



Agenda

Board of Appeals

Oelwein Community Plaza, 25 West Charles, Oelwein

4:00 PM

September 14, 2020
Oelwein, Iowa

Mayor: Brett DeVore

Mayor Pro Tem: Warren Fisk

Roll Call

Approve Minutes

- [1.](#) Consideration of a motion to approve the minutes of the February 11, 2020 meeting

Appeals

- [2.](#) Discussion on 221 4th Street NW
- [3.](#) Discussion on 408 West Charles
- [4.](#) Discussion on 544 8th Street SW

Old Business

New Business

Adjournment

In compliance with the Americans with Disabilities Act, those requiring accommodation for Council meetings should notify the City Clerk's Office at least 24 hours prior to the meeting at 319-283-5440



Minutes
Board of Appeals
20 Second Avenue SW, Oelwein
February 11, 2020 - 5:30 PM

Item 1.

Roll Call Present Kerns, Cockerham, Miller, Lumbus, Benter
Also Present Building Official Jay Shekleton, City Attorney Pat Dillon

Approve Minutes

1. Consideration of a motion to approve the minutes of the October 1, 2019 meeting
A motion was made by Lumbus, seconded by Benter to approve the minutes. All voted aye.
Motion Carried

Appeals

2. Discussion on Warthan appeal request for 320 8th Street SW

On January 24, 2020 the City Building Official placarded the property stating the dwelling was unsafe and unsuitable for occupancy.

Property owner Dave Warthan is appealing this action and presented letters in opposition to the placarding from Greg Bryan of Bryan Construction and licensed engineer Daniel Meyer. Bryan states in his correspondence he does not feel the foundation is unstable or a safety threat based on 50 years' experience in the construction business. Meyer stated in his experience and training there is not an imminent danger of collapse of the house.

A January 8, 2020 document from Upper Explorerland Regional Planning Commission was also reviewed which states "The foundation of the unit has large cracks".

Kerns stated the property has not been condemned, only placarded and cannot be occupied until repairs have been completed.

City Attorney Dillon said the Building Official is following the rules as written in the city code.

Following additional discussion, a motion was made by Miller, seconded by Benter to remove the placard. Three voted aye, Two (Cockerham, Kerns) voted nay.

Motion Carried

It was noted this action does not exempt Warthan from following the rental code and repairs must be made before the property is occupies.

No further business was conducted and the meeting adjourned at 5:45 P.M.

Jay Shekleton, Building Official

**NOTICE REGARDING ADMINISTRATIVE REMOVAL OF DANGEROUS
RESIDENTIAL STRUCTURES.**

PROPERTY ADDRESS: 221 4th St NW, Oelwein, Iowa 50662

Described legally as:

THE WEST ONE-THIRD OF LOTS 19, 20, AND 21, BENTLEY'S SUBDIVISION OF BLOCK 9, MARTIN'S THIRD ADDITION, CITY OF OELWEIN, FAYETTE COUNTY, IOWA.

TO: Delphina Land Holdings, LLC 13575 Lynam Dr Omaha, NE 68138

Fayette County Treasurer- 114 North Vine Street West Union, Iowa 52175

Via personal service or restricted receipt deliver mail and posting upon the property.

LIEN SEARCH DATE: August 21, 2020

HOUSING APPEAL BOARD DATE: September 14, 2020 at 4:00 PM at the Oelwein Community Plaza.

- (a) The structure is a public nuisance threatening to the health, safety, or welfare of the public which **must be removed and the ground upon which it stands leveled;**

Action must be taken by the owner within 10 days of receiving this notice.

If the structure is not removed and the ground leveled within such time period, the matter of its removal will be heard, by the Housing Appeals Board on a date stated in the notice.

If an owner or other person with a property interest wishes to contest the Code Enforcement Officer's determination or to otherwise contest the intended action at the hearing, the person must file a written statement with the city clerk within five days of receipt of the notice, setting forth the reasons why the action should not be ordered by the Housing Appeals Board. The city clerk shall distribute this filing to the Housing Appeals Board, the city manager, and the city attorney before the date of such hearing. Failure to file a statement shall be deemed a waiver of the right to present evidence in opposition to the Code Enforcement Officer's determination, or to otherwise contest such action.

If the Housing Appeals Board finds that a public nuisance exists and confirms the action of the Code Enforcement Officer, it may:

- (1) Order prompt demolition, removal and the leveling of the property and direct that all costs attendant to the action, including administrative costs, be either assessed against the property or collected from the owner thereof;
- (2) Extend the time for the owner to demolish and remove the structure and level the property;
- (3) Direct that the legal department file an action in district court to secure an order directing the abatement of the nuisance; or
- (4) Determine that such property should not be demolished and direct such other action as it finds appropriate.



Patrick B Dillon AT0001973
Dillon Law PC
209 E 1st Street,
Sumner, Iowa 50674
Ph: 563 578 1850
Fax: 563 578 1312
patdillon@dillonlawpc.com
Attorney for City of Oelwein

On December 31, 2019, the home located at 221 4th St. NW was damaged by a fire. After investigation by the Community Development Department, the home was placarded and documented as uninhabitable.

The Community Development Department has made several attempts to contact the owners without a response. The home has been sitting vacant since the date of the fire with no repairs made or attempt to secure the property from being entered by people or vermin. The home has become a public safety hazard and a public nuisance.

The Community Development Department has just recently been made aware the property has sold to an investor from Omaha, Nebraska on tax sale. Our Department has been in contact with the new owners which have shown willingness to work with the city to remedy the situation.

The Community Development Department has provided pictures showing the current condition of the home.

221 4th St. NW, Oelwein, Iowa 50662

Chapter 12, Article III, Unsafe Structures

SECTION 12-50. DEFINITION.

A building within the meaning of this article shall include any house, store, shop, barn, stable, billboard, stand or any other structure. (Ord. No. 112, sections 6 and 4, 4-17-16.)

SECTION 12-51. ORDERING WORK.

Whenever, in the judgment of the city council, any wall or building or portion of a wall or building is dangerous or liable to fall, it may, by resolution, order the same repaired, torn down or removed by the owner thereof and specify in said order a reasonable time within which said repairing, tearing down or removal shall be made, the said order to contain the name or names of the owners, and describe the ground where the defective structure stands. (Ord. No. 112, Section 1, 4-17-16.)

SECTION 12-52. SERVING ORDER.

Whenever such order may be made as above provided, the city clerk shall certify a copy thereof, and place the same in the hands of the chief of police, who shall serve it by reading it and delivering a copy thereof to such of the owners of the ground, where such defective structure stands, as may be found within the city. If any owner cannot be found within the city, the service may be made at his usual place of residence on any member of his family over fourteen (14) years of age, or made upon any occupant of the premises, or if it cannot be served by any of the above methods, service may be made by posting a copy of said order in a conspicuous place upon the structure so ordered to be repaired, torn down or removed, and by two (2) publications in a newspaper of this city. (Ord. No. 112, Section 2, 4-17-16.)

SECTION 12-53. PERFORMANCE BY CITY - - AUTHORIZED.

If, after said order shall have been served by any means above provided, the same shall not have been complied with within the time stated therein, the city council shall cause said defective structure to be repaired, torn down or removed as directed by the order therefore, the same to be done under the supervision of the building official who shall proceed to do said work as directed and make return of the actual money costs thereof to the city council. (Ord. No. 112, Section 3, 4-17-16.)

SECTION 12-54. ASSESSING AND COLLECTING COST.

When the city building official shall have made his return, as provided, of the cost of the work, the city council shall by resolution assess and levy the amount thereof as a special tax against the property, and against the owners of said property, which shall be a lien upon the 169 property until said cost is paid, and the cost may be collected by the sale of said property under execution or by suit against the owner. (Ord. No. 112, Section 4, 4-17-16.) SECTION

12-55. UNIFORM CODE FOR ABATEMENT OF DANGEROUS BUILDINGS ADOPTED.

The most current edition of the Uniform Code for Abatement of Dangerous Buildings and standards pertaining to and adopted therein, published by the International Conference of Building Officials, is hereby adopted in full, including the appendix thereto, except for such provisions as may be hereinafter deleted, modified or amended as set forth in the Oelwein Code of Ordinances. An official copy of the Uniform Code for Abatement of Dangerous Buildings adopted by this section and a certified copy of this Ordinance are on file in the office of the city clerk. (Ord. No. 939, 06-23-1997.)

Chapter 25, Housing Maintenance and Occupancy Code**Section 25-8 Unsafe Structures and Equipment**

A. 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, such structure shall be condemned pursuant to the provisions of this code.

B. 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 by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

C. Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

D. Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

F. Dangerous structure or premises. For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous:

3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.

6. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.

7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.

8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.

11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

K. Abatement methods. The owner, owner's authorized agent, operator or occupant of a building, premises or equipment deemed unsafe by the code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.

Section 25-10 Demolition

A. General. The code official shall order the owner or owner's authorized agent of any premises upon which is located any structure, which in the code official's or owner's authorized agent judgment after review is so deteriorated or dilapidated or has become so 442 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 board up and hold for future repair 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, the code official shall order the owner or owner's authorized agent to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless approved by the building official.

D. 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. 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 25-36 Component Serviceability

A. General. The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

B. Unsafe conditions. Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings:

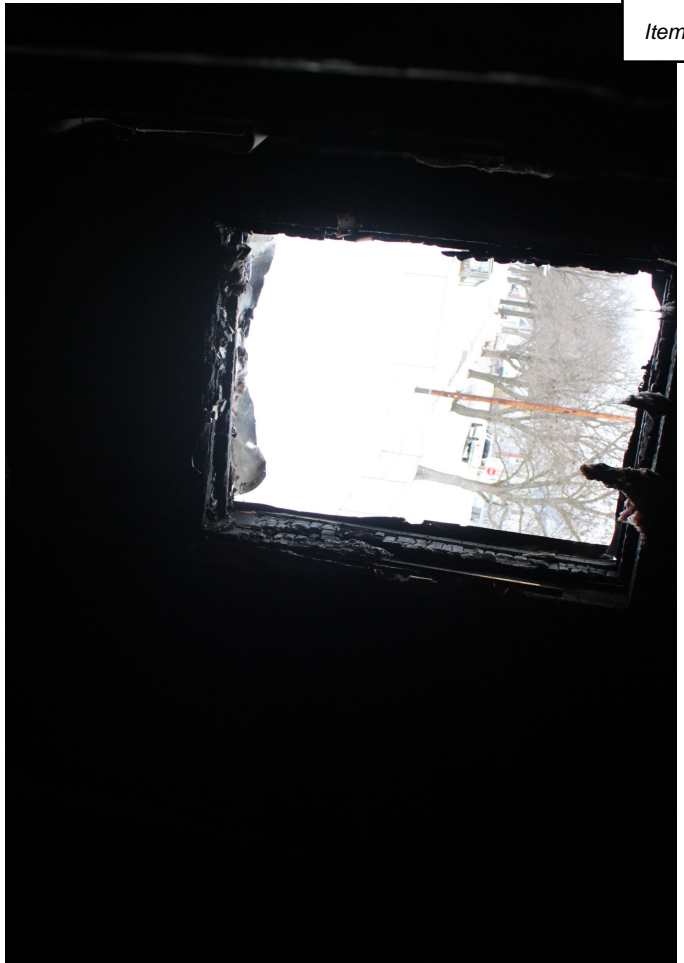
6. Wood that has been subjected to any of the following conditions:

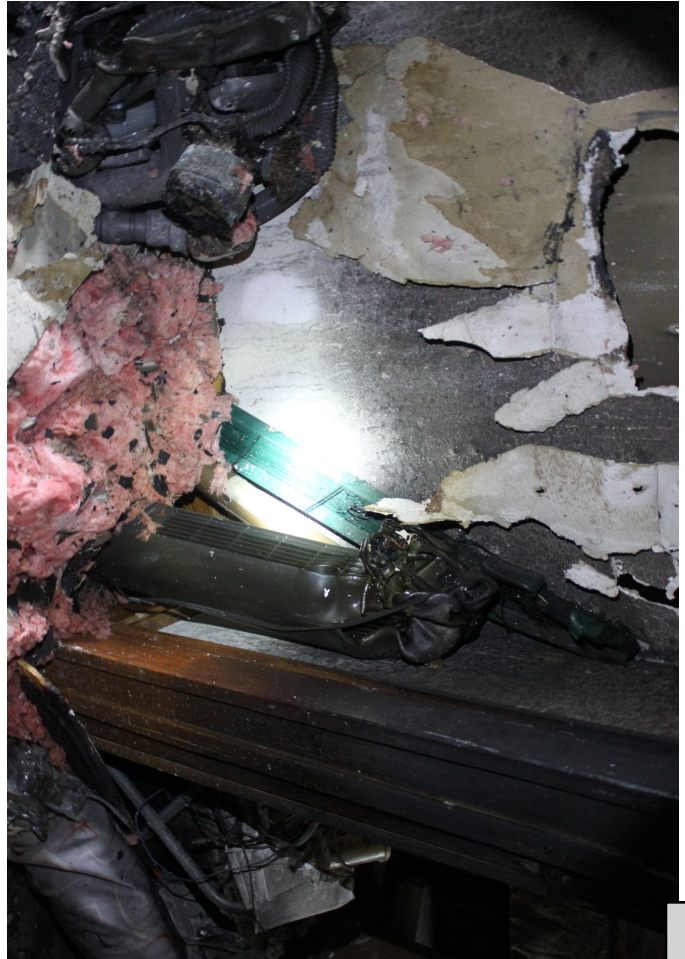
4. Fire damage beyond charring;

7. Exceptions:

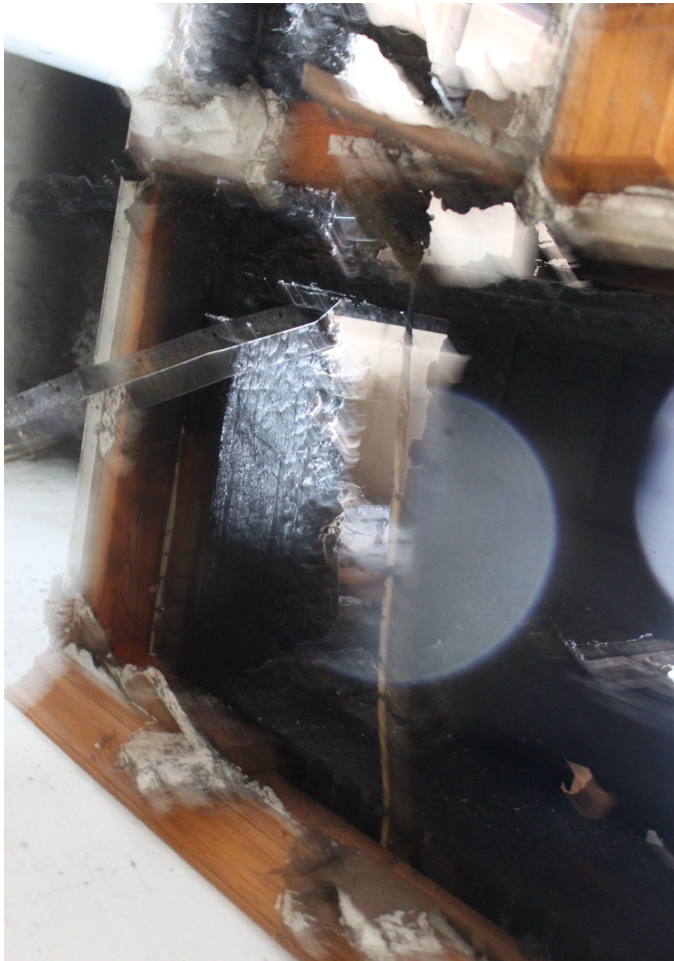
ii. Demolition of unsafe conditions shall be permitted where approved by the code official.















Item 2.

**NOTICE REGARDING ADMINISTRATIVE REMOVAL OF DANGEROUS
RESIDENTIAL STRUCTURES.**

PROPERTY ADDRESS: 408 W Charles, Oelwein, Iowa 50662

Legally described as:

A PARCEL IN THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 91 NORTH, RANGE 9 WEST OF THE FIFTH P.M.; DESCRIBED AS: COMMENCING 33.0 FEET SOUTH AND 669.5 FEET EAST OF THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 21, THENCE SOUTH 147.0 FEET, THENCE EAST 29.6233 FEET, THENCE SOUTH 53.0 FEET, THENCE EAST 80.3766 FEET, THENCE NORTH 200.0 FEET, THENCE WEST TO THE POINT OF BEGINNING, FAYETTE COUNTY, IOWA

TO: Kimberly McIntosh 1125 31st NE Cedar Rapids, IA 52402

Fayette County Treasurer- 114 North Vine Street West Union, Iowa 52175

Via personal service or restricted receipt deliver mail and posting upon the property.

LIEN SEARCH DATE: August 17, 2020

HOUSING APPEAL BOARD DATE: September 14, 2020 at 4:00 PM at the Oelwein Community Plaza.

- (a) The structure is a public nuisance threatening to the health, safety, or welfare of the public which **must be removed and the ground upon which it stands leveled;**

Action must be taken by the owner within 10 days of receiving this notice.

If the structure is not removed and the ground leveled within such time period, the matter of its removal will be heard, by the Housing Appeals Board on a date stated in the notice.

If an owner or other person with a property interest wishes to contest the Code Enforcement Officer's determination or to otherwise contest the intended action at the hearing, the person must file a written statement with the city clerk within five days of receipt of the notice, setting forth the reasons why the action should not be ordered by the Housing Appeals Board. The city clerk shall distribute this filing to the Housing Appeals Board, the city manager, and the city attorney before the date of such hearing. Failure to file a statement shall be deemed a

waiver of the right to present evidence in opposition to the Code Enforcement Officer's determination, or to otherwise contest such action.

If the Housing Appeals Board finds that a public nuisance exists and confirms the action of the Code Enforcement Officer, it may:

- (1) Order prompt demolition, removal and the leveling of the property and direct that all costs attendant to the action, including administrative costs, be either assessed against the property or collected from the owner thereof;
- (2) Extend the time for the owner to demolish and remove the structure and level the property;
- (3) Direct that the legal department file an action in district court to secure an order directing the abatement of the nuisance; or
- (4) Determine that such property should not be demolished and direct such other action as it finds appropriate.



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209 E 1st Street,
Sumner, Iowa 50674
Ph: 563 578 1850
Fax: 563 578 1312
patdillon@dillonlawpc.com
Attorney for City of Oelwein

On November 2, 2019, the home located at 408 West Charles was damaged by a fire. The Community Development Department investigated the property and confirmed with the extent of damage to the home it was unable to be occupied until repairs were made. At the time of the inspection Mr. Prouty discovered pre-existing problems with the foundation.

The building official visited the property the week of November 4, 2019 to confirm the failing foundation. McIntosh and Service Master were notified by the Community Development Dept. about repairs that would have to be made to the foundation before the home could be occupied. McIntosh said she could not repair the foundation due to financial means and the insurance company would only pay for fire damaged repairs.

McIntosh has clearly decided to not repair the home and is currently living in Cedar Rapids, IA. The home has been sitting vacant since the date of the fire. All personal belongings have been removed. The tarp installed to cover the hole in the roof has been torn, allowing all exterior elements to enter the home.

There was an attempt by a contractor hired by the insurance company to repair anything damaged by the fire. When the foundation issues were presented to the owner, the process stopped. The home is now vacant, unsecured, and an open roof. This property located at 408 West Charles is a public nuisance and a public safety hazard.

The Community Development Dept. has provided pictures showing the current condition of the property.

408 West Charles, Oelwein, Iowa 50662

Chapter 12, Article III, Unsafe Structures

SECTION 12-50. DEFINITION.

A building within the meaning of this article shall include any house, store, shop, barn, stable, billboard, stand or any other structure. (Ord. No. 112, sections 6 and 4, 4-17-16.)

SECTION 12-51. ORDERING WORK.

Whenever, in the judgment of the city council, any wall or building or portion of a wall or building is dangerous or liable to fall, it may, by resolution, order the same repaired, torn down or removed by the owner thereof and specify in said order a reasonable time within which said repairing, tearing down or removal shall be made, the said order to contain the name or names of the owners, and describe the ground where the defective structure stands. (Ord. No. 112, Section 1, 4-17-16.)

SECTION 12-52. SERVING ORDER.

Whenever such order may be made as above provided, the city clerk shall certify a copy thereof, and place the same in the hands of the chief of police, who shall serve it by reading it and delivering a copy thereof to such of the owners of the ground, where such defective structure stands, as may be found within the city. If any owner cannot be found within the city, the service may be made at his usual place of residence on any member of his family over fourteen (14) years of age, or made upon any occupant of the premises, or if it cannot be served by any of the above methods, service may be made by posting a copy of said order in a conspicuous place upon the structure so ordered to be repaired, torn down or removed, and by two (2) publications in a newspaper of this city. (Ord. No. 112, Section 2, 4-17-16.)

SECTION 12-53. PERFORMANCE BY CITY - - AUTHORIZED.

If, after said order shall have been served by any means above provided, the same shall not have been complied with within the time stated therein, the city council shall cause said defective structure to be repaired, torn down or removed as directed by the order therefore, the same to be done under the supervision of the building official who shall proceed to do said work as directed and make return of the actual money costs thereof to the city council. (Ord. No. 112, Section 3, 4-17-16.)

SECTION 12-54. ASSESSING AND COLLECTING COST.

When the city building official shall have made his return, as provided, of the cost of the work, the city council shall by resolution assess and levy the amount thereof as a special tax against the property, and against the owners of said property, which shall be a lien upon the 169 property until said cost is paid, and the cost may be collected by the sale of said property under execution or by suit against the owner. (Ord. No. 112, Section 4, 4-17-16.) SECTION

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The most current edition of the Uniform Code for Abatement of Dangerous Buildings and standards pertaining to and adopted therein, published by the International Conference of Building Officials, is hereby adopted in full, including the appendix thereto, except for such provisions as may be hereinafter deleted, modified or amended as set forth in the Oelwein Code of Ordinances. An official copy of the Uniform Code for Abatement of Dangerous Buildings adopted by this section and a certified copy of this Ordinance are on file in the office of the city clerk. (Ord. No. 939, 06-23-1997.)

Chapter 25, Housing Maintenance and Occupancy Code

Section 25-8 Unsafe Structures and Equipment

A. 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, such structure shall be condemned pursuant to the provisions of this code.

B. 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 by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

C. Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

D. Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

F. Dangerous structure or premises. For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous:

3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.

6. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.

7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.

8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.

11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

K. Abatement methods. The owner, owner's authorized agent, operator or occupant of a building, premises or equipment deemed unsafe by the code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.

Section 25-10 Demolition

A. General. The code official shall order the owner or owner's authorized agent of any premises upon which is located any structure, which in the code official's or owner's authorized agent judgment after review is so deteriorated or dilapidated or has become so 442 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 board up and hold for future repair 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, the code official shall order the owner or owner's authorized agent to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless approved by the building official.

D. 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. 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 25-36 Component Serviceability

A. General. The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

B. Unsafe conditions. Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings:

6. Wood that has been subjected to any of the following conditions:

4. Fire damage beyond charring;

7. Exceptions:

ii. Demolition of unsafe conditions shall be permitted where approved by the code official.





Item 3.







Item 3.



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**NOTICE REGARDING ADMINISTRATIVE REMOVAL OF DANGEROUS
RESIDENTIAL STRUCTURES.**

PROPERTY ADDRESS: 544 8th Street Oelwein, Iowa 50662

Legally described as:

THE WEST 52 FEET OF LOT 20, AND THE EAST 37 FEET OF LOT 21, BLOCK 3,
IRVINE'S ADDITION TO OELWEIN, FAYETTE COUNTY, IOWA.

TO: Jason Peterson- 24265 40th Street Fairbank, Iowa 50629

Brooke Clark- 209 9th Ave SE Independence, Iowa 50644

Mortgage Electronic Registration Systems, Inc.- 1818 Liberty St STE 300 Reston, VA
20190

Waterstone Mortgage Corporation- 400 E Court Ave Des Moines, Iowa 50309

Veridian Credit Union- 1827 Ansborough Waterloo, Iowa 50704

State of Iowa Child Support Recovery Unit- 501 Sycamore Street STE 400 Waterloo,
Iowa 50703

Fayette County Treasurer- 114 North Vine Street West Union, Iowa 52175

Via personal service or restricted receipt deliver mail and posting upon the property.

LIEN SEARCH DATE: August 10, 2020

HOUSING APPEAL BOARD DATE: September 14, 2020 at 4:00 PM at the Oelwein
Community Plaza.

- (a) The structure is a public nuisance threatening to the health, safety, or welfare of the public which **must be removed and the ground upon which it stands leveled;**

Action must be taken by the owner within 10 days of receiving this notice.

If the structure is not removed and the ground leveled within such time period, the matter of its removal will be heard, by the Housing Appeals Board on a date stated in the notice.

If an owner or other person with a property interest wishes to contest the Code Enforcement Officer's determination or to otherwise contest the intended action

at the hearing, the person must file a written statement with the city clerk within five days of receipt of the notice, setting forth the reasons why the action should not be ordered by the Housing Appeals Board. The city clerk shall distribute this filing to the Housing Appeals Board, the city manager, and the city attorney before the date of such hearing. Failure to file a statement shall be deemed a waiver of the right to present evidence in opposition to the Code Enforcement Officer's determination, or to otherwise contest such action.

If the Housing Appeals Board finds that a public nuisance exists and confirms the action of the Code Enforcement Officer, it may:

- (1) Order prompt demolition, removal and the leveling of the property and direct that all costs attendant to the action, including administrative costs, be either assessed against the property or collected from the owner thereof;
- (2) Extend the time for the owner to demolish and remove the structure and level the property;
- (3) Direct that the legal department file an action in district court to secure an order directing the abatement of the nuisance; or
- (4) Determine that such property should not be demolished and direct such other action as it finds appropriate.



Patrick B Dillon AT0001973
Dillon Law PC
209 E 1st Street,
Sumner, Iowa 50674
Ph: 563 578 1850
Fax: 563 578 1312
patdillon@dillonlawpc.com
Attorney for City of Oelwein

On September 7, 2019, the home located at 544 8th St. SW was damaged by a fire. After investigation by the Community Development Department the home was placarded and documented as uninhabitable.

The Community Development Department has made several attempts to contact the owners with no success, so we have been in contact through emails with Pamela Delacruz and Kisha Jones from Mortgage Contracting Services. Mortgage Contracting Services is a national mortgage services company that provides property inspections, preservation, maintenance, rehab & repair, and other mortgage services.

MCS is working with Cenlar Bank, the mortgage company of the property. In an email response to the city attorney MCS states the house cannot be demolished without a court order.

The Community Development Dept. has provided current pictures showing the current condition of the property. No attempt has been made to clean up or secure the property by any party associated with the dwelling.

544 8th St SW, Oelwein, Iowa 50662

Chapter 12, Article III, Unsafe Structures

SECTION 12-50. DEFINITION.

A building within the meaning of this article shall include any house, store, shop, barn, stable, billboard, stand or any other structure. (Ord. No. 112, sections 6 and 4, 4-17-16.)

SECTION 12-51. ORDERING WORK.

Whenever, in the judgment of the city council, any wall or building or portion of a wall or building is dangerous or liable to fall, it may, by resolution, order the same repaired, torn down or removed by the owner thereof and specify in said order a reasonable time within which said repairing, tearing down or removal shall be made, the said order to contain the name or names of the owners, and describe the ground where the defective structure stands. (Ord. No. 112, Section 1, 4-17-16.)

SECTION 12-52. SERVING ORDER.

Whenever such order may be made as above provided, the city clerk shall certify a copy thereof, and place the same in the hands of the chief of police, who shall serve it by reading it and delivering a copy thereof to such of the owners of the ground, where such defective structure stands, as may be found within the city. If any owner cannot be found within the city, the service may be made at his usual place of residence on any member of his family over fourteen (14) years of age, or made upon any occupant of the premises, or if it cannot be served by any of the above methods, service may be made by posting a copy of said order in a conspicuous place upon the structure so ordered to be repaired, torn down or removed, and by two (2) publications in a newspaper of this city. (Ord. No. 112, Section 2, 4-17-16.)

SECTION 12-53. PERFORMANCE BY CITY - - AUTHORIZED.

If, after said order shall have been served by any means above provided, the same shall not have been complied with within the time stated therein, the city council shall cause said defective structure to be repaired, torn down or removed as directed by the order therefore, the same to be done under the supervision of the building official who shall proceed to do said work as directed and make return of the actual money costs thereof to the city council. (Ord. No. 112, Section 3, 4-17-16.)

SECTION 12-54. ASSESSING AND COLLECTING COST.

When the city building official shall have made his return, as provided, of the cost of the work, the city council shall by resolution assess and levy the amount thereof as a special tax against the property, and against the owners of said property, which shall be a lien upon the 169 property until said cost is paid, and the cost may be collected by the sale of said property under execution or by suit against the owner. (Ord. No. 112, Section 4, 4-17-16.) SECTION

12-55. UNIFORM CODE FOR ABATEMENT OF DANGEROUS BUILDINGS ADOPTED.

The most current edition of the Uniform Code for Abatement of Dangerous Buildings and standards pertaining to and adopted therein, published by the International Conference of Building Officials, is hereby adopted in full, including the appendix thereto, except for such provisions as may be hereinafter deleted, modified or amended as set forth in the Oelwein Code of Ordinances. An official copy of the Uniform Code for Abatement of Dangerous Buildings adopted by this section and a certified copy of this Ordinance are on file in the office of the city clerk. (Ord. No. 939, 06-23-1997.)

Chapter 25, Housing Maintenance and Occupancy Code

Section 25-8 Unsafe Structures and Equipment

A. 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, such structure shall be condemned pursuant to the provisions of this code.

B. 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 by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

C. Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

D. Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

F. Dangerous structure or premises. For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous:

3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.

6. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.

7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.

8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.

11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

K. Abatement methods. The owner, owner's authorized agent, operator or occupant of a building, premises or equipment deemed unsafe by the code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.

Section 25-10 Demolition

A. General. The code official shall order the owner or owner's authorized agent of any premises upon which is located any structure, which in the code official's or owner's authorized agent judgment after review is so deteriorated or 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 board up and hold for future repair 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, the code official shall order the owner or owner's authorized agent to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless approved by the building official.

D. 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. 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 25-36 Component Serviceability

A. General. The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

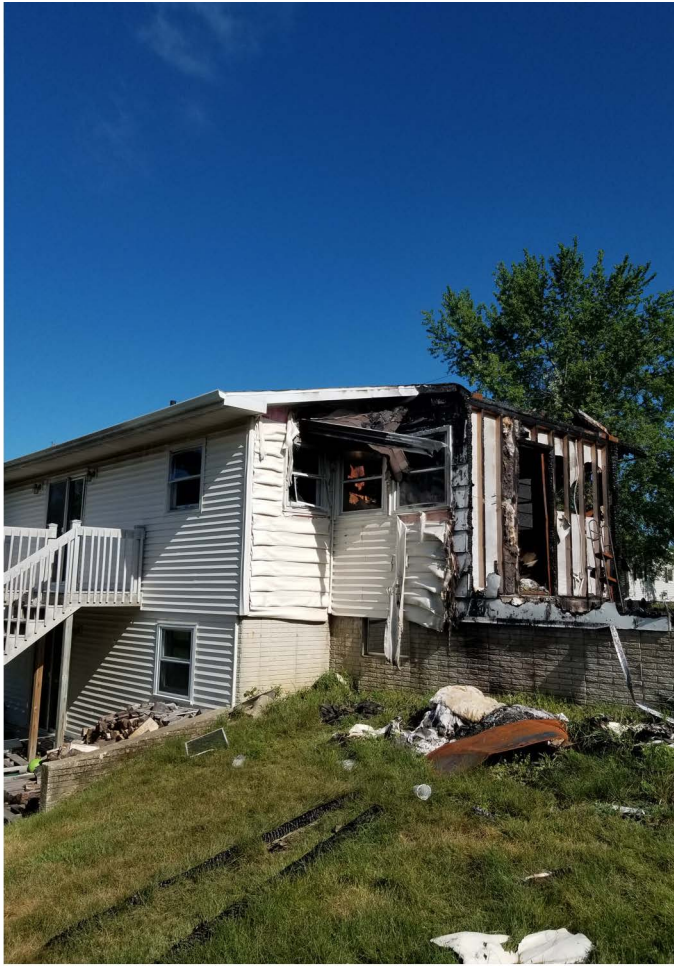
B. Unsafe conditions. Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings:

6. Wood that has been subjected to any of the following conditions:

4. Fire damage beyond charring;

7. Exceptions:

ii. Demolition of unsafe conditions shall be permitted where approved by the code official.



Item 4.

