

## ORDINANCE NO. 300

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF BADGER, IOWA, 2014 BY DELETING PROVISIONS PERTAINING TO DANGEROUS BUILDINGS AND SUBSTITUTING THEREFORE A NEW SECTION PROVIDING FOR A PROPERTY MAINTENANCE CODE**

**BE IT ENACTED**, by the City Council of the City of Badger, Iowa;

**SECTION 1. SECTION(S) MODIFIED.** Code of Ordinances of the City of Badger, Iowa, 2014, is amended by deleting Chapters 145 and substituting therefore the following:

### **SECTION 145.1 GENERAL**

**145.1.1 Title:** These regulations shall be known as the *Property Maintenance Code of the City of Badger, Iowa*, hereinafter referred to as “this Code.”

**SECTION 145.1.2 Scope:** The provisions of this Code shall apply to all existing and future residential and nonresidential structures and all existing and future premises in the City of Badger, and constitute minimum maintenance requirements and standards for such premises and structures. This Code shall be deemed to be the “Housing Code” of the City of Badger for purposes of Iowa Code §657A.10A(3)(d).

**145.1.3 Intent:** This Code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare in so far as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions at the time of passage of the Code or thereafter, shall be altered or repaired to provide a minimum level of health and safety as required herein.

**145.1.4 Severability:** If a section, subsection, sentence, clause or phrase of this Code is, for any reason, held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Code.

### **SECTION 145.2 APPLICABILITY**

**145.2.1 General:** The provisions of this Code shall apply to all matters affecting or relating to structures and premises, as set forth in Section 145.1. Where, in a specific case, different sections of this Code specify different requirements, the most restrictive shall govern. All structures in violation of the provisions of this Code are hereby declared to be public nuisances and shall be abated by repair or demolition in accordance with the procedures specified herein.

**145.2.2 Vacant structures and land:** All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition so as not to cause a blighting problem or adversely affect the public health or safety.

**145.2.3 Maintenance:** Except as otherwise specified herein, the maintenance of buildings, structures and premises shall be the responsibility of the owner thereof. For purposes of this Code, the term "owner" shall mean the person or entity having legal title to the property in question according to the records of the County Auditor, including the Conservator or other legal representative of any such person or entity, and the personal representative of a deceased person. In the case of a property subject to a land sale contract, the contract Buyer shall be deemed to be the owner for purposes of this Code.

**145.2.4 Existing remedies:** The provisions in this Code shall not be construed to supercede or impair any other remedies available to the City or its officers or agencies relating to the repair, removal or demolition of any structure which is abandoned, a nuisance or otherwise dangerous or unsafe.

**145.2.5 Workmanship:** Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this Code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

**145.2.6 Historic buildings:** The provisions of this Code shall not be mandatory for existing buildings or structures designed as historic buildings by the City Council.

**145.2.7 Requirements not covered by Code:** Requirements necessary for the strength, stability or proper maintenance of an existing structure, or for the public safety, health and general welfare, not specifically covered by this Code, shall be determined by the Code Official.

## SECTION 145.3 ADMINISTRATION

**145.3.1 General:** The Badger City Mayor shall be designated as the "Code Official" for the purposes of this Code.

**145.3.2 Deputies:** In accordance with the prescribed procedures of the City, the Code Official shall have the authority to retain such engineers, inspectors or other necessary technical personnel as may be necessary to carry out the requirements of this Code.

**145.3.3 Liability:** The Code Official or any other employee or agent charged with the enforcement of this Code, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of their official duties.

Any suit instituted against any person because of an act performed by that person in the lawful and good faith discharge of duties and under the provisions of this Code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings.

## SECTION 145.4 DUTIES AND POWERS OF THE CODE OFFICIAL

**145.4.1 General:** The Code Official shall have primary responsibility for enforcing the provisions of this Code.

**145.4.2 Rule-making authority:** The Code Official shall have authority as necessary in the interest of public health, safety and general welfare, to interpret and implement the provisions of this Code; to secure the intent thereof; and to designate requirements applicable because of local climatic or other conditions.

**145.4.3 Inspections:** The Code Official shall cause to be examined every structure or premises reported to be in violation of this Code, or otherwise brought to the attention of the Code Official. The Code Official is authorized to engage such experts as he deems necessary to examine and report on any structure believed to be in violation of this Code. If any such structure or premises is found to be in violation of the provisions of this Code, the Code Official shall give notice to the owner thereof in accordance with Section 145.9 below.

**145.4.4 Notices and Orders:** The Code Official shall issue all necessary notices or orders to ensure compliance with this Code.

**145.4.5 Records:** The City Clerk shall keep records of all business and activities specified by the provisions of this Code. Such records shall be retained in the official records as long as the building or structure to which such records relate remains in existence, unless otherwise provided for by other regulations.

## **SECTION 145.5 EXTERIOR PREMISES**

**145.5.1 Sanitation:** All exterior property and premises shall be maintained in a clean, safe and sanitary condition. No garbage, litter, debris, junk, furniture, appliances, or yard waste, shall be permitted on any premises.

**145.5.2 Sidewalks and Driveways:** All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from conditions that endanger public health or safety.

**145.5.3 Rodent Harborage:** All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.

**145.5.4 Accessory Structures:** All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

**145.5.5 Defacement of Property:** No person shall damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

## **SECTION 145.6 EXTERIOR STRUCTURE**

**145.6.1 General:** The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

**145.6.2 Protective Treatment:** All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

**145.6.3 Structural Members:** All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

**145.6.4 Foundation Walls:** All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

**145.6.5 Exterior Walls:** All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

**145.6.6 Roofs and Drainage:** The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

**145.6.7 Decorative Features:** All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

**145.6.8 Overhang Extensions:** All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

**145.6.9 Stairways, Decks, Porches and Balconies:** Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

**145.6.10 Chimneys and Towers:** All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

**145.6.11 Handrails and Guards:** Every exterior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have guards. Handrails shall not be less than 30 inches (762 mm) high or more than 42 inches (1067 mm) high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than 30 inches (762 mm) high above the floor of the landing, balcony, porch, deck, or ramp or other walking surface. Every handrail and guardrail shall be firmly fastened and capable of supporting normally imposed loads, and shall be maintained in good condition.

**145.6.12 Window, Skylight and Door Frames:** The exterior of every window, skylight door and frame shall be kept in sound condition, good repair and weather tight.

**145.6.13 Doors:** All exterior door, door assemblies and hardware shall be maintained in good condition.

**145.6.14 Basement Hatchways:** Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

**145.6.15 Guards for Basement Windows:** Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

## **SECTION 145.7 INTERIOR RUBBISH AND GARBAGE**

**145.7.1 Accumulation of Rubbish or Garbage:** The interior of every unoccupied structure shall be free from any accumulation of rubbish or garbage.

**145.7.2 Infestations:** All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.

## **SECTION 145.8 VIOLATIONS**

**145.8.1 Unlawful Acts:** It shall be unlawful for the owner of any premises or structure to be in conflict with or in violation of any of the provisions of this Code.

**145.8.2 Prosecution of Violation:** Any person failing to comply with a notice of violation or order served in accordance with Section 145.9 shall be deemed guilty of a municipal infraction. If the notice of violation is not complied with, the Code Official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Code or of any order or directions made pursuant thereto.

**145.8.3 Violation Penalties:** Any person or persons, who shall violate a provision of this Code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state and local laws for municipal infractions. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

**145.8.4 Abatement of Violation:** The imposition of the penalties herein prescribed shall not preclude the jurisdiction from instituting appropriate legal action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, or utilization of the building, structure or premises.

## **SECTION 145.9 NOTICES AND ORDERS**

**145.9.1 Notice to Person Responsible:** Whenever the Code Official determines that there has been a violation of this Code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 145.9.2 and 145.9.3 to the owner of the subject premises or structure. If the Code Official has knowledge of an occupant of the subject premises other than the owner, a copy of said Notice shall be sent to same.

**145.9.2 Form:** Such notice prescribed in Section 145.9.1 shall:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations hereunder.
4. Include an order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this Code.

**145.9.3 Method of Service:** Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally; or
2. Sent by certified mail (return receipt requested) to the last known address; together with posting a copy thereof in a conspicuous place on or about the structure that is the subject of such Notice.

**145.9.4 Transfer of Ownership:** It shall be unlawful for the owner of any premises or structure upon whom a notice of violation has been served to sell, transfer, lease or otherwise dispose of same until the provisions of the notice of violation have been complied with; or until such owner shall first furnish the grantee, transferee, or lessee a true copy of any compliance order or notice of violation issued by the Code Official and shall furnish to the Code Official a signed and notarized statement from the grantee, transferee, or lessee, acknowledging the receipt of such notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such notice of violation.

## **SECTION 145.10 UNSAFE STRUCTURES**

**145.10.1 General:** When a structure is found by the Code Official to be unsafe or when a structure is found unfit for human occupancy, such structure may be condemned pursuant to the provisions of this Code.

**145.10.2 Unsafe Structures:** An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure because such structure is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is likely.

**145.10.3 Structure Unfit for Human Occupancy:** A structure is unfit for human occupancy whenever the Code Official finds that such structure is unsafe, or because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, electricity, sanitary or heating facilities or other essential utility services, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

**145.10.4 Closing of Vacant Structures:** If the structure is vacant and unfit for human habitation and occupancy, but does not appear to be in danger of structural collapse, the Code Official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the Code Official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

**145.10.5 Notice:** Whenever the Code Official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with Section 145.9.3. The notice shall be in the form prescribed in Section 145.9.2. {

**145.10.6 Placarding:** Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the Code Official shall post on the premises a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

**145.10.7 Placard Removal:** The Code Official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the Code Official shall be guilty of a misdemeanor.

**145.10.8 Prohibited Occupancy:** Any occupied structure condemned and placarded by the Code Official shall be vacated as ordered by the Code Official. Any person who shall occupy a placarded premises and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be guilty of a misdemeanor.



## SECTION 145.11 DEMOLITION

**145.11.1 General:** The Code Official shall order the owner of any premises upon which is located any structure, which in the Code Official's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure.

**145.11.2 Notice and Orders:** All notices and orders shall comply with Section 145.9.

**145.11.3 Failure to Comply:** If the owner of a premises fails to comply with a demolition order within the time prescribed, the Code Official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons and the cost of such demolition and removal shall be charged to the owners of the premises involved, and may be levied as a special assessment against the land on which the building or structure is located, and shall be certified by the Code Official to the County Treasurer for collection in the manner provided for other taxes.

**145.11.4 Salvage Materials:** When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

## SECTION 145.12 EMERGENCY MEASURES

**145.12.1 Imminent Danger:** When, in the opinion of the Code Official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure is in such condition that public health or safety is endangered thereby, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the Code Official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The Code Official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the City of Badger." It shall be unlawful for any person to enter such structure without the permission of the City.

**145.12.2 Temporary Safeguards:** Notwithstanding other provisions of this Code, whenever, in the opinion of the Code Official, there is imminent danger due to an unsafe condition, the Code Official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described

has been instituted; and shall cause such other action to be taken as the Code Official deems necessary to meet such emergency.

**145.12.3 Closing Streets:** When necessary for public safety, the Code Official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, street, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

**145.12.4 Emergency Repairs:** For the purposes of this section, the Code Official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

**145.12.5 Costs of Emergency Repairs:** Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

### SECTION 145.13 VARIANCES

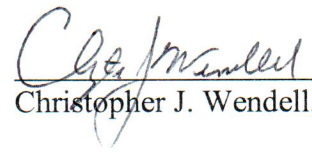
**145.13.1 Modifications:** Whenever there are practical difficulties involved in carrying out this Code, the Code Official shall have the authority to grant modification for individual cases, provided the Code Official shall first find that unique individual reasons exists that make the strict letter of this Code impractical, or unreasonably burdensome to the owner, and the modification is in compliance with the intent and purpose of this Code, and that such modification does not threaten health, life or fire safety. The details of action granting modifications shall be recorded and entered in the records.

**145.13.2 Alternative Materials, Methods and Equipment:** The provisions of this Code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this Code. An alternative material or method of construction shall be approved where the Code Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this Code, and that the material, method or work offered is, for the purpose intended at least the equivalent of that prescribed in this Code in quality, strength, effectiveness, fire resistance, durability and safety.


### SECTION 145.14 SEVERABILITY CLAUSE

**145.14.1:** 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.

**Effective Date:** This Ordinance shall become effective upon its passage and publication, as provided by law. Passed by the Council the 8 day of August, 2016.

  
Christopher J. Wendell, Mayor

ATTEST:

  
Nadine Odor, MMC