

ORDINANCE 15019

AN ORDINANCE ESTABLISHING A VACANT PROPERTY CODE

WHEREAS the Marshalltown City Council has identified a desire to adopt a Vacant Property Code as part of the annual strategic planning sessions; and

WHEREAS the City Council finds that there are now, and may be in the future, vacant property/buildings which are dilapidated, unsafe, unhygienic, unfit for human habitation, occupancy, or use, and/or inadequately maintained so as to constitute public and/or private nuisances and create or contribute to blight, thereby jeopardizing public health, safety, prosperity, and welfare; and

WHEREAS the City seeks to facilitate the identification and inspection, and to assure the proper maintenance of vacant properties/buildings for the purpose of preserving and promoting public health, safety, prosperity and welfare, and to abate and prevent public and private nuisances and potential fire hazards.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF MARSHALLTOWN, IOWA:

Section 1. Chapter 158 of the Code of Ordinances of the City of Marshalltown Iowa is hereby created and shall be titled "Vacant Property Code", which shall read as follows:

CHAPTER 158: VACANT PROPERTY CODE

§ 158.001 PURPOSE

It is the purpose and intent of this ordinance to establish a vacant property code registration and maintenance program as a mechanism for preserving and promoting public health, safety, prosperity, and welfare; to abate and prevent public and private nuisances and potential fire hazards; and to provide for administration, enforcement, and penalties. This ordinance applies to all property types in the City of Marshalltown.

§ 158.002 DEFINITIONS

Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING/STRUCTURE. A subordinate building the use of which is incidental to that of the dominant use of the main building or land. (e.g. a garden house, greenhouse, garage, carport or shed).

AGENT. A designated representative of the property owner who may act on behalf of and make decisions for the owner with regard to the vacant property.

AUTHORIZED OFFICIAL. The Housing & Community Development Director and the Director's designees, including but not limit to, members of the City staff such as the Building Official, Building Inspector, Rental Housing Inspector, Code Enforcement Inspector or independent contractors appointed by the Director alike, shall oversee the administration and enforcement of this code. Work may include but is not limited to completion of administrative work, inspections or assessments, and/or other necessary actions in order to ensure compliance.

BUILDING. Any Structure used or intended for supporting or sheltering any use or occupancy.

DANGEROUS BUILDING. A building is deemed to be dangerous if it meets any of the definitions set forth in § 151.036 or §95.002.

EXTERIOR PREMISES. The open space on the premises or the portion of the premises upon which there is not a structure.

GOOD REPAIR. "Good Repair" shall mean free from blight and hazardous conditions, clean, sanitary, and safe.

ILLEGALLY OCCUPIED. Shall include any occupancy in violation of City ordinances.

IMMINENT HAZARD. A condition which could cause serious or life-threatening injury or death at any time.

JUNK. Scrap metals or scrap materials, abandoned, dismantled or partially dismantled machinery, motor vehicles, other vehicles or appliances.

MIXED OCCUPANCY. Occupancy of a building in part for residential use and in part for some other use not accessory thereto.

OCCUPANT. An occupant is any person other than the record owner who leases or otherwise lawfully resides in a building or premises, or a portion of a building or premises.

OWNER. Any person holding title to the premises, or with a legal or equitable interest in the property, as recorded in the Office of the Recorder for Marshall County, or as recorded on the Marshall County assessment rolls.

PARTIALLY VACANT. A building that has one (1) or more stories or dwelling units vacant.

RESPONSIBLE PERSON. A natural person who is the owner, operator, agent or manager of any building, structure, or premises and is responsible for the property's maintenance and/or management.

REFUSE. All garbage, rubbish, ashes, or other substances offensive to sight or smell, dangerous to the public health, or detrimental to the best interests of the community.

STRUCTURE. Anything constructed or erected, which requires location on the ground or

attached to something having location on the ground.

UNOCCUPIED. A building which lacks of physical presence of an occupant for at least 180 consecutive days for the purpose for which it was erected or a building unfit for occupancy due to a failure to meet minimum standards set out by City ordinances. The storage of products, materials, or other personal property does not constitute occupancy unless authorized by the City zoning ordinance.

UNSECURED. A building or portion of a building that is open to entry by unauthorized persons without the use of tools.

VACANT BUILDING. A building shall be deemed to be vacant if it is unoccupied and/or no person currently resides in the building or operates a lawful business open regularly for business (with the exception of holidays and seasonal businesses), and if it 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 Official or other authorized representative;
- (C) Been deemed a dangerous and/or dilapidated building by the City of Marshalltown;
- (D) Subject to housing, building, fire, health and safety, nuisance or zoning code violations; or
- (E) Lacks one or more utilities for a period of at least one hundred eighty (180) consecutive days. Vacant buildings do not include any buildings being constructed pursuant to a valid building permit issued by the City of Marshalltown that is progressing in accordance with timelines authorized under the issuance of the permit.

VACANT LOT. A parcel of ground that does not contain a building or structure and is not owned by the owner of an adjoining parcel containing a principal building or structure.

VACANT PROPERTY. Includes both vacant lots and vacant buildings.

WASTE. Shall mean garbage, ashes, rubbish, refuse, or trash.

WEEDS. Dense growth of all weeds, vines, brush, or other vegetation which may constitute a health, safety, or fire hazard.

§ 158.002 APPLICABILITY

(A) General. The provisions of this Chapter shall apply to all buildings in any zoning district in the City of Marshalltown vacant or partially vacant for one hundred eighty (180) consecutive days.

(B) Conflict. In any case where a provision of this Chapter is found to be in conflict with a provision of any other provisions of the Code of Ordinances, the provision which established the higher standard for the protection of the public health, safety, and welfare shall prevail.

(C) 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.

Repairs, additions, or alterations to a structure shall be done in accordance with the procedures and provisions of State and local laws. Nothing in this Section shall be construed to cancel, modify, or set aside any provision of the City Zoning Ordinance or Building Code.

(D) Existing Remedies. The provisions in this Chapter 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 Ordinance, relating to the removal or demolition of any structure which is dangerous, unsafe, and/or unsanitary, or the abatement of public nuisances.

(E) Historic Buildings. The provisions of this Chapter 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 or International Existing Building Code as applicable and as adopted by the City.

§ 158.003 REGISTRATION REQUIRED

(A) Vacant Property Registration Required.

- (1) Vacant Lot. The owner of any vacant lot to which this Chapter applies shall be required to register the property within ninety (90) days of acquisition.
- (2) Vacant Building. The owner of a vacant building to which this Chapter applies shall be required to register the property within ninety (90) days of becoming vacant. Upon enactment of this chapter of the City Code, any vacant building must register no later than July 1, 2021.

(B) Vacant Property Registration Form. The required form shall be completed by the property owner or agent and submitted to the Housing & Community Development Department. The owner/agent is responsible for updating the registration form annually and as changes occur.

The registration form shall require information including, but not be limited to, the following:

- (1) Contact information for all owners. If the owner does not reside within the State of Iowa, the owner shall provide the name, address, telephone number, and email address 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:
 - (a) If the owner is a corporation, limited liability company, or limited or general partnership, the registration statement shall provide the names and addresses of all responsible persons and the name and business address of the registered agent for service of process appointed pursuant to the Iowa Code.
 - (b) If an estate, the name and address of the executor of the estate.
 - (c) If a trust, the names and addresses of the trustee or trustees.
 - (d) If a partnership, the names and address of the partner or partners.
- (2) Contact information for a responsible person, as defined by this Chapter, 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 property when requested.
- (3) Proof of insurance coverage for the property including the following minimum amounts.
 - (a) \$100,000 in general liability coverage, and
 - (b) Fire and casualty coverage for all structures equal to no less than their replacement value, as determined by the applicant's insurance provider, or a minimum of \$50,000, or

- (c) If insurance is not able to be obtained a Bond in the amount of \$50,000 can be secured in the City's favor to ensure all structures on the property can be properly demolished and removed in the event of destruction without taxing public resources.
- (d) If neither insurance or bond is secured an Uninsured Property Fee will be charged annually.
- (4) Proposed plans for the property and corresponding timeline for action. This may include any new construction, redevelopment, rehabilitation, or demolition plans for the property.
- (5) An acknowledgement by the owner/agent 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, including (if applicable) the name and telephone number of any company engaged to manage grass and weeds at the property.
- (6) 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, including (if applicable) the name and telephone number of any company engaged to provide snow and ice removal services at the property.
- (7) An acknowledgement by the applicant that the owner is aware of and understands the vacant property standards set forth in § 158.004.

(C) Vacant Property Registration Fee. A *Registration Fee* shall be collected at the time of registration and annually thereafter. Failure to register a vacant property will result in the City charging an *Unregistered Property Fee*. All fees will be set by resolution.

§ 158.004 VACANT PROPERTY STANDARDS

- (A) All vacant buildings subject to registration shall comply with the following standards:
 - (1) Building Openings. Doors, windows, and other openings shall be weathertight and secured against entry by birds, vermin, and trespassers. Missing or broken glass in doors, windows, and other such openings shall be repaired and/or replaced with glass within twelve (12) months of becoming vacant. No building opening shall be boarded for more than twelve (12) months. All first floor or ground level windows, doors, and openings shall be free of any posters, paper, or fabric coverings.
 - (2) Waste Removal. All waste, debris, rubbish, and garbage shall be removed from the exterior of the property and from areas visible from the public right-of-way and adjacent properties such as porches, carports, or other open areas.
 - (3) 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.
 - (4) 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.
 - (5) Structural Members. The structural members shall be free of deterioration and capable of safely bearing imposed dead and live loads.
 - (6) Foundation Walls. The foundation walls shall be maintained in a structurally sound and 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 resistant to vermin.

(7) 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.

(8) Decorative Features. The cornices, belt courses, corbels, terra cotta 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.

(9) 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.

(10) 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.

(11) 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.

(12) 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.

(13) Accessory Building/Structures. Accessory buildings and 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.

(14) 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.

§ 158.005 EXEMPTIONS

(A) Property actively listed for sale or lease. A vacant property that is actively listed and offered for sale or lease shall be exempt from the registration requirement subject to the following conditions.

(1) The property is offered for sale at a price not to exceed twenty-five percent the assessed value as documented by the Marshall County Assessor's Office unless the owner is able to submit recent comparable market data which justify a higher value.

(2) The property is offered for lease at a proposed rent that is comparable with the rental market throughout the community.

(3) If after twelve (12) months of active listing, the property remains vacant, registration shall be required.

(B) Temporary Vacancy of Owner-Occupied Dwellings. A vacant owner-occupied residential property where the owner resides elsewhere for less than six (6) months per calendar year shall be exempt from the registration requirement.

§ 158.006 VIOLATION AND ENFORCEMENT

- (A) Inspection and Assessment. The City is authorized to inspect and assess the property for compliance. Access to the interior of any building shall be with owner consent or pursuant to an administrative search warrant.
- (B) Violations of this Chapter. If the City determines the property is in violation of any provision of this Chapter, the City may notify the owner of the violation by providing a Notice of Violation via regular and certified mail and posting at a conspicuous place on the property. The Notice of Violation shall identify the sections in violation, required corrective action, and a time frame for compliance.
- (C) Violations of other applicable City Codes. Registered properties shall remain subject to compliance with other applicable City Code provisions including but not limited to those pertaining to nuisances, property maintenance, zoning, building, and fire. Violations of other applicable code provisions will follow corresponding enforcement procedures.
- (D) Failure to Comply. If the owner fails to take corrective action within the specified time frame the City reserves the right to pursue all available legal remedies including without limitation issuance of a municipal infraction citation pursuant to City Code §10.999 or pursuit of title to the property pursuant to Iowa Code §657A.10B.

§ 158.007 APPEALS

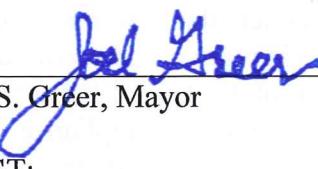
- (A) Appeals. The owner shall have the right to appeal a Notice of Violation by the authorized official to the Building Board of Appeals as outlined in § 151.039.
 - (1) Written Request for Appeal. A written request for an appeal must be submitted within ten (10) calendar days from the date on the Notice of Violation to the Housing & Community Development Director. The written request shall include the following:
 - (a) Date
 - (b) Owner's name,
 - (c) Owner's address,
 - (d) Owner's phone number,
 - (e) Property address or parcel number,
 - (f) Information supporting the owner's position,
 - (2) Setting the Hearing. As soon as practicable after receiving the written appeal, the Board of Appeals shall fix a date, time and place of hearing. Said hearing shall be not less than five days nor more than 20 days from the date the written notice of appeal is filed.
 - (3) Failure to Appeal. Failure of any person to file an appeal in accordance with the provisions of this subchapter shall constitute a waiver of rights to an administrative hearing and adjudication of the notice and order or any portion thereof.

- (4) Matters of Consideration. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.
- (5) Decision. After hearing all testimony, the Board of Appeals shall have 15 days to issue a decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. The decision shall be served on the appellant by certified mail, return receipt requested.

Section 2. This ordinance shall be in effect after its final passage, approval and publication as provided by law.

Passed this 24th day of May 2021 and signed this 25th day of May 2021.

CITY OF MARSHALLTOWN, IOWA


Joel T.S. Greer, Mayor

ATTEST:

Alicia Hunter, City Clerk

I, Alicia Hunter, City Clerk of the City of Marshalltown, Iowa, do hereby certify that the foregoing ORDINANCE was passed and approved by the City Council of the City of Marshalltown, Iowa, on the 24th day of May, 2021, and was published in the Marshalltown Times-Republican, a newspaper of general circulation in the City of Marshalltown, Iowa, on the 27th day of May, 2021.


Alicia Hunter, City Clerk

ORDINANCE SUMMARY

The Marshalltown City Council has identified a desire to adopt a Vacant Property Code as part of the annual strategic planning sessions. The City Council finds that there are now, and may be in the future, vacant property/buildings which are dilapidated, unsafe, unhygienic, unfit for human habitation, occupancy, or use, and/or inadequately maintained so as to constitute public and/or private nuisances and create or contribute to blight, thereby jeopardizing public health, safety, prosperity, and welfare. The City seeks to facilitate the identification and inspection, and to assure the proper maintenance of vacant properties/buildings for the purpose of preserving and promoting public health, safety, prosperity and welfare, and to abate and prevent public and private nuisances and potential fire hazards. Chapter 158 of the Code of Ordinances of the City of Marshalltown Iowa is hereby created and shall be titled "Vacant Property Code", Ordinance 15019. Passed this 24th day of May 2021.

This ordinance becomes effective upon publication of this summary. A full copy of the ordinance is available online at www.marshalltown-ia.gov.