

**ORDINANCE NO. 961**

**AN ORDINANCE AMENDING THE JOHNSTON REVISED ORDINANCES OF 2007 BY  
ADDING CHAPTER 161, PROPERTY MAINTANANCE.**

**Be It Enacted by the City Council of the City of Johnston, Iowa That:**

**Section 1. PURPOSE.** The purpose of this ordinance is to add Chapter 161, Property Maintenance to the Johnston Code of Ordinances to protect the public health, safety, and welfare, esthetics and property values, by establishing minimum standards for maintenance, appearance, condition, and occupancy, and for essential utilities, facilities, and other physical components and conditions to make residential premises fit for human habitation, and to make nonresidential premises fit for use according to the purpose for which they were developed; by fixing certain responsibilities and duties upon the owners and managers, and distinct and separate responsibilities and duties upon the occupants; by authorizing and establishing procedures for inspection of premises, and enforcement of this Code; establishing penalties for violations; and providing for proper repair, demolition, or vacation of premises which do not comply with this Code.

**Section 2. AMENDMENT.** A new Chapter 161 is hereby adopted as follows:

**CHAPTER 161**

**PROPERTY MAINTENANCE CODE**

**161.01 Title**

**161.02 Purpose**

**161.03 Definitions**

**161.04 International Property Maintenance Code Adopted**

**161.05 Modifications, Deletions, and Amendments**

**161.06 Interpretation**

**161.07 Abrogation and Greater Restrictions**

**161.08 Maintenance Standards**

**161.09 Building Maintenance**

**161.10 Refuse and Inoperable Vehicles**

**161.11 Residing and Reconstruction**

**161.12 Violations**

**161.01 TITLE.** This chapter may be referred to as the “Johnston Property Maintenance Code”, and is herein referred to as “this Code”.

**161.02 PURPOSE.** The purpose of this Code is to protect the public health, safety, and welfare, esthetics and property values, by establishing minimum standards for maintenance, appearance, condition, and occupancy, and for essential utilities, facilities, and other physical components and conditions to make residential premises fit for human habitation, and to make nonresidential premises fit for use according to the purpose for which they were developed; by fixing certain responsibilities and duties upon the owners and managers, and distinct and separate responsibilities and duties upon the occupants; by authorizing and

establishing procedures for inspection of premises, and enforcement of this Code; establishing penalties for violations; and providing for proper repair, demolition, or vacation of premises which do not comply with this Code. In the event where a covenant has been established by a neighborhood association or other private group in which the covenant is more restrictive than this code the City will not enforce such a covenant.

**161.03 DEFINITIONS.** Words used in this Code shall have the same meaning as that defined by the Zoning Ordinance, unless otherwise defined by this Code.

1. "Abandoned Building" means any building or portion of a building under construction which has stood with an incomplete exterior shell for more than one year, or any completed building or portion thereof which has stood unoccupied for longer than six (6) months, and which is unsecured or has any Building Code violations.
2. "Board of Appeals" means the Board established and appointed by the City to hear appeals from the Johnston Building Code, referred herein as "the Board".
3. "Covenant" means a written agreement or promise usually under seal between two or more parties for the performance of some action or to restrict an action by parties of the agreement.
4. "Deterioration" means a state of conditions caused by a lack of maintenance or excessive use, characterized by holes, breaks, rot, crumbling, peeling paint, rusting, or other evidence of physical decay or neglect.
5. "Enforcement Officer" means the Director of Community Development, Building Official, Building Inspector, or other specific contracted designee, as determined by the City as qualified, certified, licensed, or otherwise authorized to perform property maintenance inspections, or to perform any similar duties necessary to enable compliance with the adopted codes and provisions of the City.
6. "Exposed to Public View" means any premises or any part thereof, which may be lawfully viewed by the public or from adjoining premises.
7. "Exterior" means yards and other open outdoor spaces on premises, and inclusive of the external surfaces of any structure.
8. "Extermination" means the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination method.
9. "Farm" means a tract of land having an area devoted to the raising of crops zoned and maintained in accordance with the Zoning Ordinance.
10. "Infestation" means the presence of insects, vermin, or other pests on the premise to the extent that they constitute a health hazard, as deemed by an Enforcement Officer to be in threat of spreading to adjoining premises, or are exposed to public view.

11. “Junk” means any discarded or salvaged material or fixture; obsolete or inoperable machinery or vehicle, or as otherwise defined in Chapters 50 and/or 51.
12. “Nuisance” means physical conditions that are dangerous or detrimental to the health or safety of persons on or near the premises where the conditions exist, or anything that is injurious to the senses or interferes with the comfortable enjoyment of life or property. (See also Chapter 50).
13. “Owner” means any person who alone, jointly, or severally with others, holds legal or equitable title to any premises, with or without accompanying actual possession thereof.
14. “Premises” means a lot, plot, or parcel of land, easement or public way, including any structures thereon.
15. “Public Authority” means any officer or any department or branch of the City, County, or State charged with regulating health, fire, zoning or building regulations, or other activities concerning property in the City.
16. “Refuse” means any material that has lost its value for the original purpose for which it was created or manufactured, or for its redesigned use, whether putrescible or non-putrescible, combustible or non-combustible, which is not securely stored in a building or legal outdoor storage yard for prompt disposal or resale, including but not limited to junk; paper or cardboard; plastic; metals; glass; yard clippings, leaves, woody vegetative trimmings, and other plant wastes which have not been properly composted; vegetable or animal waste resulting from the handling, processing, storage, preparation, serving or consumption of food; crockery; bedding, furniture, or appliances; offal; rubbish; ashes or incinerator residue; construction debris; accumulation of animal feces; dead animals; or wastes from commercial or industrial processes.
17. “Responsible Party” means any person having possession, charge, care, or control of real or personal property, which with or without the knowledge and consent of the owner, including without limitation any one or more of the following: owner, agent, property manager, contract purchaser, mortgagee or vendee in possession, receiver, executor, trustee, lessee or tenant, or any other person, firm or corporation exercising apparent control over a property.
18. “Vehicle” means any device designed to transport a person or property by land, air, or water, and includes without limitation a motor vehicle, automobiles, trucks, trailers, motorcycles, tractors, buggies, wagons, boats, airplanes, campers or any combination thereof, except bicycles.
19. “Vehicle, Inoperable” means any vehicle that is not licensed for the current year as required by law or which exhibits any of the following characteristics: Cannot legally travel on a public street due to broken, damaged, or missing windshield or other glass customary to the vehicle, fender, door, bumper, hood, wheel, steering wheel, or exhaust system; lacking an engine or other means of power suitable to the design, one or more wheels, or other structural parts which renders the vehicle incapable of both forward and reverse movement in the manner for which it was designed; has become a habitat for rats, mice, snakes, or any other vermin or insects; or constitutes a threat to the public health and safety because of its defective or obsolete condition. (See also Chapter 51).

**161.04 INTERNATIONAL PROPERTY MAINTENANCE CODE ADOPTED.** The International Property Maintenance Code (IPMC), 2015 edition is adopted; except as provided in this chapter. Copies of the International Property Maintenance Code 2015 edition are on file in the office of the City Clerk. Any modifications, deletions, and amendments shall be set out in this chapter.

**161.05 MODIFICATIONS, DELETIONS, AND AMENDMENTS.** The following modifications, deletions, and amendments are made to the International Property Maintenance Code 2015 edition as published by the International Code Council.

**1. Section 101.1 TITLE.** Insert “the City of Johnston” in place of “[NAME OF JURISDICTION].”

**2. Section 102.1 General.** Is hereby amended by inserting the following paragraph at the end of the section: Partial Invalidity: In the event that any part or provision of this code is held to be illegal or void, this shall not cause any other part or provision of this code to be illegal or void.

**3. Section 102.3 Application of Other Codes.** Is hereby deleted in its entirety and replaced with the following wording in lieu thereof:

**102.3 Application of Other Codes.** Repairs, additions, or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions as prescribed in any of the Johnston Building Codes as adopted and amended by the City of Johnston at the time of inspection as applicable herein. Nothing in this code shall be construed to cancel, modify, or set aside any provision of the Johnston Code of Ordinances.

**4. Section 102 Applicability.** Is hereby amended by inserting the following subsection thereto:

**Section 102.11 Permits Required.** No building or structure regulated by this code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate permit for each building or structure has been obtained from the Building Official in the manner and according to the applicable conditions prescribed by the Johnston Building Codes.

**5. Section 103.1 General.** Is hereby amended by deleting “the department of property maintenance inspection” and inserting “Building Department,” and by replacing “code official” with “enforcement officer”. Throughout this code wherever these words appear they shall be interpreted as such.

**6. Section 103.5 Fees.** This subsection is deleted in its entirety.

**7. Section 111 Means of Appeal.** Is hereby amended by deleting all subsections under this section in their entirety and the following subparagraph is inserted thereto:

**111.1. Application for Appeal.** All applications for appeal under this chapter shall be done pursuant to Chapter 50 of the Johnston Code of Ordinances.

**8. Section 112.4 Failure to Comply.** Is hereby deleted in its entirety and replaced with the following wording in lieu thereof:

**112.4 Failure to Comply.** Any person who shall continue any work after served with a Stop Work order, except such work as that person is directed to preform to remove violation or unsafe condition, shall be liable to a fine not exceeding that as prescribed in Chapter 3 of the Johnston Code of Ordinances.

**9. Section 302.3 Sidewalks and Driveways.** Is hereby amended by adding the following sentence thereto:

Hazards are further defined by excessive cracking, excessive fracturing, panel separation, displacement in whole or part, elevational settlement or heaving above or below the plane of the sidewalks intended grade, spalling of the surface whereby any of these could cause or promote unsafe or unsteady travel; or is otherwise contrary to the specifications of the most current publication of standards by the Americans with Disabilities Act (ADA).

**10. Section 302.4 Weeds.** Is hereby deleted in its entirety and replaced with the following wording in lieu thereof:

**302.4 Weeds.** Refer to Chapter 53 of the Johnston Code of Ordinance.

**11. Section 303.2 Enclosures.** Is amended by replacing 48 inches with 72 inches therein.

**Section 303.2 Enclosures.** Is amended by inserting the following sentence to the exception: "This is at the discretion of the Building Official."

**12. Section 304.14 Insect Screens.** Insert April 15<sup>th</sup> to October 15<sup>th</sup> as the applicable dates therein.

**13. Section 307.1 General.** Is hereby amended by deleting the paragraph and exception and inserting the following paragraph thereto:

**307.1 General.** Handrails and guard rails shall meet the requirement of the International Building or Residential Code enforced at time of inspection. Exception: For buildings constructed prior to adoption of this chapter, handrails/guardrails, which are structurally sound and provide the same height and opening protection as was required by the building code when the structure was originally constructed."

**14. Section 602.3 Heat Supply.** Insert September 1<sup>st</sup> and May 30<sup>th</sup> as applicable dates therein.

**15. Section 602.4 Occupiable Work Spaces.** Insert September 1<sup>st</sup> and May 30<sup>th</sup> as applicable dates therein.

**16. Section 604.2 Service.** Is hereby amended by adding the following sentences thereto:

Single family, Duplex, and Townhomes shall have a minimum of 100 amperes.

"Exception: For buildings constructed prior to the adoption of this chapter, services that are below 100 Amps but no less than 60 Amps, and in good, safe and operational order as required by the building code when the structure was originally constructed."

**17. Section 605.2 Receptacles.** Is amended by inserting the following sentence thereto:

All general purpose outlets requiring GFCI protection as required by the National Electric code enforced at the time of inspection shall be in place.

**161.06 INTERPRETATION.** The provisions of this Code shall be interpreted and applied as minimum requirements, and shall not be deemed a limitation or repeal of any other power granted by the Code of Iowa. Nothing in this Code shall be construed to abrogate the Federal or State Constitutions, nor to grant powers to the City that are otherwise reserved by and for Federal and State Government.

**161.07 ABROGATION AND GREATER RESTRICTIONS.** It is not the intent of this Code to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law. Where two or more provisions apply the higher standard shall prevail.

**161.08 MAINTENANCE STANDARDS.**

1. General. The exterior of every premises and structure shall be maintained in good repair, to the end that the premises and each structure thereon will be preserved; adjoining properties protected from blighting influences; and safety and fire hazards eliminated.
2. Maintenance of Premises. Each and every premises shall be kept free of all nuisances, health, safety, and fire hazards, unsanitary conditions, and infestations. It shall be the duty of the owner or other responsible party to keep the premises free of all said conditions and to promptly remove and abate the same, which include but are not limited to the following declared nuisances:
  - A. Weeds or grasses allowed to grow to a height greater than that which is listed in Chapter 53 or any accumulation of dead weeds or grass that are exposed to public view, on any non-farm property which is not within the jurisdiction of the County Weed Commissioner. This provision shall not apply to “Designated Open Spaces” as defined in Chapter 53.
  - B. Accumulation of refuse to the prejudice of others.
  - C. Any structure or piece of equipment which is in such a dilapidated condition that it is unfit for human habitation or the use for which it was constructed; kept in such an unsanitary condition that it is a menace to the health of people residing therein or in the vicinity thereof; any structure determined as an unsafe structure or piece of equipment by the most-current, and adopted edition of the International Property Maintenance Code, as published by the International Code Council or any building that is defined as abandoned or a public nuisance by Chapter 657A, Code of Iowa, 2008.
  - D. Any inoperable vehicle that is exposed to public view, unless located on the premises of a lawfully operated junkyard or undergoing repairs in an expeditious manner at a vehicle repair business.
  - E. Mud, dirt, gravel or other debris or matter, whether organic or inorganic, deposited upon public property in a quantity judged by an enforcement officer to be a threat to public safety or to cause pollution, obstruction, or siltation of drainage systems, or to violate solid waste disposal regulations.

- F. Failure to establish a permanent cover of perennial grasses or ornamental ground cover on any property as soon as practical after any construction, and to thereafter maintain same in such condition as to substantially bind the surface of the soil and prevent erosion, whether by sheet or gully, or by wind or water. Exceptions shall be permitted for densely shaded areas, landscape beds, and gardens, provided that vegetable gardens and agricultural crops shall not be placed in the front yard of a non-farm property, unless it can be demonstrated that no other viable location exists on the premises because of topography, natural vegetation, or similar circumstances out of the resident's control.
- G. Any nuisance as defined in Chapter 50 or described as such by Chapter 657 of the Code of Iowa, 2017.
- H. Any alteration, modification, or obstruction which prevents, obstructs or impedes the normal flow of runoff from adjacent lands, or any alteration or modification which substantially concentrates or increases the flow of water onto an adjoining premises to the extent of damaging or saturating such premises.
- I. Conditions which are conducive to the harborage or breeding of vermin.
- J. Facilities for the storage or processing of sewage, such as privies, vaults, sewers, private drains, septic tanks, cesspools, and drain fields, which have failed or do not function properly, as may be evidenced by overflow, leakage, seepage, or emanation of odors, or which do not comply with the Polk County Department of Health regulations, as applicable. Septic tanks, cisterns, and cesspools that are no longer in use shall be removed, or emptied and filled with clean dirt or sand, or as directed by the Polk County Department of Public Health or governing authority.
- K. Vehicles parked on the lawn or other unpaved surface in the yard exposed to public view.
- L. Fences or retaining walls that are not structurally sound or which are deteriorating, as may be evidenced by leaning or loose elements.
- M. Dead or diseased trees or other woody vegetation which may lead to the spread of the disease to other specimens or pose a threat to safety or buildings; major parts thereof, such as a limb, which may be dead or broken or otherwise pose a threat to safety or buildings on adjoining premises; any vegetation located on private property which overhangs and is less than 14 feet above the traveled portion of any public street, or less than 8 feet vertically, or which protrudes into any public sidewalk.
- N. Loose, overhanging objects or accumulations of ice or snow, which by reason of location above ground level constitute a danger of falling on persons in the vicinity thereof.

**161.09 BUILDING MAINTENANCE.** Every building shall be maintained to be weather and water tight, and free from excessively peeling paint or other conditions suggestive of deterioration or inadequate maintenance. Exterior surfaces shall not have any holes or broken glass; loose, cracked, or damaged

shingles or siding; or other defects in the exterior finish which admit rain, cold air, dampness, rodents, insects, or vermin. Basements, cellars, and crawl spaces shall be free of standing water and hazards. All wood, including floorboards, subfloors, joists, bridging, roof rafters and sheathing, and all other wood in any interior or exterior floor, wall, roof, or other part of the structure, shall be maintained to be free of cracks affecting structural integrity, termite damage, infestation, or rot. Any and all damaged or deteriorating materials shall be replaced. If infestation exists in any basement, cellar, or crawl space, such infestation shall be remedied in accordance with industry standards.

**161.10 REFUSE AND INOPERABLE VEHICLES.** Inoperable vehicles shall be stored within a fully enclosed building or other location not exposed to public view, or shall be removed from the premises. All refuse shall be contained in suitable collection containers; kept free from infestation; and shall be removed weekly.

**161.11 RESIDING AND RECONSTRUCTION.** Materials and practices used in reconstruction and residing shall be of standard quality and appearance commensurate with the character of other properties in the vicinity of the premises.

**161.12 VIOLATIONS.**

**Enforcement.** The creation or maintenance of a violation of this chapter is prohibited and shall constitute a violation of city ordinance. Each day that a violation is permitted to continue constitutes a separate offense.

- A. All inspections, enforcement actions, and hearings on violations, unless expressly stated to the contrary, shall be under the direction and supervision of an Enforcement Officer, who may appoint or designate other public officers or employees to perform duties as may be necessary to enforce this Code, including inspections and holding of hearings. The Enforcement Officers are hereby authorized to abate such violations in accordance with the procedures of this Code and to serve notice to abate same, whether upon the owner or other responsible party for a premise(s) upon which a violation is being maintained, or upon the person or persons causing or maintaining the violation.
- B. If a violation is found to exist on an owner-occupied premise(s) and the owner(s) demonstrate that the cost of remedying such violation would exceed the household's annual disposable income and thereby cause a financial hardship, enforcement shall be held in temporary abeyance until a means of financing or assistance can be identified.
- C. The objective of this Code being the abatement of violations, persons violating this Code shall be allowed a reasonable amount of time to voluntarily remedy the violation before action to assess costs or penalties for a violation is undertaken. Consideration will be given to evidence of a good faith effort to correct the violation; whether an imminent health or safety hazard exists; whether the person has previously been notified of or charged with violations of a similar nature; and other factors.

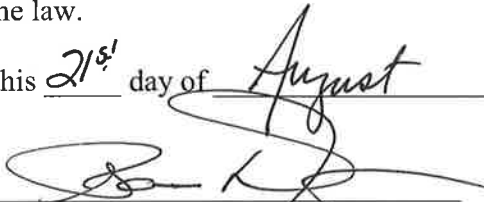


- D. Violations which are not voluntarily remedied may be abated by an administrative abatement process; the municipal infraction process; by court proceedings; or by City abatement and assessment of costs therefore against the responsible party, at the discretion of the City, and as provided by the Iowa Code.
- E. It is further provided by this Code that if the City judges that an emergency exists which creates a dangerous and imminent health or safety hazard to persons, property or the general public which requires immediate action, the City may order such action as may be necessary to meet the emergency. Any orders issued pursuant to this paragraph shall be effective immediately or in the time and manner prescribed in the order itself.
- F. The enforcement officer may, but shall not be required to, give notice to abate prior to issuance of a civil citation for a repeat offense involving the same property and occurring within one year of a prior violation and notice to abate.


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

**Section 4. WHEN EFFECTIVE.** This ordinance shall be in full effect from and after its final passage, approval, and publication as provided by the law.

Passed and approved by the City Council this 21<sup>st</sup> day of August, 2017.

  
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 PAULA S. DIERENFELD, MAYOR

ATTEST:

  
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 CYNDEE RHAMES, CITY CLERK

ROLL CALL VOTE

	1 <sup>st</sup> Reading		2 <sup>nd</sup> Reading		3 <sup>rd</sup> Reading		
	Aye	Nay	Aye	Nay	Aye	Nay	
Brown							<i>absent</i>
Clabaugh					✓		
Cope					✓		
Lindeman					✓		
Temple					✓		