

ORDINANCE NO. 350

AN ORDINANCE AMENDING THE CITY OF HARTLEY, IOWA 2016 MUNICIPAL CODE OF ORDINANCES BY REPEALING CHAPTER 145 DANGEROUS BUILDINGS AND ADOPTING A NEW CHAPTER 145 DANGEROUS BUILDINGS IN LIEU THEREOF

WHEREAS, the City of Hartley City Council wants to protect the public from dangerous, unhealthy, unsafe, indecent and offensive conditions within the City; and,

WHEREAS, The City Council wants to define what an unsafe building or dangerous building is and to prohibit unsafe and dangerous buildings within the City and to establish a process to abate such nuisances and dangerous building from within the City;

BE IT ENACTED by the City Council of Hartley, Iowa;

SECTION 1: SECTION AMENDED. To repeal Chapter 145 Dangerous Buildings and to replace in lieu thereof with a new Chapter 145 Dangerous Buildings to Hartley's 2016 Code of Ordinances to read as follows:

CHAPTER 145 – DANGEROUS BUILDINGS

145.01 ENFORCEMENT OFFICER.

A designated Enforcement Officer as designated and approved by the council is responsible for the enforcement of this chapter. The Council may designate and approve others to assist in the enforcement of this Chapter.

145.02 GENERAL DEFINITION OF UNSAFE.

All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING.

"Unsafe building" means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is

manifestly unsafe for the purpose for which it is being used.

3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.
6. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; (b) a harbor for vagrants, criminals or immoral persons; or as to (c) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
7. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
8. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance including lack of paint so as to expose wood to rotting, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation or in such condition that is likely to cause sickness or disease.
9. Whenever any portion thereof has cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
10. Lack of, or improper operation of required ventilating equipment.
11. Lack of required electrical lighting in halls, stairways, etc., in public buildings.
12. Dampness of habitable rooms.
13. Infestation of insects, vermin, rodents or birds.
14. Lack of connection to required sewage disposal system.
15. Defective or deteriorated flooring or floor supports.
16. Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.
17. Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.
18. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration.
19. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.
20. Fireplaces or chimneys which list, bulge, or settle, due to defective material or deterioration.
21. Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.
22. Hazardous Wiring: All wiring except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner.

23. Hazardous Plumbing: All plumbing except that which conforms with all applicable laws in effect at the time of installation and which has been maintained in good condition and which is free of cross connections and siphonage between fixtures.
24. Hazardous Mechanical Equipment: All mechanical equipment including vents, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good and safe condition.
25. Faulty Weather Protection:
 1. Deteriorated, crumbling or loose plaster.
 2. Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including, but not limited to broken windows or doors, or holes in the exterior walls and roof.
 3. Defective or lack of weather protection for exterior wall coverings, including lack of paint or weathering due to lack of paint or other approved covering.
 4. Broken, rotted, split or buckled exterior walls or roof coverings, or missing siding.
26. Hazardous Or Insanitary Premises: Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat and mice harborages, stagnant water, combustible materials and similar materials or conditions constitute undue fire, health or safety hazards.
27. Inadequate Maintenance: Any building or portion thereof which is determined to be an unsafe building in accordance with the provisions of this code.
28. Improper Occupancy: All buildings or portions thereof occupied for living, sleeping, cooking or eating purposes which are not designed or intended to be used for such occupancies.
29. Lack of hot or cold running water to plumbing fixtures in a dwelling unit or apartments.
30. Lack of adequate heating facilities in multiple dwellings or rooming homes.
31. Lack of, or improper operation of required ventilating equipment.
32. Whenever any building or structure or portion thereof has broken or missing window(s) or open, missing or broken doors, or hole(s) in a exterior wall(s) or roof becomes an attractive nuisance or hazard to the public because of infestation by insects, birds, rodents, or other vermin or has the potential to harbor insects, birds, rodents, or other vermin..

145.04 NOTICE TO OWNER.

The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer, or other Council designated and approved persons to assist in the enforcement of this Chapter.

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

1. Method of Service. Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipts requested, to each such persons at their address as it appears on the last equalized assessment roll of the county or as known to the building official. If no address of any such person so appears or is known to the building official, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building involved the proceedings and as shown by the records of the County Auditor. The failure of any such person to receive such notice shall not affect

the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

2. Proof of Service. Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date and manner in which service is made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and order retained by the City.
3. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING.

If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

145.06 POSTING OF SIGNS.

The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF HARTLEY, IOWA." It is a misdemeanor to occupy this building, or to remove or deface this notice. Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH.

In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

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

145.08 COSTS.

Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

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

145.09 EMERGENCY ABATEMENT OF DANGEROUS BUILDING.

In an emergency a city may perform any action which may be required under this Chapter without prior notice, and assess the costs as provided in this Chapter, after notice to the property owner and hearing.

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

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or any part of this ordinance shall be judged to be invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole, or section, or provision or part thereof, not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in full force and effect from after passage its final passage, approval and posting as provided by law.

Passed and approved this 30th day of April 2018.

Rodney Ahrenstorff, Mayor

ATTEST:

Patty Anderson, City Clerk/Administrator

First Reading: March 12, 2018

Second Reading: April 9, 2018

Third Reading: April 30, 2018

I certify that the foregoing was published as Ordinance No. 350 on the 3rd day of May.

Patty Anderson, City Clerk/Administrator