

## STAFF REPORT

# PROPERTY MAINTENANCE CODE

### **BACKGROUND**

For many years, staff from the City's Inspections Division, administrators from the City Manager's Office, and members of the City Council have received complaints from citizens regarding the maintenance of specific properties within the community. Often these citizens became frustrated by a lack of appropriate City ordinances to address their concerns, the absence of effective enforcement procedures, and the existence of prolonged delays in correcting the situations. These citizens frequently felt that a lack of maintenance on their neighbor's property reduced their right to enjoy the use or value of their own home.

In response to this frustration and in accordance with the Council's goal of strengthening our neighborhoods, several changes have been initiated or are now being considered. The City's Dangerous Building Code has been modified to improve our ability to respond to these types of complaints. Further, a comprehensive review of the City's Rental Housing Code was initiated, utilizing the services of an ad hoc citizen committee.

On November 18, 2008 the City Council conducted a workshop to review the recommendations of the Rental Housing Advisory Committee. Since it had been over 30 years since this Rental Housing Code has been examined in detail, this group was organized to review this section of the Code and recommend changes that would clarify expectations for the City inspectors, rental property owners, tenants, and neighbors. After participating in 26 meetings, the Committee made 78 recommendations to the City Council. One issue that grew out of the Committee's work was a desire that the recommendations related to exterior maintenance issues be required for both rental and owner-occupied residential units.

At this meeting the City Council unanimously directed staff to "proceed with the rental housing changes and a residential property maintenance ordinance simultaneously by modifying Chapter 13 and adding an additional chapter to the Municipal Code dealing with residential property maintenance, with the caveat that public input will be received regarding the items concerning all residential properties: then all issues be put together for final approval."

At the December 9, 2008 Council meeting, the City staff presented the proposed public input process that was being suggested in regards to the residential property maintenance code. The goals of the process were to 1) educate the public about the need for such an ordinance and 2) receive input from owner-occupied homeowners regarding this new concept. The Council approved the public input plan at this meeting and made it clear that only exterior items should be considered for a maintenance code.

At the December 16, 2008 Council meeting, the City Council approved the following 23 exterior property maintenance items for consideration in a new ordinance covering owner-occupied housing:

- Building Numbering
- Maintenance of Detached Garages, Sheds
- Maintenance of Stairways, Decks, Porches, Balconies
- Exterior Handrails and Guardrails
- Exterior Stairs
- Roofs, Gutters, and Downspouts
- Grading and Landscaping
- Structural Members
- Tall Grass and Weed Control
- Sidewalks and Driveways
- Exhaust Vents
- Defacement of Property
- Protective Treatment - Paint
- Foundation Walls
- Decorative Features
- Overhang Extensions
- Chimneys and Towers
- Doors - Exterior
- Basement Hatchways-Maintenance
- Exterior Walls
- Disposal of Garbage, and Waste
- Outdoor Storage
- Required Off-Street Parking: Hard Surface, Front Yard

## **SUMMARY OF PUBLIC INPUT**

### **Outreach Methods**

The City engaged in various methods to notify Ames residents and homeowners about the concept of property maintenance codes and opportunities to gather more information. A budget for a property maintenance code education campaign was established at \$5,000. Information was disseminated using many different communication tools, including:

- City Side – February 2009 cover story that was received by more than 20,000 utility bill customers throughout the month of January (Appendix 1).
- Web page - A link on the front page of <http://www.cityofames.org> provided information on property maintenance codes, photographs, a calendar of educational events, and a survey link.
- Online survey – A link on <http://www.cityofames.org> allowed participants to fill out a survey and share their thoughts on property maintenance codes. The survey was completed by 580 participants.

- Press Releases – Two press releases were sent out covering the public input sessions and online survey opportunity. The result was coverage in local newspapers, radio, and online news sources.
- Direct mail – Postcards were sent directly to 7,188 homeowners in Ames to let them know of the public input sessions and online survey.
- Speaking Engagements – Fire Chief Clint Petersen spoke to three groups about property maintenance codes.
- Radio – In addition to one week of paid advertisements on KASI/KCCQ, City staff took advantage of non-paid radio opportunities such as “Mel in the Morning” on Fridays.
- Channel 12 – A program about property maintenance codes, including the schedule of educational opportunities, was broadcast on Channel 12 for several weeks. Text slides announcing the public forums were broadcast on a regular rotation.
- Focus Group Sessions – One practice focus group and three scheduled focus groups were facilitated by Mary Emery, a trained facilitator with Iowa State University.
- Public Input Sessions & Open House – Two public input sessions were held in early February at the Scheman Building. In the common space outside the meeting room, several tables of information and displays were set up to share information.
- Guest Editorial – Mayor Campbell’s guest editorial appeared in the Ames Tribune.
- Letters to Neighborhood Associations – Letters were sent to every Neighborhood Association president.

## **FOCUS GROUPS (Appendix 2)**

Mary Emery, Associate Director of North Central Regional Center for Rural Development at Iowa State University, conducted three focus group meetings along with one practice session. These focus groups were comprised of 8 to 11 participants and were conducted in early February.

While the participants for the first two focus groups were selected at random, the third group was selected from those who filled out the online survey and indicated they would be interested in participating. The two differing methods of participant selection did not appear to significantly change the results in the discussions. Each focus group appeared to have members who initially leaned toward one of three similar positions:

those who favored codes, those who opposed codes, and those who were undecided about property maintenance codes.

One common observation of the three focus groups was that education was an important component. After the discussion began, staff showed the focus groups examples of complaints the City receives that are not addressed adequately by the existing Code. The participant responses to the pictures ranged from acceptance of the problem property to disbelief that the property was located in Ames. There was a common misconception that the vast majority of problem properties are rental units. After viewing a series of slides, there seemed to be a change in some of the participants' initial opinions and an increased support for "some type of policy" that would dictate a standard of property care.

Following the directive of the City Council, staff did not present "solutions" or alternatives for solutions to the focus groups. The participants found this frustrating and the lack of detail made it difficult for them to voice their support for, or against, specific ideas. One interesting aspect of the focus groups was the negative feedback of applying the term "property maintenance code" to owner-occupied residences. The term seemed to evoke emotion from self-identified property-rights advocates. All focus groups expressed concern about what City involvement might look like, especially if the approach was viewed as unnecessarily invasive or punitive.

A significant number of participants at each focus group meeting discussed the need to provide help rather than penalties to homeowners who, for various health and financial reasons, might not have the resources to maintain their property. In discussions concerning the City's financial contribution, a small number of participants stated they would not want tax dollars used to improve private property. In every case, options to involve volunteers were mentioned, and the participants saw a role for Iowa State University students, civic groups, religious groups, and neighborhood association volunteers in addressing this need. A least one comment per group addressed the role of the City in supporting and sustaining neighborhood organizations as the best possible strategy for helping people maintain their property and providing aid to those not able to do so.

Environmental issues were mentioned in every focus group. Many brought up that current lawn practices, including frequent watering, mowing, and phosphate fertilization, are bad for the environment and degrade water quality. Several thought there should be incentives for people to change these behaviors.

Some in attendance emphasized that they did not want to be limited in their creativity and expression of personal taste. Participants in every focus group reiterated that residents select a neighborhood by how it fits their tastes and style preferences. Many participants expressed the philosophical support for understanding, diversity, and "putting people first." Yet, a majority seemed to believe there is a point at which these principles can be challenged by a homeowner who allows his/her property to deteriorate to a point of adverse impact on the neighborhood. **When the deterioration exceeds that of an allowable norm for the neighborhood, and it exceeds the neighborhood's ability to deal with the problem on a local level, they may seek and expect services from the City.**

Finally, it was evident Ames residents care about where they live. In every focus group, people wanted to stay afterwards and continue talking about their neighborhoods. They were also intrigued by the focus group process and felt that they were being listened to, which inspired several to indicate they would like to continue in the process. By focusing on neighborhood strengths and what participants like about where they live, it was possible to establish common ground. **As a result, participants agreed there is a place for the City in developing policy addressing dangerous buildings, health and life safety issues, and protecting other homeowners' investments. What was not clear was what that policy would include and how it would be enforced.**

## **PUBLIC FORUMS** (Appendices 3, 4, & 5)

Public forums on property maintenance codes were held at the Scheman Center on Monday, February 2, and Saturday, February 7. Attendance at both meetings totaled approximately 85 participants. The meetings began with an open house, and tables with information were set up in the common area. Each table was staffed by a City employee who answered questions or took input from participants. After 20 to 30 minutes, participants were directed to take seats in the meeting room, and the public input sessions began.

Both forums included an educational component presented by Assistant City Manager Bob Kindred and Fire Chief Clint Petersen. This included a description of the City Council's emphasis on strengthening neighborhoods, a historical background of City actions to accomplish that goal, photographs of properties in Ames where the City had received property maintenance complaints, and data showing how other communities had utilized the International Property Maintenance Code to address similar issues.

The public input portion of the two forums was not identical, since staff adjusted the second forum based on experience gained from the first public forum. In the first forum, staff attempted to solicit more specific ideas by conducting informal votes on points made after citizens spoke. The votes were difficult to count and proved ineffective with citizens expressing their displeasure at being asked to vote without adequate background information and specifics. The "town hall" voting procedure was not attempted at the second session.

Based on the amount of publicity and the potential impact of property maintenance codes on homeowners, attendance at the public forums was surprisingly sparse. Of those who did attend, the majority came not to seek information, but to share an opinion. While photographs of problem properties often sparked comment, several forum participants felt problems could be addressed through enforcement of existing codes.

While some participants argued property maintenance codes infringed on individual property rights, others expressed serious concern about the impact of problem properties on the value of nearby homes. There was a perception among participants that problem properties mainly involve rental housing units.

There were concerns expressed at the public forums about the scope and enforcement of property maintenance codes, about “fairness” of complaint-driven enforcement, about the disruption of neighbor relationships, about the fear of retaliation, and about the impact of codes on the elderly, low income, or unemployed. **The participants expressed a range of positions that varied from strong support for the concept to complete opposition.**

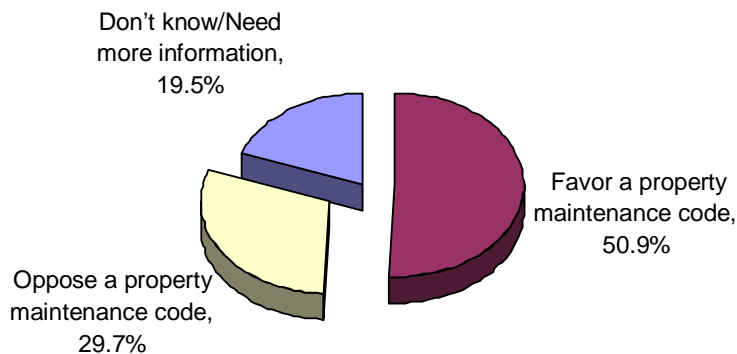
**Overall, the public forums did not produce a definitive direction or any sort of consensus among participants. They did provide Ames homeowners the opportunity to express their opinions.**

## **ONLINE SURVEY** (Appendices 6 & 7)

The online survey had a total of 580 homeowner participants. **This survey was not meant as a scientific endeavor, but as an opinion survey for those wanting to express their positions regarding this topic.**

The Chart 1 below summarizes the data from the homeowners who participated in the survey.

### **Q.2 What is your opinion about establishing property maintenance codes for homes in Ames?**



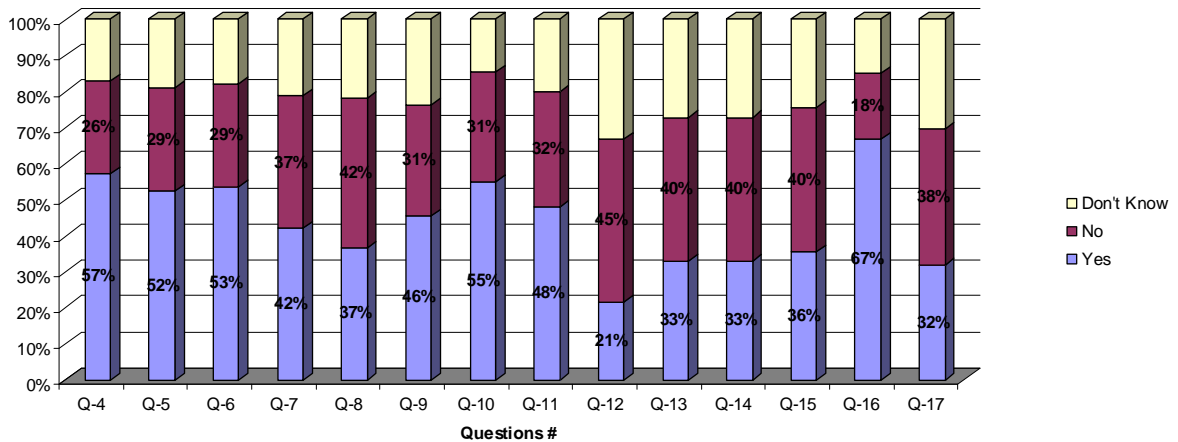
The following questions were posed on the online survey. Questions 4-17 were answered either Yes, No, or Don't Know. Questions 3, 18, and 19 were answered with dialogue boxes.

- Q.1 Do you: (Own Your Home) (Rent)
- Q.2 What is your opinion about establishing property maintenance codes for homes in Ames? (Favor a property maintenance code) (Oppose a property maintenance code)
- Q.3 What additional information would help you make a decision? (Dialogue Box)
- Q.4. If property maintenance codes were established in Ames, should they include these exterior categories: Detached garages, and sheds?
- Q.5 If property maintenance codes were established in Ames, should they include these exterior categories: Exterior stairways, handrails and guardrails?

- Q.6 If property maintenance codes were established in Ames, should they include these exterior categories: Decks, porches, and balconies?
- Q.7 If property maintenance codes were established in Ames, should they include these exterior categories: Roofs, gutters, and downspouts?
- Q.7 If property maintenance codes were established in Ames, should they include these exterior categories: Landscaping and grading?
- Q.9 If property maintenance codes were established in Ames, should they include these exterior categories: Structural supports/Foundation walls?
- Q.10 If property maintenance codes were established in Ames, should they include these exterior categories: Grass height and weeds?
- Q.11 If property maintenance codes were established in Ames, should they include these exterior categories: Sidewalks and driveways?
- Q.12 If property maintenance codes were established in Ames, should they include these exterior categories: Exhaust vents?
- Q.13 If property maintenance codes were established in Ames, should they include these exterior categories: Exterior walls (painting/siding)?
- Q.14 If property maintenance codes were established in Ames, should they include these exterior categories: Chimneys, towers, overhangs, and decorative features?
- Q.15 If property maintenance codes were established in Ames, should they include these exterior categories: Exterior doors/Basement Hatchways?
- Q.16 If property maintenance codes were established in Ames, should they include these exterior categories: Disposal of garbage, waste, and outside storage?
- Q.17 If property maintenance codes were established in Ames, should they include these exterior categories: Hard surface off-street parking?
- Q.18 If property maintenance codes were established in Ames, should they include these exterior categories: (Dialogue box)
- Q.19 What do you like about exterior property maintenance codes? (Dialogue box)
- Q.20 What concerns do you have about exterior property maintenance codes? (Dialogue box)

The following chart shows the participant's positions in percentage for questions 4 through 17.

Chart 2, Questions 4 - 17



## **ANNUAL RESIDENT SATISFACTION SURVEY** (Appendix 8)

While not a part of the community input process outlined at the December 9, 2008 City Council meeting, it should be remembered that in 2007 a question about the establishment of a minimum property maintenance code for rental and owner-occupied properties was included in the Annual Residential Satisfaction Survey. With minimal input or an opportunity to ask questions, 68% of the 333 people who responded to the survey supported some type of property maintenance standard, 13% opposed the concept, and 19% were undecided at the time.

When asked which category should be covered by such an ordinance, overgrown lawns, broken windows, brush on the lawn, junk cars, and junk in the yards all received over 60% support from the respondents.

It could be argued that this statistically valid information best represents the opinions of the total population.

## **STAFF ANALYSIS OF THE PUBLIC INPUT**

**It is clear, at least from those who participated in the most recent public input opportunities, that there is not overwhelming support for applying property maintenance requirements carte blanche to owner-occupied residences. However, after reviewing the comments that were received, it appears that the level of support for this concept may be stronger if the City Council proceeds in accordance with the following theory.**

### **Decision Continuum:**

The scope of property maintenance codes may best be represented by an array or a continuum of choices. A city may chose to address only the most egregious violations of property maintenance, those that result in buildings posing a danger to the lives of occupants and neighbors. Other cities have implemented the other extreme of property



maintenance and have adopted regulations that define acceptable styles, designs, colors, and building materials. These communities have most often adopted codes that include all options up to and including style and design. The options for a dangerous building only approach or style and design approach represent the polar opposites of a decision continuum.

Graphic 1 shows one representation of an array of alternatives. Moving from left to right, the City Council may choose how far it wants to proceed along this route.

Graphic 1



**Definitions & Observations from Citizen Meetings:**

Dangerous Buildings: This is well defined in the Municipal Code. The term dangerous building generates a visual concept. Support for enforcement came from most persons who attended a property maintenance public forum or focus group discussion. A small minority of citizens expressed a belief in absolute property rights and do not believe the City should even address property maintenance enforcement for dangerous buildings.

Health & Life Safety: Although the term does not always convey a clear image, the term generates support from most participants as long as it is not carried to an extreme. Conditions that attract rodents, vermin, mosquitoes, etc., or are trip, fall, and physical dangers are often mentioned as health and life safety issues.

Adverse to Property Values: Citizens believe there are neighborhood property maintenance issues that are of such severity that they could affect the investment in their properties. Citizens often support city enforcement for the most egregious violations of property maintenance issues from adjacent properties that affect their investment or adversely affect their neighborhoods.

Encroachment: For the purposes of this discussion, encroachment is expressed as frustration at the acts of property owners that adversely affect neighboring property owners' use/enjoyment of their own property. (Examples include broken shingles falling on adjacent properties, water/mud runoff from neighboring lots.)

Aesthetics: There are as many definitions for aesthetics as there are opinions as to what is aesthetically pleasing. One definition is as follows: "the branch of philosophy dealing with beauty and taste; traditional aesthetics assumed the existence of universal and timeless criteria of artistic value." The term is often used in describing what citizens want and do not want in a property maintenance code.

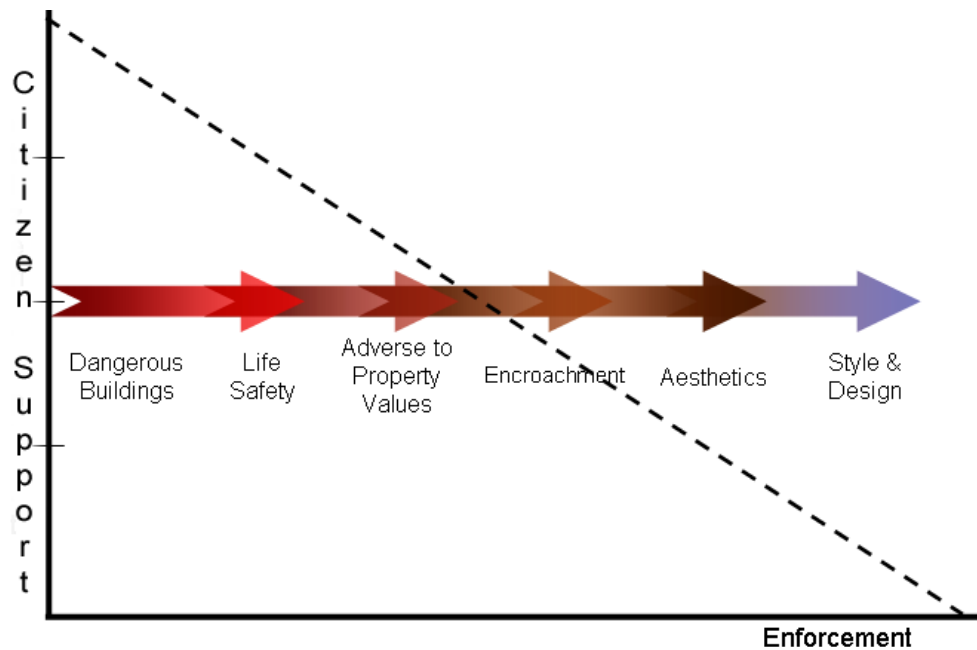
Style & Design: This is defined as a particular, distinctive, or characteristic mode or form of construction or execution in any art or work, to plan and fashion artistically or

skillfully. During discussions, only a relatively few citizens requested the City to establish parameters regarding acceptable style and design features.

**Support for Degree of Enforcement Relationship:**

During the property maintenance public input and educational outreach effort, it quickly became apparent that the further the City moves across the alternatives identified in Graphic 1, the more citizen support erodes. Graphic 2 is an attempt to illustrate the cumulative observations of staff members from the multiple meetings held over the last few months. Graphic 2 is not a representation of compiled data.

Graphic 2

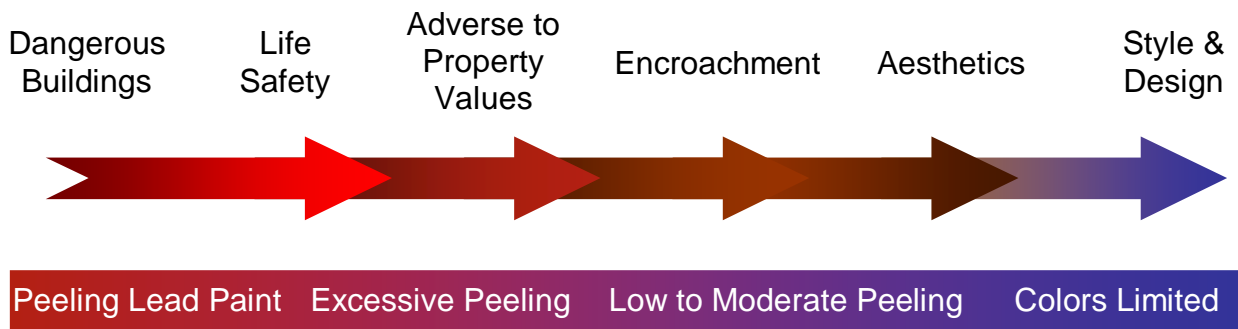


**Example of One Property Maintenance Issue:**

While the concept of the decision continuum may help one visualize the possible range of enforcement options, it is helpful to move to a specific example of how property maintenance issues fall on the continuum.

Graphic 3 shows one property maintenance code issue that may fall across the spectrum of code enforcement alternatives. Excessive peeling paint is often present when dealing with dangerous buildings. Currently the City does not have effective ordinances for testing and abatement of peeling lead paint. Peeling lead paint is believed to be a health and life safety danger. Many citizens believe that the most egregious cases of excessive peeling paint adversely affect the surrounding property values. Some, although most likely not a majority of attendees, believed that low to moderate peeling paint can affect their enjoyment of their property and neighborhoods (encroachment and aesthetics). Relatively few believe our community should adopt codes that address style and design features for painting existing residential properties.

**Graphic 3**



**Moving From Concept to Application:**

The property maintenance public input and educational outreach effort did not present citizens with specific solutions or code language. **In order to consider a property maintenance code for residential properties, the City could develop alternatives that address specific problems and then stay within the acceptable levels chosen on the decision continuum.**

Table 1 is an example of identifying three code issues and possible alternatives along the decision continuum.

**Table 1**

	<b>Dangerous Building</b>	<b>Health and Life Safety</b>	<b>Adverse to Neigh. Property Values</b>	<b>Encroachment</b>	<b>Aesthetics</b>	<b>Style and Design</b>
<b>Building numbering</b>	not applicable	Emergency personnel must be able to locate and respond to citizens in situations where the difference between safety, serious injury, and death is measured in seconds.	not applicable	not applicable	not applicable	not applicable
<b>Protective Treatment-Paint</b>	Whenever the building or structure shows 50% damage or deterioration of its enclosing or outside walls or coverings.	Flaking lead paint	Excessive, preponderant flaking	Moderate flaking/fading	Lesser degree of flaking/fading	Prescribed color/style
<b>Grading and landscaping/erosion control</b>	Inadequate grading causes storm water to drain towards the dwelling, resulting in structural deterioration, and eventual failure of the foundation.	Standing/stagnant water provides breeding conditions for disease-carrying insects; mud runoff onto streets and public sidewalks creates pedestrian and traffic safety hazards.	Storm water and mud runoff from one property onto another can contribute to foundation damage to adjoining property. Appearance has negative impact on adjoining property.	Water and mud runoff requires adjoining owner to expend personal resources to counteract the effects.	Standing/stagnant water, mud, dried soil on sidewalks, driveways, and streets are visually unattractive.	The specific materials and methods for addressing this issue are prescribed by an ordinance.

It appears from our community dialogues that minimum property maintenance standards applied to owner-occupied residential units could be acceptable to the greatest number of residents if an ordinance leaned towards the first three levels of the continuum: Dangerous Buildings, Health and Life Safety, and Adverse To Property Values.

## **PROPERTY MAINTENANCE POLICY OPTIONS**

### **Option I - Eliminate exterior property maintenance requirements from the Municipal Code.**

This option would remove any reference to exterior property maintenance requirements from our Municipal Code. This approach would be a major step backward, since it would eliminate the City's ability to enforce the requirements that are currently in the Municipal Code for items such junk, refuse, junk vehicles, parking on paved surfaces, etc.

### **Option II – Continue to enforce the property maintenance related requirements as they currently exist in the Municipal Code.**

This option would maintain the status quo by enforcing the current code sections as they are currently written in the Municipal Code. Such items as junk cars, storage of junk, parking in front yards, weeds (a specific list), etc., are scattered throughout the Code with various enforcement tools.

### **Option III – Revise the Rental Housing Code (Chapter 13) to incorporate the recommendations of the Rental Housing Advisory Committee related to exterior and interior issues, but apply these regulations only to rental units.**

Under this option, the concept of property maintenance standards for rental units would be decoupled from owner-occupied units. The newly clarified property maintenance requirements considered by the Rental Housing Advisory Committee would be applied only to residential rental properties. No further effort would be made to modify the current minimum standards for owner-occupied units.

### **Option IV - Revise the Rental Housing Code (Chapter 13) to incorporate the recommendations of the Rental Housing Advisory Committee related to exterior and interior issues for rental housing units at this time, and move ahead to establish a citizen committee to work with the City staff to recommend minimum property maintenance standards for owner-occupied residential units for City Council consideration.**

Under this option, an ordinance will be brought back to the City Council reflecting the new language agreed to by the Rental Housing Committee regarding property maintenance standards for residential rental units. In addition, the staff will work with a

citizen committee to develop code language focusing on the Dangerous Buildings/Health and Life Safety/Adverse to Property Values levels of the decision continuum mentioned previously for owner-occupied residential properties.

**Option V – Delay any action to revise the Rental Housing Code (Chapter 13) at this time and move ahead to establish a citizen committee to work with the City staff to develop minimum property maintenance standards for owner-occupied residential units for City Council consideration.**

Under this option, the final decision regarding the establishment of property maintenance requirements for rental units will remain coupled with the final decision regarding their application to owner-occupied units. As in Option IV, the staff will work with a citizen committee to develop code language focusing on the Dangerous Buildings/Health and Life Safety/Adverse to Property Values levels of the decision continuum mentioned previously for owner-occupied residential properties.

## **CITY STAFF COMMENTS**

- ❖ Over the years, the City staff has expressed support for some form of a minimum property maintenance code to apply to both rental and owner-occupied residential units. This direction is supported because of:
  - a recognition that the housing stock in some of our older neighborhoods has reached a point where voluntary action on the part of the home owner to improve the property is not always accomplished,
  - a feeling of frustration on the part of staff members that the enforcement procedures in our current ordinances do not allow us to respond in a timely fashion to complaints from our residents about neighboring properties,
  - the establishment of minimum property maintenance standards is not a radical idea for municipal governments since many cities in Iowa and throughout the country have adopted similar ordinances. (Appendices 9 & 10 for Big 12 Conference Cities and Appendices 11 & 12 for Iowa's 10 Largest Cities), and
  - the fact that problem properties are not only rental units. In the first year that we had a Neighborhoods Inspector and a Rental Housing Supervisor, 256 complaints were found to be in violation of the Municipal Code. Of this total, 71% of these violations were identified on owner-occupied properties.

- ❖ However, staff also believes that the adoption of such an ordinance should not be supported unless the City Council:
  - concurs that a problem exists in our neighborhoods that requires new tools to improve the situation,
  - believes that there is a legitimate role for government to intervene to assure improvements are made on private properties, and
  - is willing to accept a substantial degree of criticism that will come, at least initially, from those home owners who are required to make improvements as a result of this new ordinance.
  
- ❖ If the City Council decides to select an option that involves the establishment of minimum property maintenance standards, then it is staff's belief that:
  - the requirements should be directed only towards residential property (not commercial or industrial properties) at this time,
  - the current philosophical approach to inspections should be maintained. Inspections will continue to be made based upon citizen complaints or observations by a City Inspector while at a property to handle some other required inspection, and
  - the International Property Maintenance Code should be adopted with local amendments.
  
- ❖ If the City Council decides to postpone any action on revising the Rental Housing Code, then it is important that the moratorium on enforcement that has been in place should be extended until December 31, 2009, for such issues as exterior painting, paved driveways and parking stalls, above ground non-egress windows, and single furnaces with shared air flow.
  
- ❖ If the City Council decides not to adopt minimum property maintenance standards for owner-occupied residential units, then staff recommends that the new abatement procedures established for dangerous buildings be adopted for the existing code sections to help staff more effectively enforce the current laws.