

Chapter 12 Buildings

Article IX Vacant Building Permit and Inspection

Section 12-400 Definitions. The following definitions shall apply in this Section:

1. Accessory Building/Structure. A detached building or structure on the same lot, with and of a nature customarily incidental and subordinate to the principle building or structure or use of the land; i.e., a garden house, greenhouse, garage, carport, shed, fence, or retaining wall.
2. Building. Any Structure used or intended for supporting or sheltering any use or occupancy.
3. Exterior Premises. The open space on the premises or the portion of the premises upon which there is not a structure.
4. Good Repair. "Good Repair" shall mean free from blighting and hazardous conditions, clean and sanitary, and in safe condition.
5. Imminent Hazard. A condition which could cause serious or life-threatening injury or death at any time.
6. Mixed Occupancy. Occupancy of a structure in part for residential use and in part for some other use not accessory thereto.
7. Occupant. An occupant is any person who leases or lawfully resides in a building or premises, or a portion of a building or premises.
8. Owner. Any person having a title to the premises, as recorded in the Office of the Recorder for Fayette County, or as recorded on the Fayette County assessment rolls. Any person with a legal or equitable interest in the property, as recorded in the Office of the Recorder for Fayette County, or as recorded on the Fayette County assessment rolls
9. Responsible Person. A natural person who is the owner, operator or manager of any building, structure, or premises and is responsible for the property's maintenance and management.
10. Rubbish. Combustible and noncombustible waste materials, except garbage. The term shall include the residue from the burning of wood, coal, coke, and other combustible materials, papers, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust and other similar materials.
11. Structure. Anything constructed or erected, which requires location on the ground or attached to something having location on the ground.
12. Vacant. A residential, commercial, industrial building, or structure shall be deemed to be vacant if it is unoccupied and/ or no person or persons currently operate a lawful business open regularly for business except for holidays, seasonal businesses, and meets one or more of the following:
 - a. Unsecured or secured by means other than those used in the design of the building;
 - b. Declared unfit for occupancy as determined by the Building Inspector;
 - c. Non-compliant with International Property Maintenance Code or other City and State Building Codes as adopted by the City;
 - d. Existence of housing, building, fire, health and safety, or zoning code violations; or
 - e. Not receiving service by any public utilities (water, sewer, gas, electric).
 - f. Any unoccupied building that has been the site of unlawful activity within the last six months
 - g. Property is being used for personal storage that does not contribute to a business activity
13. Waste. "Waste" shall mean garbage, ashes, rubbish or trash.

14. Weeds. "Weeds" or "Noxious Weeds" as defined by Iowa Code 317.1
15. Abandoned/ Junk Vehicle shall mean the same for this section as it does in Junk Vehicle Article X Junked Vehicles, Trailers and Semitrailers, and Outdoor Storage of Motor Vehicles

Section 12-402. Applicability

1. General. The provisions of this Section shall apply to all residential, manufacturing, commercial, industrial and mixed occupancy buildings vacant for one hundred twenty (120) consecutive days, and all residential, manufacturing, commercial, industrial and mixed occupancy buildings, which have been partially vacant for one hundred twenty (120) days, in any residential, commercial, or industrial zoned district.
2. Conflict. In any case where a provision of this Section is found to be in conflict with a provision of the Zoning Code or any other provisions of the Code of General Ordinances, the provision which established the higher standard for the protection of the public health, safety, and welfare shall prevail.
3. Application of Other Ordinances. Nothing contained herein shall be deemed to authorize the use of a structure or premises contrary to any other provision of the Code of Ordinances or the Zoning Code. Nothing in this Section shall be construed to cancel, modify or set aside any provision of the City Zoning Code or Building Code.
4. Existing Remedies. The provisions in this Section shall not be construed to abolish or impair existing remedies of the City, or its officers or agencies, under State laws or this Code of Ordinances, including the Zoning Code, relating to the removal or demolition of any structure which is dangerous, unsafe and unsanitary, or the abatement of public nuisances.
5. Historic Buildings. The provisions of this Section shall apply to structures designated by the Federal Government, State or City as historic buildings. Any work to said structures shall also comply with current International Building Code as adopted by the City.

Section 12-404. Vacant Building Permit Required.

1. Vacant Building Permit. The owner of any vacant building or structure to which this Section applies shall obtain a Vacant Building Permit within thirty (30) days of becoming vacant. It is the responsible party's burden to monitor its property and determine if it is vacant as defined in this code. Upon enactment of this chapter of the City Code, any building vacant must apply for a Vacant Building Permit no later than June 30, 2019.
2. Application for a Vacant Building Permit shall be made by completing a Vacant Building Registration Form, which shall be submitted to the Building Inspector. The owner must maintain a valid Vacant Building Permit for any building or structure to which this Section applies and must continue to renew the permit as long as the building or structure remains vacant, subject to this Section.
3. Vacant Building Permit Process. When completing the Vacant Building Registration Form, which is available to be downloaded from the City website, or obtained from the Building Inspector/City Hall, applicants shall disclose all measures to be taken to ensure that the building will be kept weathertight, secure from trespassers, and safe for entry by police officers and firefighters in times of exigent circumstances or emergency. The application shall include, but not be limited to, the following:

- a. Contact information for each owner. If the owner does not reside within the State of Iowa, the owner shall provide the name, address and telephone number of an agent who is available for service of process within the State of Iowa. If the owner is other than a natural person or persons, the following shall apply, as appropriate:
 1. If the owner is a corporation, limited liability company, limited or general partnership, the registration statement shall provide the names and residence addresses of the registered agent for service of process appointed pursuant to Iowa Code.
 2. If an estate, the name and business address of the personal representative of the estate.
 3. If a trust, the names and addresses of the trustee or trustees.
- b. Contact information for a responsible person, as defined by this Section, who is a natural person who may be contacted at all times for inspections, emergency repairs, or maintenance, and who can respond to the vacant building or structure when requested.
- c. Any rehabilitation or demolition plans for the building or structure.
- d. An acknowledgement by the owner that grass and weeds shall not exceed a height of ten (10") inches and a plan for how the owner will comply with this requirement.
- e. An acknowledgement by the owner that snow and ice shall be removed from the public right-of-way within twenty-four (24) hours of snowfall and a plan for how the owner will comply with this requirement.
- f. An acknowledgement by the applicant that the owner is aware of and understands the Vacant Building Maintenance Standards in this Section.
- g. In the event an owner cannot be found, a financial institution holding a mortgage interest shall be required to register as the responsible party until the owner of the property is found and registers.

Section 12-406 Vacant Building Permit Renewal. Any applicant seeking to renew a permit must submit an updated Vacant Building Registration Form and shall pay the required fee as established by the City' fee schedule.

Section 26-5 Vacant Building Permit Requirements. A permit may only be issued or renewed if the building or structure which is subject to the application satisfies the following requirements:

1. Code Compliant. All buildings or structures subject to the application shall comply with all building, fire, property maintenance, zoning, and other applicable sections of the Code of Ordinances, and shall apply for all necessary building, fire prevention and zoning permits, if any are required to bring the building into compliance, upon application for a Vacant Building Permit.
2. Vacant Building Maintenance Standards. All buildings or structures subject to the application shall adequately protect the building from intrusion by trespassers and pests, and from deterioration by the weather. The buildings must also comply with the following Vacant Building Maintenance Standards:
 - a. Building Openings. Doors, windows, areaways, and other openings shall be weathertight and secured against entry by birds, vermin and trespassers.

- a. Missing or broken glass in doors, windows and other such openings shall be repaired/ replaced with glass. No building opening shall be boarded. All first floor or ground level windows, doors and openings shall be free of any posters, paper or fabric coverings.
- b. Waste Removal. All waste, debris, rubbish, and garbage shall be removed from the interior of the building or structure and surrounding premises.
- c. Roofs. The roof and flashings shall be sound and tight, not admit moisture, or have defects which might admit moisture, rain, or roof draining and shall allow for sufficient drainage to prevent dampness or deterioration in the interior of the building.
- d. Drainage. The building storm drainage system shall be functional and installed in an approved manner and allow discharge in an approved manner.
- e. Building Structure. The building shall be maintained in good repair and structurally sound. The building shall be maintained in a sanitary manner and in a manner that does not pose a threat to the public health, safety and welfare.
- f. Structural Members. The structural members shall be free of deterioration and capable of safely bearing imposed dead and live loads.
- g. Foundation Walls. The foundation walls shall be maintained structurally sound and in a sanitary condition so as not to pose a threat to the public health, safety and welfare, shall be capable of supporting the load which normal use may cause to be placed thereon, and shall be free from open cracks and breaks, free from leaks, and be animal and rat-proof.
- h. Exterior Walls. The exterior walls shall be free of holes, breaks, and loose or rotting materials. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic applications of weather coating materials, such as paint or similar surface treatment.
- i. Decorative Features. The cornices, belt courses, corbels, terracotta trim, wall facings and similar decorative features shall be safe, anchored and in good repair. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic applications of weather-coating materials, such as paint or similar surface treatment.
- j. Overhanging Extensions. All balconies, canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar features shall be in good repair, anchored, safe and sound. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic applications of weather-coating materials, such as paint or similar surface treatment.
- k. Appurtenance. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof shall be of sufficient strength or stability and anchored so as to be capable of resisting wind pressure of one-half (1/2) of that specified in the building code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the building code for such buildings.
- l. Chimneys and Towers. Chimneys, cooling towers, smokestacks and similar appurtenances shall be structurally safe and in good repair. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic applications of weather-coating materials, such as paint or similar surface treatment.

- m. Walkways. Public walkways shall be in good repair, shall be safe for pedestrian travel, and shall be free of snow and ice. Snow and ice removal shall be completed within twenty-four (24) hours of a snowfall.
 - n. Accessory Building/Structures. Accessory buildings/ structures such as garages, sheds and fences shall be free from safety, health and fire hazards; and, shall comply with these Vacant Building Maintenance Standards.
 - o. Exterior Premises. The surrounding premises upon which the structure or building is located shall be clean, safe, sanitary, free from waste, rubbish, garbage, excessive vegetation, shall not be used for exterior storage, and shall not pose a threat to public health, welfare or safety.
3. Insurance
- a. Liability insurance is required before a permit is granted.

Section 26-6 Issuance of Vacant Building Permit. The Building Inspector shall issue or renew a Vacant Building Permit upon being satisfied that the building has been inspected and is in compliance with all applicable provisions of this Code and the Vacant Building Maintenance Standards set forth in this Section and is adequately protected from intrusion by trespassers and from deterioration by the weather. This Permit shall be effective for a period of three hundred sixty-five (365) days from the date of issuance or renewal.

Section 12-408 Notice and Orders

1. Notice to person responsible. Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 26-7.2 and 26-7.3 to the person responsible for the violation as specified in this code.
2. Form. Such notice prescribed in Section 26-7 shall be in accordance with all of the following:
 - a. Be in writing.
 - b. Include a description of the real estate sufficient for identification.
 - c. Include a statement of the violation or violations and why the notice is being issued.
 - d. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.
 - e. Inform the property owner or owner's authorized agent of the right to appeal.
3. Method of service. Such notice shall be deemed to be properly served if a copy thereof is:
 - a. Delivered personally;
 - b. Sent by certified or first-class mail addressed to the last known address; or
 - c. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

Section 12-410 Vacant Building Permit Conditions. All permits issued are subject to all other applicable conditions of the Code of Ordinances and the following additional conditions:

1. Consent to Entry. All applicants and owners holding a permit consent to the entry of duly authorized officials of the City at all reasonable hours and upon reasonable notice for the purpose of inspection. Refusal to consent to entry shall be a violation of this Section. In addition to issuing

a municipal infraction citation in the event of refusal, the City may file a complaint under oath to any Court of competent jurisdiction and said Court shall thereupon issue its Order authorizing the appropriate person to enter such establishment to inspect.

2. Consent to Emergency Inspections/ Emergency Repairs. All applicants and owners holding a permit consent to the entry of duly authorized officials of the City if such official has reason to believe than an emergency situation exists with respect to the building or structure that tends to create an imminent hazard to health, welfare or safety of the general public, in the discretion of such official, then such official may enter the building to inspect the premises, without notifying the responsible party or obtaining a warrant. If such official finds an emergency situation exists in fact, which presents an imminent hazard to the health, welfare or safety of the general public, then such official may cause any reasonable action, including the employment of necessary labor and materials, to perform emergency repairs to alleviate the hazard. City employees will confer with legal counsel prior to entering or causing entry to be made to premises and/ or performing any emergency repairs without prior owner notification and consent. Costs incurred in the performance of emergency repairs may be paid by the City and if so paid, the City may levy a special assessment against the property to recover the costs.
3. Cooperation by Owner or Responsible Person. All owners holding a permit or responsible persons identified in a permit application shall cooperate with and facilitate inspections of the premises at reasonable times pursuant to reasonable notice to determine compliance with the requirements of this Section. Obstructing a duly authorized inspection, including refusing entry or access to portions of the building subject to the permit, shall be a violation of this Section. The owner shall notify the Building Inspector within thirty (30) business days of any changes to the contact information of the owner or responsible person.
4. Continued Compliance. For the Vacant Building Permit to remain valid, the building or structure subject to the permit shall continue to comply with all the requirements of the Vacant Building Maintenance Standards.

Section 12-412 Enforcement.

1. Authorized Officials. The Zoning Administrator and the Building Inspector shall have the authority to enforce the provisions of this Section and to exercise the powers and duties specified in this Section and may delegate their authority to appropriate City personnel as his/her designee.
2. Right of Entry. An authorized official has the right to enter buildings, structures, or premises subject to this Section at reasonable times, with the express or implied consent of the owner, responsible person, or occupant, to inspect in accordance with the City's policy and procedure for entering onto private property to conduct administrative interior and exterior inspections for Code administration and enforcement. If entry is refused, it shall be a violation of this ordinance for which a municipal infraction citation may be issued.
3. Inspections. An authorized official may inspect the premises and structures to determine compliance with this Section at their discretion. All reports of such inspections shall be in writing, signed or initialed and dated. An authorized official may engage any expert opinion as deemed necessary to report upon unusual technical issues that arise in the course of their duties, in accordance with City policy. An authorized official, or his/her designee(s), may conduct inspections made pursuant to the provisions of this Section in conjunction with other inspectors of the Department, police officers, firefighters, or inspectors from other governmental bodies.

4. Issuance of Orders to Repair. Upon inspection, an authorized official or his/her designee, shall issue orders to repair for work needed:
 - a. To adequately protect the building from intrusion by trespassers and from deterioration by the weather;
 - b. To comply with the Vacant Building Maintenance Standards set forth in this Section;
 - c. To ensure that allowing the building to remain will not be detrimental to public health, safety and welfare, will not unreasonably interfere with the reasonable and lawful use and enjoyment of other premises within the neighborhood; or
 - d. To eliminate any hazards to police officers or firefighters that may enter the premises in times of emergency.

When issuing Orders to Repair, the authorized official shall specify the deadline for completion of the repair required and shall mail the notice to the owner or responsible person identified in the permit. All work done pursuant to this Section shall be done in compliance with any applicable Building, Fire, Property Maintenance and Zoning Codes and Ordinances.

5. Reinspections. Reinspections may be conducted after the deadline for repair as stated in the Order. Reinspections are subject to applicable reinspection fees set by the city's fee schedule.
6. Notices and Orders. An authorized official may issue notices and orders to owners, responsible persons, operators, or occupants to obtain compliance with this Section.
7. Revocation, Reinstatement Measures. If a vacant building permit is revoked by the Building Inspector for noncompliance with any provisions of this code, the owner of the building shall be given thirty (30) days to comply with the provisions of this code. Extensions of such thirty (30) day period may be granted at the discretion of the Building Inspector. Upon expiration of the thirty (30) day period, or any extension thereof, if the building continues to be noncompliant, a municipal infraction will be issued.

Section 12-414 Process and Timeline. No later than June 30, 2019, following passage of this ordinance, and subsequently within 30 days of a manufacturing, commercial, industrial, or mixed occupancy building becoming vacant as defined herein, a building owner must complete a Vacant Building Registration Form, which serves as an application for a Vacant Building Permit.

1. Once the building owner or representative applies for and pays for their Vacant Building Permit, their initial inspection is of no charge. Fees for the permit are set by the city's fee schedule.
2. Upon completion of the inspection the building owner or representative shall remedy as ordered. If no repairs are necessary, the permit is valid for 365 days after inspection, at which time the inspection process begins again with the Vacant Building Permit Fee being due annually thereafter.
3. If the inspection results in necessary repairs being ordered, a reinspection will be conducted in accord with the provisions of this ordinance.
4. In the case of a necessary reinspection, the annual permit begins upon all necessary repairs being made and bringing the building into compliance with all applicable building codes.

Section 12-418 Fees and Penalties.

1. Vacant Building Permit Fee. The Council shall, establish a fee for the issuance and renewal of a Vacant Building Permit.

2. Permit Fee Due. The Vacant Building Permit Fee is due upon application.
3. Reinspection Fees.
 - a. To compensate the City for its inspection and administrative costs reasonably related to the enforcement, an escalating fee established by the Council through resolution, may be charged for any reinspection following the initial inspection which resulted in an order for corrective action, and the first reinspection to determine compliance with an order for corrective action issued hereunder. There shall be no reinspection fee if the inspection indicates full compliance, or for a reinspection occurring during the period of an approved time extension granted for good cause and involving a good faith effort on the part of the property owner to comply with the order.
 - b. Failure to pay reinspection fees within thirty (30) days of mailing an invoice to the property owner of record shall constitute a violation of this ordinance for which a municipal infraction citation may be issued.
4. Violations.
 - a. Any violation of a provision of this Ordinance is a municipal infraction for which a municipal infraction citation may be issued. Each day that the violation continues shall constitute a separate violation for which a municipal infraction citation may be issued.
 - b. Abatement of Violations. The issuance of a municipal infraction citation shall not preclude the City Attorney from instituting appropriate action to restrain, correct, or abate a violation, or to prevent illegal occupancy of a structure or premises, or to stop an illegal act, conduct business, or utilization of the structure or premises.
5. Permit Fee Exemption
 - a. The property owner may qualify for an exemption from fees if the property is scheduled to be rehabilitated, in the process or scheduled for demolition, or if the property is actively being marketed.
 - i. Actively being marketed- Being listed with a real estate agent, the property has a for sale sign visible from the adjacent road, the property is advertised online or in the local paper.
 - ii. Applicants must provide written evidence that qualifies them for an exemption.
 - b. Fee may be waved if a building permit is pulled on the location and progress is being made on the property for substantial improvement or code compliance.
 - c. The following owners will be exempt from fees: Fannie Mae/Freddie Mac and United States Department of Agriculture (USDA).

Section 12-420 Appeals

1. Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.