

Ordinance No. 289

**An Ordinance Establishing a Vacant Building Permit
And Inspection Process**

WHEREAS, the City Council of the City of Adel, Iowa, finds that there are now, and may be in the future, vacant commercial and industrial buildings which are dilapidated, unsafe, unhygienic and / or inadequately maintained so as to create or contribute to blight and thus jeopardize the health, safety, prosperity and general welfare, thereby creating a public and / or private nuisance; and

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

NOW, THEREFORE BE IT ORDAINED, by the City Council of the City of Adel, Iowa, as follows:

Section 1: 153 of the Code of Ordinances of the City of Adel Iowa is hereby created and shall be titled "Vacant Building Permit and Inspection", which shall read as follows:

Chapter 153 Vacant Building Permit and Inspection

(a) **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 Dallas County, or as recorded on the Dallas County assessment rolls.
- (9) **Partially Vacant.** A multi-storied building or structure that has one (1) or more stories vacant, including the ground level store front. For the purpose of this ordinance the ground floor store front must be vacant to be deemed partially vacant.

- (10) **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.
- (11) **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.
- (12) **Structure.** Anything constructed or erected, which requires location on the ground or attached to something having location on the ground.
- (13) **Vacant.** A commercial or 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 with the exception of holidays and 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 public utilities.
- (14) **Waste.** "Waste" shall mean garbage, ashes, rubbish or trash.
- (15) **Weeds.** "Weeds" or "Noxious Weeds" shall mean Canada thistle, leafy spurge, field bindweed (Creeping Jenny), Ambrosia trifida (Giant Ragweed), Arubosia trifida (Common Ragweed), and such other weeds as are defined in "Weeds of the North Central States, North Central Regional Research Publication No. 281, Bulletin 772", published by the University of Illinois at Urbana-Champaign, College of Agriculture, Agriculture Experiment Station, and in all applicable sections of current Codes at the time as adopted by the City Council (e.g. Iowa Code, International Property Maintenance Code, etc.)

(b) **Applicability.**

- (1) **General.** The provisions of this Section shall apply to all manufacturing, commercial, industrial and mixed occupancy buildings vacant for one hundred eighty (180) consecutive days, and all manufacturing, commercial, industrial and mixed occupancy buildings, which have been partially vacant for one hundred eighty (180) days, in any 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. Repairs, additions or alterations to a structure shall be done in accordance with the procedures and provisions of State law, applicable chapters of this Code of Ordinances and NFPA 70 (National Electric 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.

(c) **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. Upon enactment of this chapter of the City Code, any building vacant must apply for a Vacant Building Permit no later than June 30, 2013.
- (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 all responsible persons and the name and business address 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.
 - 4. If a partnership, the names and residence addresses of the partner or partners.
 - 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 eight (8") 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.
- (4) **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 Council.

(d) **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. 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, 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.
 - 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.
- (e) **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.
- (f) **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 that 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.

(g) **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.
- (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.

- (h) **Process and Timeline.** No later than June 1, 2013, 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.

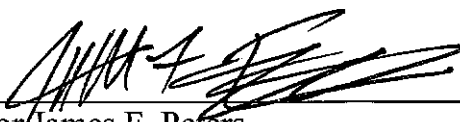
- (1) There is no charge for the initial application as long as the building is in compliance with all applicable building codes.
- (2) If the building remains vacant for 180-days necessitating the 180-day inspection, the building owner or representative shall pay the permit / inspection fee.
- (3) Upon completion of the inspection the building owner or representative shall remedy as ordered. If no repairs are necessary, the permit is valid for one year from the 180-day inspection, at which time the inspection process begins again with the Vacant Building Permit Fee being due annually thereafter.
- (4) If the inspection results in necessary repairs being ordered, a reinspection will be conducted in accord with the provisions of this ordinance.
- (5) 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.

- (i) **Fees and Penalties.**

- (1) **Vacant Building Permit Fee.** The Council shall, establish a fee for the 180-day issuance and renewal of a Vacant Building Permit Fee.
- (2) **Permit Fee Due.** The Vacant Building Permit Fee is due upon the 180-day inspection.
- (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.

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

PASSED AND APPROVED this 14 day of May, 2013.



 Mayor James F. Peters

ATTEST:



 Brett Klein, Administrator/Interim City Clerk