13. Refuse. Any material that has lost its value for the original purpose for which it was created or manufactured, or for its resigned use, whether putrescible or non-putrescible, combustible or non-combustible, which is not securely or stored in a building or legal outdoor storage yard for prompt disposal or resale, including but not limited to junk;

paper or cardboard; plastic, metals; glass; yard clippings, leaves, woody vegetative trimmings, and other plant wastes which have not been properly composted; vegetable or animal waste resulting from handling, processing, storage, preparation, serving or consumption of food crockery; bedding furniture, or appliances; offal; rubbish; ashes or incinerator residue; construction debris; accumulation of animal feces; dead animals; or wastes from commercial or industrial processes.

14. Responsible party. Any person having possession, charge, care, or control of real or personal property, whether with or without the knowledge and consent of the owner, including without limitation any one or more of the following: owner, agent, property manager, contract purchaser, mortgagee or vendee in possession, receiver, executor, trustee, lessee or tenant, or any other person, firm or corporation exercising apparent control over a property.

53.06 MAINTENANCE STANDARDS.

1. **GENERAL.** The exterior of every premises and structure shall be maintained in good repair, to the ends that the premises and structure thereon will be preserved; adjoining properties protected from blighting influences; and safety and fire hazards eliminated.
2. **MAINTENANCE OF PREMISES.** Each and every premise shall be kept free of all nuisances, health, safety, and fire hazards, unsanitary conditions, and infestation. It shall be the duty of the responsible party to keep the premises free of all said conditions and to promptly remove and abate same, which include but are not limited to the following declared nuisances:
 - a. Weeds or grasses allowed to grow to a height greater than eight (8) inches, or any accumulation of dead weeds or grass that are exposed to public view, on any non-farm property. This provision shall not apply to prairies, wetlands, or similar area of naturalized perennial vegetation which are certified by an Enforcement Officer to not constitute a nuisance.
 - b. No person shall permit garbage or recyclable materials to accumulate longer than a garbage collection cycle or recyclable upon premises owned or occupied by him or her if such accumulation would violate the purpose of this Chapter: nor shall any person deposit any garbage or recyclable materials upon any other premises unless such person has been authorized by the owner of the premises to deposit such materials there.
 - c. Any structure, which is in such a dilapidated condition that it is unfit for human habitation or the use for which it was constructed; kept in such an unsanitary condition that it is a menace to the health of people residing therein or in the vicinity thereof; or any structure defined as that is defined as abandoned or a public nuisance by Chapter 657A, Code of Iowa.

- d. Any nuisance as defined herein or described as such by Chapter 657 of the Code of Iowa
 - e. Any alteration, modification, or obstruction which prevents, obstructs or impedes the normal flow of runoff from adjacent lands, or any alteration or modification which substantially concentrates or increases the flow of water onto an adjoining premises to the extent of damaging or saturating such premises.
 - f. Conditions which are conducive to the accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rodent harborages, stagnant water, combustible materials and similar materials or conditions on a premise which constitutes a fire, health or safety hazard.
 - g. Fences or retaining walls that are not structurally sound or which are deteriorating, as may be evidenced by leaning or loose elements.
 - h. Weeds, shrubs, trees, or other vegetation growing on or into any city right-of-way area.
3. **BUILDING MAINTENANCE.** All buildings shall be maintained to be weather and water tight. Broken windows, holes in roofs, and missing siding shall be replaced with similar materials to maintain the weather and water tight properties of the structure. All wood including floor boards, decking, subfloors, joists, rafters, roof sheathing, and siding shall be replaced when missing, rotted or damaged. Materials and practices used in reconstruction and residing shall be of standard quality an appearance commensurate with the character of house or building. Their appearance, as judged under prevailing appraisal practices and standards. Owners or responsible parties shall not use materials which would depreciate the value of adjoining premises or the neighborhood. Painted surfaces shall be maintained or repainted so that an individual wall surface does not have peeling or missing paint in areas in excess of fifty percent (50%) of that individual surface area.

53.07 VIOLATIONS.

1. **INSPECTION REPORT.** Whenever the Mayor or other authorized City officer (Zoning Administrative Officer) is informed that a nuisance or other condition exists which is listed in this chapter, the Mayor or other authorized City officer shall provide that an inspection report be prepared within a reasonable time and given to the Mayor or Council. The report shall contain, but not limited to:
 - a. A legal description of the property and a site map, if applicable.
 - b. A description of the nuisance and conditions that exist that caused the nuisance designation to be applied.
 - c. A statement of the acts necessary to abate the nuisance or condition.
 - d. A reasonable time within which to complete the abatement.

2. ABATEMENT OF NUISANCE OR CONDITION

- a. VOLUNTARY ABATEMENT. The objective of this Code being the abatement of violations, person violating this Code shall, except in emergency situations, be given notice of the violation and allowed a reasonable amount of time to voluntarily remedy the violation before action to assess costs or penalties for committing a municipal infraction is undertaken. Consideration will be given to evidence of a good faith effort to correct the violation; whether an imminent health or safety hazard exists; whether the person has previously been notified of or charged with violations of a similar nature; and other factors.
- b. EMERGENCY CONDITION. If the Enforcement Officer judges that an emergency exists which creates a dangerous and imminent health or safety hazard to person, property or the general public which requires immediate action, the City may order such action as may be immediately or in the time and manner prescribed in the order itself.

(Code of Iowa, Sec. 364.12[3h])

- c. PROCEDURE. Whenever the Enforcement Officer finds that a nuisance or other condition that is listed in this chapter exists, the Enforcement Officer has the authority to determine on a case-by-case basis whether to utilize the nuisance abatement procedure described in Section 50.06 of this chapter or the municipal infraction procedure referred to in Section 50.07.

3. ABATEMENT OF NUISANCE BY WRITTEN NOTICE. Any nuisance, public or private, may be abated in the manner provided for in this section:

(Code of Iowa, Sec. 364.12[3h])

- a. Contents of Notice to Property Owner. The notice to abate shall contain: †
 - i. A legal description of the property and a site map, if applicable.
 - ii. A description of the nuisance and conditions that exist that caused the nuisance designation to be applied.
 - iii. A statement of the acts necessary to abate the nuisance or condition.
 - iv. A reasonable time within which to complete the abatement.
 - v. An estimate of the cost to abate the nuisance. If the abatement notice is regarding a dilapidated or junk building, the notice shall compare the cost of abatement with a project cost of reconstruction of the structure.

† **EDITOR'S NOTE:** A suggested form of notice for the abatement of nuisances is included in the Appendix of this Code of Ordinances. Caution is urged in the use of this administrative abatement procedure, particularly where cost of abatement is more than minimal or where there is doubt as to whether or not a nuisance does in fact exist. If compliance is not secured following notice and hearings, we recommend you review the situation with your attorney before proceeding with abatement and assessment of costs. Your attorney may recommend proceedings in court under Chapter 657 of the *Code of Iowa* rather than this procedure.

- vi. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs to against the property owner.
- b. Method of Service. When service of a notice to abate is required, the following methods of service shall be deemed adequate:
 - i. By personal service upon the person or persons in possession of the property in violation or the owner of the property upon which the nuisance exists.
 - ii. If, after reasonable effort, personal service cannot be made, service shall be made by sending the notice by certified mail, return receipt requested to the last know address of person or persons in possession of the property.
- c. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, a nuisance is found if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.
- d. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk, who shall pay such expenses on behalf of the City.

(Code of Iowa, Sec. 364.12[3h])

- e. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail or by service in the manner of an original notice to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within on month, the Clerk shall certify the costs to the County Treasurer, and such costs shall then be collected with, and in the same manner as, general property taxes.

(Code of Iowa Sec. 364.12[3h])

- f. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds one hundred dollars (\$100.00), the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

(Code of Iowa, Sec. 364.13)

- g. Failure to Abate. Any person causing or maintaining a nuisance who shall or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate is in violation of this Code of Ordinances.
4. MUNICIPAL INFRACTION ABATEMENT PROCEDURE. In lieu of the abatement procedures set forth in Section 50.07, the requirements of this chapter may be enforced under the procedures applicable to municipal infractions as set forth in Chapter 3 of this Code of Ordinances.

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

Passed and approved this ____ day of _____, 2021.

Chad Schmelzer, Mayor

ATTEST:

Melissa Atkinson, City Clerk/Administrator