

## ORDINANCE 12-16

AN ORDINANCE RELATING TO ADOPTION BY REFERENCE OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE, 2012 EDITION AS THE CITY OF MARION HOUSING CODE AND PROVIDING PENALTIES.

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

Section 1. Chapter 165 of the Code of Ordinances is amended by deleting the same and inserting in lieu thereof the following:

### **CITY OF MARION CODE OF ORDINANCES CHAPTER 165**

### **HOUSING CODE**

165.01 International Property Maintenance Code Adopted  
165.02 Amendments to the Housing Code  
165.03 Scope  
165.04 Housing Official  
165.05 Registration and Fees  
165.06 Plans of Inspection  
165.07 Certification of Inspected Housing

165.08 Unsafe Structures and Equipment  
165.09 Board of Appeals  
165.10 Definitions  
165.11 Lead-Based Paint  
165.12 Penalties and Corrective Actions  
165.13 Code on File

#### **165.01 INTERNATIONAL PROPERTY MAINTENANCE CODE ADOPTED.**

Except as hereinafter added to, deleted, modified or amended, there is hereby adopted as the Housing Code of the City of Marion that certain Code known as the *International Property Maintenance Code, 2012 Edition*, First Printing, as prepared and edited by the International Code Council, Inc. and the provisions of said Housing Code shall be controlling in maintaining minimum requirements and standards of residential buildings and properties and in all matters covered by said Housing Code within the corporate limits of the City and shall be known as the Marion Housing Code.

**165.02 AMENDMENTS TO THE PROPERTY MAINTENANCE CODE.** Certain sections and portions of sections of the *International Property Maintenance Code, 2012 Edition*, are hereby amended, deleted, modified or added to as more specifically set forth below and in the following sections of this chapter.

- Section 101.1 Insert: {City of Marion, Iowa}
- Section 112.4 Insert: {fine schedule as set by Council resolution}
- Section 302.4 Insert: {8 inches} (from 52.02 #13 Weeds)
- Section 304.14 Insert: April 1, September 30}
- Section 602.3 Insert: {October 1, April 30}
- Section 602.4 Insert: {October 1, April 30}

**165.03 SCOPE.** The Marion Housing Code is hereby amended by adding new exceptions numbered 1. and 2. to Section 101.2 of the *International Property Maintenance Code, 2012 Edition*, as follows:

Exception:

1. Nonresidential structures and nonresidential premises shall be regulated as provided in Marion Code of Ordinances Chapter 153, Property Maintenance.
2. Residential structure exteriors and residential exterior premises that do not constitute a serious and continuous endangerment to the health and safety of the residents shall be regulated as provided in Marion Code of Ordinances Chapter 153, Property Maintenance.

**165.04 HOUSING OFFICIAL.** The Marion Housing Code is hereby amended by repealing Section 103.1 of the *International Property Maintenance Code, 2012 Edition*, and by replacing said Section with new Section, as follows:

103.1 Housing Official. For the purposes of this Code, the executive official in charge of administering this Code shall be known as the Housing Official or Code Official and the terms Housing Official and Code Official shall have the same meaning.

**165.05 REGISTRATION AND FEES.** The Marion Housing Code is hereby amended by repealing Section 103.5 of the *International Property Maintenance Code, 2012 Edition*, and by replacing said Section with new Section 103.5, as follows:

103.5 Notification and Fees. No person shall operate a rental dwelling unit, rooming house, congregate housing or independent group residence unless the person has first registered such rental dwelling unit, rooming house, congregate housing or independent group residence with the City.

Fees for activities and services performed in carrying out the responsibilities of this code shall be as provided in the Housing Code Table of Fees adopted by resolution of the City Council.

**165.06 PLANS OF INSPECTION.** The Marion Building Code is hereby amended by adding a new Section 104.2.1 to the *International Property Maintenance Code, 2012 Edition*, as follows:

104.2.1 Plans of Inspection.

1. Preparation of Plans. The Housing Official is authorized and directed to develop and present to the Council for adoption, plans for the inspection of dwelling units subject to the provisions of this chapter, including:

A. A plan for the regular inspection of all rental units, rooming houses, congregate housing, and independent group residences.

B. A plan for the inspection of all residential dwellings contained within the City upon receipt of complaints.

2. Public Notice. Before making inspections pursuant to the plans authorized in subsection 1 of this section, the City shall publish a notice advertising of the plan to inspect.

**165.07 CERTIFICATION OF INSPECTED HOUSING.** The Marion Building Code is hereby amended by adding a new Section 104.7 to the *International Property Maintenance Code, 2012 Edition*, as follows:

104.7 Certification of Inspected Housing. Whenever the Housing Official has inspected or caused to be inspected any dwelling unit and has determined that the dwelling unit is in compliance with the provisions of this Housing Code, a certificate of inspected housing shall be issued to the owner or the agent of the dwelling unit.

**165.08 UNSAFE STRUCTURES AND EQUIPMENT.** The Marion Housing Code is hereby amended by repealing Section 108.1 of the *International Property Maintenance Code, 2012 Edition*, and by replacing said Section with new Section, as follows:

108.1 General. When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, the code official shall commence proceedings to cause the repair, vacation or demolition of the structure and the structure may be condemned pursuant to the provisions of this code.

**165.09 OVERCROWDING.** The Marion Housing Code is hereby amended by adding a new exception to Section 404.5 of the *International Property Maintenance Code, 2012 Edition*, as follows:

Exception: The actual number of persons occupying a dwelling unit shall not create conditions that, in the opinion of the code official, endanger the life, health, safety, or welfare of the occupants.

**165.10 BOARD OF APPEALS.** The Marion Housing Code is hereby amended by repealing in entirety, Section 111 from the *International Property Maintenance Code, 2012 Edition*, and by replacing said Section with a new Section 111, as follows:

Section 111 Board of Appeals.

1. General. In order to hear and decide appeals of orders, decisions or determinations made by the housing official relative to the application and interpretation of this Code, and to provide reasonable variances for existing structures which cannot practicably meet the standards in the Housing Code, but are not unsafe

for habitation, there is hereby created a Housing Code Board of Appeals. The Housing Code Board of Appeals shall consist of the members of the Nuisance Enforcement/Property Maintenance Advisory Board as appointed by the Mayor and approved by the Council in accordance with Chapter 50 of the Marion Code of Ordinances.

2. Organization. The Board shall adopt reasonable rules and regulations for the conduct of its meetings and investigations and shall render all decisions and findings, which shall be made part of the public record.

3. Appeals Process.

A. Any person aggrieved by a written notice of the City issued in connection with any alleged violation of this Housing Code or of any applicable rule or regulation issued pursuant to the Housing Code or by any order requiring repair or demolition, may apply in writing to the Housing Code Board of Appeals for a reconsideration of such notice or order provided that such application is made within thirty (30) calendar days after the date of postmark of notice or proof of service.

B. Upon receipt of any appeal filed pursuant to this section, the Housing Official shall present it at the next regular or special meeting of the Board.

C. As soon as practicable after receiving a written appeal, the Board shall hold a public meeting to consider the appeal. The applicant shall be advised in writing of the time and place of such meeting at least four (4) days prior to the date of the meeting. At such meeting, the applicant shall be given an opportunity to be heard and to show cause why such notice or order should be modified, extended, withdrawn or variance granted. The Board may, in its discretion, hold a public hearing on any matter brought before the Board.

D. The Board, by a majority vote, may sustain, modify or withdraw the notice or order. In granting an extension or variance of any notice or order, the Board shall observe the following conditions:

(1) The Board may grant an extension of time for the compliance of any notice or order for not more than 18 months subject to appropriate condition and provided that the Board makes specific findings of fact based on evidence relating to the following:

a. That there are practical difficulties or unnecessary hardships in carrying out the strict letter of any notice or order.

b. That such an extension is in harmony with the general purpose and intent of this Housing Code in securing the public health, safety and general welfare.

(2) The Board may grant a variance in a specific case and from a specific provision of this Housing Code subject to appropriate

conditions and provided the Board makes specific findings of fact based on evidence relating to the following:

- a. That there are practical difficulties or unnecessary hardships in carrying out the strict letter of any notice or order.
- b. That the effect of the application of the provisions would be arbitrary in the specific case.
- c. That an extension would not constitute an appropriate remedy for these practical difficulties or unnecessary hardships in this arbitrary effect.
- d. That such a variance is in harmony with the general purpose and intent of this Housing Code in securing the public health, safety and general welfare.

E. Failure of any person to file an appeal in accordance with the provisions of this section shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or to any portion thereof.

F. Enforcement of any notice or order issued under this Code shall be stayed during the duration of an appeal of the order, which is properly and timely filed.

**165.11 DEFINITIONS.** The Marion Housing Code is hereby amended by adding new definitions to Section 202 of the *International Property Maintenance Code, 2012 Edition*, as follows:

1. "Dwelling unit, rental" means any dwelling unit which is or is intended to be rented, leased, let, or hired out to be occupied.
2. "Housing Official" means the individual and the individual's designated representatives appointed by the City Manager to administer and enforce the Housing Code.
3. "Independent group residence" means housing for the exclusive residential use of two to twelve elderly, handicapped or disabled individuals, excluding one or two Resident Assistants, if needed, who cannot live completely independently and require a planned program of supportive services, and designated by the U.S. Department of Housing and Urban Development as an "Independent Group Residence."
4. "Lead-based paint" means any paint containing more lead than the level established by the U.S. Consumer Product Safety Commission as being the "safe" level of lead in residential paint and paint products.
5. "Temporary housing" means any tent, trailer, motor home or other structure used for human shelter for less than seventy-two (72) hours, which is designed to be

transported and which is not attached to the ground, to another structure, or to any utility system on the same premises.

**165.12 LEAD-BASED PAINT.** The Marion Housing Code is hereby amended by adding a new Section 305.3.1 to the *International Property Maintenance Code, 2012 Edition* as follows:

Section 305.3.1. Lead-Based Paint. The dwelling unit shall be in compliance with HUD lead-based paint regulations, 24 C.F.R., Part 35, issued pursuant to the Lead-based Paint Poisoning Prevention Act, 42 U.S.C. 4821-4846; and the owner shall provide a certification that the dwelling is in accordance with such HUD regulations. If the property was constructed prior to 1950, the family upon occupancy shall be furnished the notice required by HUD lead-based paint regulations and procedures regarding the hazards of lead-based paint poisoning, the symptoms and treatment of lead poisoning, and the precautions to be taken against lead poisoning.

Surfaces of the dwelling covered with lead-based paint, including walls, stairs, railings, windows and doors, less than four (4) feet above adjacent walking surfaces, must be free from noticeable cracking, scaling, peeling, chipping and loose paint; or adequately treated or covered to prevent exposure of children to lead-based paint hazards.

**165.13 PENALTIES AND CORRECTIVE ACTIONS.**

1. Actions Authorized. The Housing Official shall take any action authorized by this chapter to assure compliance, or to prevent violations of its provisions. Specifically, this may include citation for municipal infractions pursuant to Chapter 4 of this Code of Ordinances. The Housing Official may recommend to the City Attorney the institution of other legal or equitable actions for the enforcement of this chapter.

2. Applicability. No penalty shall be assessed for a violation of this chapter as for the time that the dwelling unit is vacant and remains vacant. However, no dwelling unit for which an order or notice of an alleged violation of this code has been issued may be reoccupied until such time that the violation has been corrected and a Certificate of Inspected Housing has been issued. In the event that a dwelling or dwelling unit becomes vacant before the violation has been corrected and a Certificate of Inspected Housing has been issued, the Housing Official may post a notice on or about the dwelling or dwelling unit. The notice shall state the described dwelling or dwelling unit contains Housing Code violations and that such dwelling or dwelling unit shall not be occupied until such time that the violations have been corrected and a Certificate of Inspected Housing has been issued. It is the responsibility of the owner or agent to inspect the premises at least every thirty (30) days to make sure the notice is still posted on the property. It shall be a violation of this Code to remove or deface such notice until a Certificate of Inspected Housing has been issued. It is the responsibility of the owner or agent to notify the Housing

Official within 72 hours if the notice is removed prior to the issuance of the Certificate of Inspected Housing.

3. Prosecution. In case there is no prompt compliance with any violation order, the Housing Official may issue a citation pursuant to Section 805.1 through 805.5 of the Code of Iowa and request the City Attorney to institute an appropriate action or proceeding at law to exact the penalty provided herein and, in addition, may ask the legal representative to proceed at law or in equity against the person responsible for the violation for the purpose of ordering the person:

A. To restrain, correct, remove the violation or refrain from any further execution of work;

B. To restrain or correct the erection, installation, or alteration of such structure;

C. To require the removal of work in violation;

D. To prevent the occupation or use of the structure, or part of the structure erected, constructed, installed, altered or maintained in violation of the provisions of this Code.

5. Other Remedies. The City Attorney is authorized to pursue any other remedy available in law or equity to correct violations of the provisions of this Housing Code.

**165.14 CODE ON FILE.** An official copy of the Marion Housing Code hereby adopted, including a certificate by the Clerk as to its adoption and the effective date thereof, shall be on file in the Office of the Clerk in City Hall and shall be kept there on file, and copies shall be available for public inspection. A copy of this chapter shall be available in the Building Department Office.

Section 2. Violations of this ordinance shall be punished as provided in section 1.06 of the Code of Ordinances or may be cited as a municipal infraction under chapter 4 of the Code of Ordinances.

Section 3. This ordinance shall be in full force and effect July 1, 2012 and after its passage and publication as by law provided.

Passed and approved this 17<sup>th</sup> day of May, 2012.



Snooks Bouska, Mayor

ATTEST:

Wesley A. Nelson

Wesley A. Nelson, City Clerk

**CERTIFICATE OF SERVICE**

The undersigned City Clerk of Marion, Iowa  
certifies that the ordinance summarized  
shown immediately above was published in the  
Marion Times on the 31<sup>st</sup> day of  
May, 20 12.

Wesley A. Nelson  
City Clerk