

## TITLE 15

### BUILDINGS AND CONSTRUCTION

#### Chapters:

- 15.04 Fire Limits – Fire Protection
- 15.08 Building Code
- 15.12 Moving Buildings
- 15.16 Signs and Awnings
- 15.20 Minimum Housing Code
- 15.24 Floodplain Management
- 15.32 Fences, Walls and Hedges
- 15.36 Demolition of Buildings and Structures

#### CHAPTER 15.04

#### FIRE LIMITS – FIRE PROTECTION<sup>76</sup>

#### Sections:

- 15.04.010 Fire limits designated.
- 15.04.020 Defective or dangerous equipment.
- 15.04.030 Failure to comply with Section 15.04.020 – Action.
- 15.04.040 Obstructing aisles.
- 15.04.050 Fire escapes.
- 15.04.090 Gunpowder or blasting powder.
- 15.04.100 Nitroglycerine – Dynamite – Giant powder.
- 15.04.110 Selling powder.

#### **15.04.010**      **Fire limits designated.**

The fire limits are established as follows:

All of Block Twenty-six and Block Twenty-seven, the north half of Block Twenty-nine, the north half of Block Seventeen, the south half of Block Sixteen and the north half of Block Twenty.

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6 <sup>76</sup>For statutory provisions regarding local fire protection measures and the establishment by cities and towns of fire limits, see ICA §364.16.

15.04.020 **Defective or dangerous equipment.**

It is unlawful for any person or persons within the limits of Eldon to keep any defective flue or chimney, or to keep fires in any stove, fireplace, or otherwise, in any manner or place or by putting stove pipes through any roof or ceiling, instead of flues or to otherwise keep fires in the limits which would be dangerous to the safety of the city; and it is unlawful for any person to put any stove pipe through any floor, roof or ceiling or partition in any building in the city limits without passing the same through good and substantial ventilators.

**15.04.030      Failure to comply with Section 15.04.020 – Action.**

When any person fails to comply within ten days after notice of any change of construction to be made in order to comply with Section 15.04.020, it is lawful for the council to enter upon the premises of such person, either by its marshal or any person by the council designated, and build or alter or repair any such flue or chimney, the costs thereof to be entered against the property of such person as a tax, the same shall be collected by a civil action before the mayor or a justice of the peace within the city.

**15.04.040      Obstructing aisles.**

No person, firm or corporation owning, operating or conducting any hall, opera house, theater, church or place of amusement, resorted to by the public, shall cause or suffer the aisle between the seats in any such place as abovementioned to become in any manner obstructed by chairs, benches or other obstructions, but such aisles shall at all times be kept open and free for the use of the public attending any of the places herein mentioned.

**15.04.050      Fire escapes.**

Every person, firm or corporation, owning or erecting any hotel, boardinghouse, factory or office building, exceeding two stories in height, shall cause to be constructed fire escapes of iron or steel, firmly attached to the outer walls of said building, easy of access to any person within the building, which fire escapes shall extend to the full heights of the building, and not less than one of the fire escapes shall be constructed for each twenty foot front of the building, and the sides and rear of the same also, and when constructed shall at all times be maintained in good repair and shall be easy of access to any person from the inside of the building.

**15.04.090      Gunpowder or blasting powder.**

No person, company, firm or corporation shall keep within the city limits in any store, house, shop or any place any gunpowder or blasting powder in any quantity exceeding twenty-five pounds.

**15.04.100      Nitroglycerine – Dynamite – Giant powder.**

No nitroglycerine, dynamite or giant powder shall be kept within the corporate limits of the city.

**15.04.110**      **Selling powder.**

All powder kept and held for sale by retail shall be kept in the manufacturer's original packages, and such packages shall in all cases be labeled "Powder" and shall be kept remote from fires.

**CHAPTER 15.08**

**BUILDING CODE**

**Sections:**

- |           |   |
|-----------|---|
| 15.08.010 | Short title.  |
| 15.08.020 | International Building Code and Standards for Mobile Homes – Adopted. |
| 15.08.030 | International Building Code and Standards for Mobile Homes on file.   |
| 15.08.040 | Building permit fees.   |

15.08.050	Mobile homes – Compliance with standards – Permit fee.
15.08.060	Mobile homes – Installation requirements – Building official enforcement authority.
15.08.070	Modular or sectional homes.
15.08.080	Conflict with state laws.
15.08.090	Setbacks
15.080.100	Violation - Penalty

**15.08.010      Short title.**

The ordinance codified herein shall be known as the “Eldon, Iowa, Building Code,” and may be cited as such, and will be referred to herein as “this chapter.” (Ord. 128 §1, 1976).

**15.08.020      International Building Code and Standards for Mobile Homes – Adopted.**

The International Building Code, and all provisions of the International Building Code Standards, published by the International Code Council and commonly known as the International Building Code, as now or hereafter adopted, is adopted as the standard for all building in and as the building code for the city of Eldon.

**15.08.030      International Building Code and Standards for Mobile Homes on file.**

A copy of the International Building Code and Standards, and the Standards for Mobile Homes, are on file in the office of the city clerk.

**15.08.040      Building permit fees.**

A permit fee of fifty dollars shall accompany all applications for building permits for dwellings, buildings, commercial buildings and structures of one thousand square feet or more. A permit fee of twenty dollars shall accompany all building permit applications for structures of one thousand square feet or less.

**15.08.050      Mobile homes – Compliance with standards – Permit fee.**

A.      After the effective date of the ordinance codified in this chapter, no mobile home, except those already located within the corporate limits, shall be used for dwelling purposes within this city which do not meet the standards set out in the Standards for Mobile Homes adopted by this chapter. The building official shall require such certifications as necessary to prove compliance therewith and such specification plats attached to the mobile home as required by said mobile home code.

B.      The permit and inspection fee for a mobile home to be placed in the city of Eldon and outside of a mobile home park shall be fifty dollars payable with the application to the city for the placement of such mobile home.

**15.08.060      Mobile homes – Installation requirements – Building official enforcement authority.**

The building official shall insure that the following installation requirements are enforced:

A.      All mobile homes shall be no older than ten years.

B.      All mobile homes shall be enclosed and tied down in a manner at least equivalent to the following:

1.      Mobile homes up to thirty-foot length must have two frame ties per side;
2.      Mobile homes thirty-foot to fifty-foot length must have three frame ties per side;
3.      Mobile homes fifty-foot to seventy-foot length must have four frame ties per side;
4.      Mobile homes over seventy-foot length must have five frame ties per side;

5. In addition, over-the-home ties must be as close to each end as possible, with straps at stud and rafter locations.
  - C. Soil tests must be made to assure that the following anchors will withstand three thousand seven hundred fifty pounds of pull per ten feet of mobile home:
    6. Auger or dead man, six inches in diameter, arrowhead eight inches;
    7. Auger of arrowhead depth of four feet, dead man five feet. All augers must be screwed into the earth the full four-foot depth;
    8. Anchor rod 5/8" diameter with welded eye at top must be hooked into concrete when used in dead man anchors;
    9. Anchors to slabs must equal the above in pull resistance.
  - D. Connectors shall be required as follows:
    10. Galvanized or stainless steel cable, 3/8" (7x7, seven wires each); or
    11. Galvanized aircraft cable, 3" (7x19, seven strands of nineteen wires each); or
    12. Steel strap, 1 3/4" x .035", galvanized with tensioning device;
    13. Cable ends secured by two four-bolt clamps;
    14. Steel rods, 5/8" with ends welded closed to form an eye;
    15. Thinbuckles 5/8" drop forged, closed eyes; other tensioning devices of similar strength approved.
  - E. Piers and footing shall be required as follows:
    16. Spaced at ten-foot intervals on both frame rails with end ones no further than five feet from the end of the mobile home;

17. Footings of solid concrete 16" x 16" x 4"; or
18. Piers of standard 8" x 16" solid concrete block;
19. Wood blocks used for leveling shall not exceed maximum thickness of four inches. Such blocks must be of nominal 8" x 16" dimensions;
20. Other equivalent piers accepted. An adjustable screw-anchor-type column fastened to both frame rail and to a concrete pad or four-foot thickness extending the length and width of the mobile home is especially recommended.

F. Patio awning and cabana roofs shall be required as follows:

21. Two rows of vertical support bars, spacing twelve feet. Second row to be down the middle or at the mobile home edge, anchored to concrete floor or equivalent footing;
22. Other structures on the lot must be secured;
23. Tip-out rooms to be held by over-the-home tie at the outer edge;
24. Clerestory roof required over-the-home tie at the end of each raised section

**15.08.070 Modular or sectional homes.**

Modular or sectional homes shall not be deemed mobile homes, but must comply with the International Building Code.

**15.08.080 Conflict with state laws.**

Nothing in this chapter or in the International Building Code and the Standards for Mobile Homes, as adopted, shall be construed to be in conflict with state laws or the State Housing Code. In the event of such conflict, the state law shall prevail.

**15.08.090 Setbacks.**

All buildings or other structures hereinafter erected, reconstructed or altered within the restricted residential district shall be placed not closer than five feet to the adjoining side lot line or rear lot line and not closer than twenty feet to the front lot line. At corner lots setbacks shall be twenty feet at the front and side lot lines adjacent to the intersecting street.

**15.08.100 Violation – Penalty.**

A violation of this chapter is a municipal infraction and any person violating any of the provisions of this chapter, shall be punished as provided in Chapter 1.12, in the discretion of the court.

## CHAPTER 15.12

### MOVING BUILDINGS

#### **Sections:**

15.12.010	Permission – Bond.
15.12.020	Authorization required to move electric lights, telephone wires and poles.
15.12.030	Violation – Fine.

#### **15.12.010      Permission – Bond.**

No building shall be moved over any street or alley within the limits of the city without written permission from the mayor. Before receiving permission, applicant shall file with the mayor a written statement describing the building, from whence and the location to which it is proposed to move same, together with good and sufficient bond in the sum of two thousand dollars, condition for payment of damage for which the city may be liable in consequence of removal of the building, and payment of any penalty incurred for violation of the provisions of this chapter.

#### **15.12.020      Authorization required to move electric lights, telephone wires and poles.**

Electric lights, telephone wires and poles shall not be moved or disturbed in moving any building except under authority of the mayor, and the same shall be replaced in good order by the person moving the building.

#### **15.12.030      Violation – Penalty.**

A violation of this chapter is a municipal infraction and any person violating any of the provisions of this chapter, shall be punished as provided in Chapter 1.12, in the discretion of the court.

## CHAPTER 15.16

### SIGNS AND AWNINGS<sup>83</sup>

#### **Sections:**

- |           |   |
|-----------|---|
| 15.16.010 | Awning elevation – Projection – Roof or covering materials. |
| 15.16.020 | Sign elevation – Projection.                                |
| 15.16.030 | Violation – Penalty.  |

#### **15.16.010      Awning elevation – Projection – Roof or covering materials.**

All awnings hereafter erected on any of the streets of the city shall be elevated at least eight feet above the upper surface of the sidewalk, and shall not project over the same to exceed three-fourths of the width thereof. The roof or covering of all such awnings shall be made of duck, canvas or other suitable cloth, supported by iron frames or brackets firmly and securely fastened to the building in front of which the same shall be erected, without posts or other device that will in any manner obstruct the sidewalk or hinder or interfere with the free passage of pedestrians thereon.

#### **15.16.020      Sign elevation – Projection.**

No sign shall be affixed to the front of any building and over any sidewalk or street a distance of less than eight feet above the sidewalk or street, and no sign of more than two feet in length shall be affixed at a distance of less than fourteen feet above the sidewalk or street, and it is unlawful to so affix to any building any sign over eight feet in length.

#### **15.16.030      Violation – Penalty.**

A violation of this chapter is a municipal infraction and any person violating any of the provisions of this chapter, shall be punished as provided in Chapter 1.12, in the discretion of the court.

## CHAPTER 15.20

### MINIMUM HOUSING CODE

#### **Sections:**

15.20.010	Short title.
15.20.020	Purpose.
15.20.030	Definitions and grammatical interpretation.
15.20.040	Standards – Exterior.
15.20.050	Standards – Interior.
15.20.060	Appointment of building inspector.
15.20.070	Inspection of dwellings.
15.20.080	Water and/or sewer connections.
15.20.100	Inspection to determine conformance.
15.20.110	Complaints – Processing.
15.20.120	Complaints – Deemed unreasonable.
15.20.130	Change of occupancy.
15.20.140	Inspection.
15.20.150	Appeals – Procedure.
15.20.160	Violation – Penalty.

#### **15.20.010      Short title.**

For purposes of brevity, the ordinance may be cited as “The Minimum Housing Code of the City of Eldon, Iowa.”

#### **15.20.020      Purpose.**

The purpose of this chapter is to establish minimum standards and shall be used to determine when one or more building conditions would result in a condition that would make a structure unsafe for human habitants in furtherance of the public health, safety and welfare.

#### **15.20.030      Definitions and grammatical interpretation.**

For use in this chapter, certain words used herein shall be interpreted or defined as follows:

- A.      “*Dwelling*” means a building used as the living quarters for one or more families.
- B.      “*Minimum*” means the lowest basic standard allowance.
- C.      “*Person*” includes a corporation, partnership or limited partnership as well as an individual.
- D.      The singular includes the plural.

**15.20.040      Standards – Exterior.**

The following standards are hereby established for the structure's exterior:

- A.      Foundation Walls and Roof. Every foundation, exterior wall, roof, and all other exterior surfaces shall be maintained in a workmanlike state of maintenance and repair and shall be kept in such condition as to exclude rodents.
- B.      Foundations. The foundation elements shall adequately support the building at all points.
- C.      Roof. The roof shall be structurally sound, tight, and have not defects which might admit rain. Roof drainage shall be adequate to prevent rain water from causing dampness in the walls or interior portion of the building. Every gutter and down spout shall be firmly fastened and maintained in good condition.
- D.      Doors. Every exterior door, door hinge, and door latch and lock shall be maintained in good and workable condition. Every exterior door, when closed, shall fit reasonably well within its frame.
- E.      Windows. Every window hatchway shall be substantially tight and shall be kept in sound and operable condition and good repair.
- F.      Structural Safety. Every outside stair, every porch, and every appurtenance attached thereto shall be so constructed which it is subjected and shall be kept in sound condition and good repair.
- G.      Handrails. Where necessary for safety, every flight of stairs and porch which is more than two (2) risers high, shall have handrails so located and of such design as required by the building code. Every handrail and balustrade shall be firmly fastened and shall be maintained in good condition.
- H.      Accessory Structures. Accessory structures shall be maintained in a similar condition to living units taking into consideration the use of the structure.
- I.      Chimneys. Chimneys and vents shall be structurally safe, durable, smoke tight, and capable of withstanding the action of flue gases and fireproof from the rest of the structure.
- J.      Grading and Drainage. All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon, or within any building or structure located thereon. (Ord. 144 §4(part), 1978).
- K.      All buildings or other structures hereinafter erected, reconstructed or altered shall be placed not closer than five feet to the adjoining side lot line or rear lot line and not closer than twenty feet to the front lot line. At corner lots, setbacks shall be twenty feet at the front and side lot lines adjacent to the intersecting street.

**15.20.050      Standards – Interior.**

The following standards are established for the structure's interior.

- A.      Interior Doors. The structure shall provide a door for each opening to a bathroom or toilet compartment.
- B.      Plumbing. The plumbing system and its appurtenances for each building shall provide satisfactory water supply, drainage, venting and operation of fixtures.

C. Electrical. All habitable rooms and other appropriate spaces requiring electrical service shall be provided with a system or wiring, wiring devices, and equipment to safely supply electrical energy for proper illumination, appliances, resident security, and other electrical equipment.

D. Heating. Every dwelling and multifamily dwelling shall have heating facilities properly installed, safely maintained and in good working condition, and that they are capable of safely and adequately heating all habitable rooms, bathrooms, and toilet rooms located therein.

E. Floors. All floor construction shall provide safe and adequate support for all existing or probably loads and shall be reasonably free of objectionable vibration. A suitable surface for finish flooring shall exist or be provided.

F. Interior Walls, Ceilings and Floors. All interior walls, ceilings and floors shall be structurally sound, in good repair.

G. Stairs. All stairs of every structure shall be maintained in sound condition and good repair by replacing treads and risers that evidence excessive wear or are broken, warped or loose. Every inside stair shall be so construed and maintained as to be safe to use and capable of supporting a load as required by the provisions of the building code.

H. Bath and Kitchen Floor. Every toilet, bathroom and kitchen floor surface shall be constructed and maintained so as to be substantially impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

I. Every bathroom and water closet compartment shall have light and ventilation

**15.20.060 Appointment of building inspector.**

The city council authorizes the appointment of a building inspector. Said inspector shall be an authorized representative of the city as designated by city council action or a 28E Agreement for such services to be performed by another governmental entity. The inspector, who may be a consultant or a member of the staff of said city, shall be qualified to determine degree of standards of the dwelling in accordance with this code and to determine what corrections are needed to bring a structure up to minimum standards.

15.20.070

Inspection of dwellings.

In accordance with the rights of entry as provided in Section 19 and 22, Chapter 103A, Code of Iowa 1977, the city may require an entry E inspection and will, as a matter of policy, require an inspection when any of the following conditions exist:

- A. On any dwelling when funds for renovation or demolition of a building are provided through a program sponsored by the city;
- B. In all cases when there is reasonable evidence that hazardous conditions existing on the property represent a threat to surrounding properties and when a reasonable complaint has been filed by a resident of the city;
- C. When the city has found a property to be a public nuisance;
- D. When the property has been condemned by the state fire marshal, or where there has been substantial recent fire damage, an inspection may be required in order to determine what measures are necessary to bring the property back up to standard;
- E. When there is a change of occupancy in a structure and there is reasonable evidence, as determined by the council, to suspect that the property does not meet minimum standards, as provided for in this chapter or a previous tenant has filed a complaint with the city stating that minimum standards, as provided for in this chapter, are not being met within a specific dwelling and the inspection has not yet been accomplished.

**15.20.080      Water and/or sewer connections.**

If water and/or sewer adjoins a property and it is determined that existing water supplies are not safe, sanitary or reliable and/or it has been found that onsite waste disposal systems have contributed to surface or subsurface pollution, the property shall be connected to the adjoining water and/or sewer facilities. The city shall automatically require connection(s) to facilities adjoining the property whenever there is a change of occupancy. This connection shall be made prior to the new occupants moving into the structure.

**15.20.100      Inspection to determine conformance.**

When reasonable doubt exists that a dwelling does not meet the minimum standards as set forth in this code, the council may require an inspection of the property.

**15.20.110      Complaints – Processing.**

All complaints of residents of the city must be filed with the city clerk. The city clerk will, at the next regular session of council, present the complaint to the council. The council may, at its discretion, investigate said complaints and order inspections when it is deemed reasonable by the council.

**15.20.120      Complaints – Deemed unreasonable.**

In the event that unreasonable or false complaints are filed, and the council deems said complaints as being of a harassing nature, the council may levy a fine, equal to the amount of the costs associated with the inspection, against the complaining resident. In no case shall the said fine exceed one hundred dollars or the maximum fine set forth in state code. (Ord. 144 §11, 1978).

**15.20.130      Change of occupancy.**

It shall be the responsibility of an owner, or his authorized agent, to notify the city clerk whenever there is a change of occupancy in a structure, either as a result of rental agreements, lease or sale of the property. The city council may require inspection of a building prior to the occupancy change if there is a reasonable question as to whether or not such building meets the standards provided for in this chapter. If, after inspection of the structure, said structure is found to be in violation of the standards in this chapter, the structure shall be posed in a conspicuous place on the front exterior of the structure, and the structure may not be reoccupied until the deficiencies have been corrected and the city notified of the corrections.

**15.20.140      Inspection.**

The council will order inspections as it deems necessary to carry out the intent of this chapter. The inspector shall report the results of said inspection to the council or authorized officials so that notice may be sent to correct the deficiencies that exist. Said notification and posting of the deficiencies shall be accomplished within sixty days of the inspection.

**15.20.150      Appeals – Procedure.**

Any person who is required by any section of this chapter to make repairs to his property or restrained from sale or rental of the property because of the provisions of this chapter may appeal said findings within a thirty-day period. The city council shall provide a hearing within thirty days of receipt of the appeal to hear the appeal. Within fifteen days after said hearing, the city shall formally, in writing, make its findings known to the property owner.

**15.20.160      Violation – Penalty.**

A violation of this chapter is a municipal infraction and any person violating any of the provisions of this chapter, shall be punished as provided in Chapter 1.12, in the discretion of the court.

## Chapter 15.24

### 15.24 Floodplain Management

15.24.010	Definitions
15.24.020	Statutory Authority, Findings of Fact and Purpose)
15.24.030	General Provisions
15.24.040	Administration
15.24.050	Floodplain Management Standards
15.24.060	Variance Procedures
15.24.070	Non-Conforming Uses
15.24.080	Violation - Penalty
15.24.090	Amendments

#### 15.24.010 - Definitions

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance it's most reasonable application.

1. APPURTENANT STRUCTURE – A structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
2. BASE FLOOD - The flood having one (1) percent chance of being equaled or exceeded in any given year (Also commonly referred to as the “100-year flood”).
3. BASE FLOOD ELEVATION (BFE) – The elevation floodwaters would reach at a particular site during the occurrence of a base flood event.
4. BASEMENT - Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."

5. DEVELOPMENT - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. "Development" does not include "minor projects" or "routine maintenance of existing buildings and facilities" as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.
6. ENCLOSED AREA BELOW LOWEST FLOOR – The floor of the lowest enclosed area in a building when all the following criteria are met:
  - A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of 15.24.050 D)(1) of this Ordinance, and
  - B. The enclosed area is unfinished (not carpeted, dry walled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
  - C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the base flood elevation, and
  - D. The enclosed area is not a "basement" as defined in this section.
7. EXISTING CONSTRUCTION - Any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the community.
8. EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.
9. EXPANSION OF EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION - The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
10. FACTORY-BUILT HOME - Any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this Ordinance factory-built homes include mobile homes, manufactured homes, and modular homes; and also include "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
11. FACTORY-BUILT HOME PARK OR SUBDIVISION - A parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
12. FIVE HUNDRED (500) YEAR FLOOD – A flood, the magnitude of which has a two-tenths (0.2) percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every five hundred (500) years.
13. FLOOD - A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
14. FLOOD INSURANCE RATE MAP (FIRM) - The official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

15. FLOOD INSURANCE STUDY (FIS) – A report published by FEMA for a community issued along with the community’s Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.
16. FLOODPLAIN - Any land area susceptible to being inundated by water as a result of a flood.
17. FLOODPLAIN MANAGEMENT - An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.
18. FLOODPROOFING - Any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.
19. FLOODWAY - The channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.
20. FLOODWAY FRINGE - Those portions of the Special Flood Hazard Area outside the floodway.
21. HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure
22. HISTORIC STRUCTURE - Any structure that is:
  - A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;
  - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
  - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either i) an approved state program as determined by the Secretary of the Interior or ii) directly by the Secretary of the Interior in states without approved programs.
23. LOWEST FLOOR - The floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of Enclosed Area below Lowest Floor are met.
24. MAXIMUM DAMAGE POTENTIAL DEVELOPMENT - Hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.
25. MINOR PROJECTS - Small development activities (except for filling, grading and excavating) valued at less than \$500.
26. NEW CONSTRUCTION - (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.
27. NEW FACTORY-BUILT HOME PARK OR SUBDIVISION - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a

minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the first floodplain management regulations adopted by the community.

28. RECREATIONAL VEHICLE - A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

29. ROUTINE MAINTENANCE OF EXISTING BUILDINGS AND FACILITIES – Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
- B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
- C. Basement sealing;
- D. Repairing or replacing damaged or broken window panes;
- E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

30. SPECIAL FLOOD HAZARD AREA (SFHA)- The land within a community subject to the "base flood". This land is identified on the community's Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.

31. START OF CONSTRUCTION - Includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

32. STRUCTURE - Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, grain storage facilities and/or other similar uses.

33. SUBSTANTIAL DAMAGE -

Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.)

34. SUBSTANTIAL IMPROVEMENT - Any improvement to a structure which satisfies either of the following criteria:

- A. Any repair, reconstruction or improvement of a structure taking place during a 10-year period, the cumulative cost of which, equals or exceeds fifty (50) percent of the market value of the structure either (i) before the "start of construction" of the first improvement of the structure, or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred.)

The term does not, however, include any project for improvement of a structure to correct existing violations of

state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of an "historic structure", provided the alteration will not preclude the structure's designation as an "historic structure". *[NOTE: An alternative to exempting substantially improved/damaged historic structures from the elevation requirements of the ordinance by definition would be to handle them individually through the variance process. This option provides the community an opportunity to require that all reasonable measures are used to reduce the structure's flood damage potential (e.g., by relocating utilities above the base flood elevation, using flood resistant materials where practicable, etc.), provided those measures do not preclude the structure's designation as an "historic structure." If this alternative is preferred, the last sentence of the previous paragraph (referring to "historic structures" should be deleted.)]*

- B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

35. VARIANCE - A grant of relief by a community from the terms of the floodplain management regulations.

36. VIOLATION - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

#### **15.24.020 - Statutory Authority, Findings of Fact and Purpose**

1. The Legislature of the State of Iowa has in Chapter 364, Code of Iowa, as amended, delegated the power to cities to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the City or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents.
2. Findings of Fact
  - A. The flood hazard areas of the City of Eldon are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.
  - B. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.
  - C. This ordinance relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.

#### **3. Statement of Purpose**

It is the purpose of this Ordinance to protect and preserve the rights, privileges and property of the City of Eldon and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in 15.24.020(2)(A) of this Ordinance with provisions designed to:

- A. Reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.
- B. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.
- C. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
- D. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
- E. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

## **15.24.030 - General Provisions**

### **1. Lands to Which Ordinance Apply**

The provisions of this Ordinance shall apply to all lands and development which have significant flood hazards. The Flood Insurance Rate Map (FIRM) for Wapello County and Incorporated Areas, City of Eldon, Panels 19178C0361E, 19179C0362E, 19179C0365E, , dated January 29<sup>th</sup>, 2021, which were prepared as part of the Wapello County Flood Insurance Study, shall be used to identify such flood hazard areas and all areas shown thereon to be within the boundaries of the base flood shall be considered as having significant flood hazards. The Flood Insurance Study for the County of Wapello County is hereby adopted by reference and is made a part of this ordinance for the purpose of administering floodplain management regulations.

### **2. Rules for Interpretation of Flood Hazard Boundaries**

The boundaries of the Special Flood Hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Mayor shall make the necessary interpretation. The City Council shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Mayor in the enforcement or administration of this Ordinance.

### **3. Compliance**

No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance.

### **4. Abrogation and Greater Restrictions**

It is not intended by this Ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provision of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

### **5. Interpretation**

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

### **6. Warning and Disclaimer of Liability**

The standards required by this Ordinance are considered reasonable for regulatory purposes. This Ordinance does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Eldon or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

### **7. Severability**

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

## **15.24.040 - Administration**

### **1. Appointment, Duties and Responsibilities of Local Official**

- A. The Mayor is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator.
- B. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:
  - 1) Review all floodplain development permit applications to assure that the provisions of this Ordinance will be satisfied.

- 2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.
- 3) Record and maintain a record of (i) the elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of all new or substantially improved buildings or (ii) the elevation to which new or substantially improved structures have been floodproofed.
- 4) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
- 5) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.
- 6) Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.
- 7) Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.
- 8) Review subdivision proposals to insure such proposals are consistent with the purpose of this ordinance and advise the City Council of potential conflict.
- 9) Maintain the accuracy of the community's Flood Insurance Rate Maps when;
  - a. Development placed within the Floodway results in any of the following:
    - (i) An increase in the Base Flood Elevations, or
    - (ii) Alteration to the floodway boundary
  - b. Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base flood elevation; or
  - c. Development relocates or alters the channel.

Within 6 months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.
- 10) Perform site inspections to ensure compliance with the standards of this Ordinance
- 11) Forward all requests for Variances to the City Council for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the City Council.

## 2. Floodplain Development Permit

- A. Permit Required - A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.
- B. Application for Permit - Application shall be made on forms furnished by the Administrator and shall include the following:
  - 1) Description of the work to be covered by the permit for which application is to be made.
  - 2) Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.

- 3) Location and dimensions of all structures and additions
  - 4) Indication of the use or occupancy for which the proposed work is intended.
  - 5) Elevation of the base flood.
  - 6) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of buildings or of the level to which a structure is to be floodproofed.
  - 7) For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
  - 8) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this Ordinance.
- C. Action on Permit Application - The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this Ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the City Council.
- D. Construction and Use to be as Provided in Application and Plans - Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.

#### **15.24.050 - Floodplain Management Standards**

##### **1. General Floodplain Standards**

All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations have not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the base flood elevation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where (i) the bridge or culvert is located on a stream that drains less than two (2) square miles, and (ii) the bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567-71.2(2), Iowa Administrative Code.

- A. All development within the special flood hazard areas shall:
- 1) Be designed and adequately anchored to prevent flotation, collapse or lateral movement.
  - 2) Use construction methods and practices that will minimize flood damage.
  - 3) Use construction materials and utility equipment that are resistant to flood damage.
- B. Residential structures - All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the base flood elevation and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) may be allowed, subject to favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods

used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), Iowa Administrative Code.

C. Non-residential structures - All new or substantially improved non-residential structures shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the base flood elevation, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.

D. All new and substantially improved structures:

- 1) Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
  - a. A minimum of two (2) openings, with positioning on at least two (2) walls, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.)  
*[Note: The NFIP's Lowest Floor Guide requires that openings be located on "at least two walls".*
  - b. The bottom of all openings shall be no higher than one foot above grade.
  - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Where the distance between the floor and ceiling of the fully enclosed area below the "lowest floor" is (FIVE (5)) feet or more, the applicant shall be required to sign and record with the Wapello County Recorder a Non-Conversion Agreement that ensures the lower enclosed area remains compliant with the criteria outlined in 15.24.050(1)(D)(1).

- 2) New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- 3) New and substantially improved structures shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities (including ductwork) elevated or floodproofed to a minimum of one (1) foot above the base flood elevation.

E. Factory-built homes:

- 1) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the base flood elevation.
- 2) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions shall be anchored to resist flotation, collapse, or lateral movement. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the State Building Code.

F. Utility and Sanitary Systems:

- 1) On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
  - 2) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the base flood elevation.
  - 3) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the base flood elevation.
  - 4) Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
- G. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the base flood elevation. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.
- H. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, the Department of Natural Resources shall approve structural flood control works.
- I. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.
- J. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this Ordinance. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the base flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include base flood elevation data for those areas located within the Special Flood Hazard Area.
- K. Accessory Structures to Residential Uses
- 1) Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.
    - a. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than 1 foot above the base flood elevation must be constructed of flood-resistant materials.
    - b. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.
    - c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
    - d. The structure shall be firmly anchored to resist flotation, collapse and lateral movement.
    - e. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.
    - f. The structure's walls shall include openings that satisfy the provisions of 15.24.050(1)(D)(1) of this Ordinance.
  - 2) Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.
- L. Recreational Vehicles

- 1) Recreational vehicles are exempt from the requirements of 15.24.050 (1)(E) of this Ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
    - a. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
    - b. The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
  - 2) Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of 15.24.050 (1)(E) of this Ordinance regarding anchoring and elevation of factory-built homes.
- M. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.
- N. Maximum Damage Potential Development – All new or substantially improved maximum damage potential uses shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 0.2% annual chance flood; and that the structure, below the 0.2% annual chance flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator. Where 0.2% chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

#### **15.24.060 – Variance Procedures**

1. The City Council may authorize upon request in specific cases such variances from the terms of this Ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.
  - A. Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
  - B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
  - C. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - D. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.
  - E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.
2. Factors Upon Which the Decision of the City Council Shall be Based - In passing upon applications for Variances, the Council shall consider all relevant factors specified in other sections of this Ordinance and:

- A. The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - B. The danger that materials may be swept on to other land or downstream to the injury of others.
  - C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
  - D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - E. The importance of the services provided by the proposed facility to the City.
  - F. The requirements of the facility for a floodplain location.
  - G. The availability of alternative locations not subject to flooding for the proposed use.
  - H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
  - J. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - K. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
  - L. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
  - M. Such other factors which are relevant to the purpose of this Ordinance.
3. Conditions Attached to Variances - Upon consideration of the factors listed above, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:
- A. Modification of waste disposal and water supply facilities.
  - B. Limitation of periods of use and operation.
  - C. Imposition of operational controls, sureties, and deed restrictions.
  - D. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.
  - E. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Council shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

**15.24.070 - Nonconforming Uses**

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:
  - A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.
  - B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
  - C. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this Ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.
2. Except as provided in 15.24.070(1)(B), any use which has been permitted as a Variance shall be considered a conforming use.

#### **15.24.080 – Violation - Penalty**

A violation of this chapter is a municipal infraction and any person violating any of the provisions of this chapter, shall be punished as provided in Chapter 1.12, in the discretion of the court.

#### **15.24.090 - Amendments**

The regulations and standards set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

## CHAPTER 15.32

## WALLS, FENCES AND HEDGES

### Sections:

15.32.010	Definitions
15.32.020	Back yards and side yards.
15.32.030	Front yards.
15.32.040	Adjoining lots.
15.32.050	Adjoining street or alley.
15.32.060	Corner lots.
15.32.070	Barbed wire.
15.32.080	Notice to remove barbed wire fence – Failure to remove – action
15.32.090	Failure to remove barbed wire fence along sidewalk – Penalty
15.32.100	Electric fences
15.32.110	Notice to remove electric fence.
15.32.120	Building permit required.
15.32.130	Violation - Penalty.

### **15.32.010**      **Definitions.**

For use in this chapter, the words set out in this section are defined as follows:

- A. *“Fence”* means a barrier, railing, or other upright structure, typically made of wood or wire, enclosing an area of ground to mark a boundary, control access, or prevent escape.

**15.32.020 Back yards and side yards.**

Fences, walls, and hedges not exceeding six feet in height are permitted within a side yard or back yard. A variance may be requested from the City Council.

**15.32.030 Front yards.**

Fences, walls, and hedges not exceeding four feet in height are permitted within a required front yard. A variance may be requested from the City Council.

**15.32.040 Adjoining lots.**

Fences, walls, and hedges may be placed up to the property line of adjoining lots, with the finished side of a wall or fence facing out to the adjoining lot.

**15.32.050 Adjoining street or alley.**

Fences, walls, and hedges may be placed up to the property line of adjoining streets or alleys with the finished side of a wall or fence facing out to the adjoining street or alley.

**15.32.060**      **Corner lots.**

On corner lots, fences or walls must be constructed to allow adequate line of sight for traffic on intersecting streets and alleys.

**15.32.070**      **Barbed wire.**

It is unlawful to use any barbed wire either in the construction or maintenance of any fence along-side of which, or adjacent to which any sidewalk is now laid, or to use barbed wire for the construction or maintenance of any fence enclosing in whole or in part any lot or tract of land within the corporate limits of this city, except such tracts of land as are used exclusively for the purpose of pasture or for farming purposes. The owner of the land as above excepted may use barbed wire for the construction of all fences except such as are adjacent to or lying along any sidewalk now laid or that hereafter are laid, and in the event of the laying of a sidewalk along-side of any barbed wire fence, such fence shall be immediately removed by the owner.

**15.32.080**      **Notice to remove barbed wire fence – Failure to remove – Action.**

It shall be the duty of the mayor to give notice in writing to the owner or occupant of any premises upon which, or along which, barbed wire fences are being erected or maintained in violation of this chapter, to remove such barbed wire fence, and if the owner does not, within ten days after service of such notice, remove the same, then it shall be the duty of the mayor to cause the same to be removed, and to ascertain the cost thereof and report the same to the council, who shall, after first giving such owner ten days' notice of the time and place fixed for hearing, assess upon and against such property, and against the owner thereof, the actual cost of serving such notice on him.

**15.32.090**      **Failure to remove barbed wire fence along sidewalk – Penalty.**

The owner of any property who fails, refuses or neglects to remove any barbed wire fence enclosing a piece of ground in front of which, or along by which a sidewalk is constructed and maintained, after the service of a written notice has been made on him, to remove the same within a period of ten days, shall upon conviction thereof be fined no less than five dollars, nor more than one hundred dollars, and the costs of prosecution, and shall be committed to jail for a period of not more than thirty days, or until such fine and costs are paid.

**15.32.100**      **Electric fences.**

It is unlawful to use any electric wire either in the construction or maintenance of any fence along-side of which, or adjacent to which any sidewalk is now laid, or to use electric wire for the construction or maintenance of any fence enclosing in whole or in part any lot or tract of land within the corporate limits of this city.

**15.32.110      Notice to remove electric fence.**

It shall be the duty of the chief of police to give notice in writing to the owner or occupant of any premises upon which, or along which, electric wire fences are being erected or maintained in violation of this chapter, to remove such electric wire fence, and if the owner does not, within ten days after service of such notice, remove the same, then it shall be the duty of the mayor to cause the same to be removed, and to ascertain the cost thereof and report the same to the council, who shall, after first giving such owner ten days' notice of the time and place fixed for hearing, assess upon and against such property, and against the owner thereof, the actual cost of serving such notice on him.

**15.32.120      Building permit required.**

A building permit must be obtained prior to construction of a wall or fence. A twenty-dollar (\$20.00) permit fee shall apply. The City Council, by majority vote of the City Council, may issue a variance if an appropriate request is made in the application for the building permit.

**15.32.130      Violation - Penalty.**

A violation of this chapter is a municipal infraction and any person violating any of the provisions of this chapter, shall be punished as provided in Chapter 1.12, in the discretion of the court.

**CHAPTER 15.36**

**DEMOLITION OF BUILDINGS AND STRUCTURES**

**Sections:**

15.36.010	Permit required.
15.36.020	Liability of owner.
15.36.030	Time limit for demolition.
15.36.040	Fencing or covering excavation of demolished building or structure.
15.36.050	Disconnecting utilities; bond.
15.36.060	Right of city to enter upon premises.
15.36.070	Violation – Penalty.
15.36.080	Assessment of costs.

**15.36.010      Permit required.**

The owner or contract purchaser of any building or structure served by water and sewer connections shall obtain a permit before demolishing such building or structure. Permits and applications for permits shall be available at the office of the city clerk and shall include the applicant's written promise to comply with all provisions of this Chapter.

The applicant shall pay a fifty (\$50.00) dollar fee for the permit.

**15.36.020      Liability of owner.**

Compliance with the provisions of this Chapter shall be the responsibility of the owner of said property, as shown by the records of the county auditor, and any contract purchaser of said real estate.

**15.36.030 Time limit for demolition.**

The demolition of any building or structure within city limits shall be completed within ninety (90) days after such demolition first commences. Completion shall include the removal of all debris resulting from such demolition from the site where said building or structure was located.

**15.36.040 Fencing or covering excavation of demolished building or structure.**

Before the demolition of any building or structure has progressed to the point of removing or demolishing portions of the building or structure at the height of six (6) feet above ground level or higher, the building or structure undergoing such demolition and all debris on the property site shall be fenced and closed off to access by unauthorized persons with a fence not less than four (4) feet in height.

When such demolition has reduced the building or structure to or below ground level, the subsequent hole resulting from the excavation of a basement, cellar, or other underground structure shall be promptly filled to ground level not less than thirty (30) days after said building or structure has been lowered below ground level.

**15.36.050 Disconnecting utilities; bond.**

- A. The owner or contract purchaser of the property shall be responsible for disconnecting the water service line(s) to the property pursuant to the provisions and specifications of Section 13.14.130 of this Code.

The owner or contract purchaser of the property shall ensure any contractor hired to disconnect the water service line(s) has the appropriate bond on file with the city clerk pursuant to Section 13.14.210 of this Code.

- B. The owner or contract purchaser of the property shall be responsible for disconnecting the sewer service line(s) to the property pursuant to the provisions and specifications of Section 13.18.190 of this Code.

The owner or contract purchaser of the property shall ensure any contractor hired to disconnect the sewer service line(s) has the appropriate bond on file with the city clerk pursuant to Section 13.18.170 of this Code.

- C. The owner or contract purchaser of the property shall be responsible to arrange to disconnect the electrical line(s) to the property to the satisfaction of the servicing electrical company.
- D. The owner or contract purchaser of the property shall be responsible to arrange to disconnect the gas line(s) to the property to the satisfaction of the servicing gas company.
- E. The owner or contract purchaser of the property shall be responsible to arrange or disconnect any other utilities to the property, including but not limited to cable, internet, and phone line(s).

**15.36.060 Right of city to enter upon premises.**

- A. The premises of the building or structure being demolished shall at all reasonable hours be subject to inspection for compliance with this Chapter and Code by duly authorized personnel of the municipality.
- B. A representative of the City may also enter the premises for inspect under the authority of Sections 13.14.190 and 13.18.310 of this Code.

**15.36.070 Violation – Penalty.**

A violation of this chapter is a municipal infraction and any person violating any of the provisions of this chapter, shall be punished as provided in Chapter 1.12, in the discretion of the court.



**15.36.080**      **Assessment of costs.**

Where the city council or its designee finds that a dangerous condition exists because of the commencement of the demolition of any building or structure within the city limits, the city council or its designee may perform any of the actions required under this Chapter and recover the cost(s) of any such actions by any of the following methods:

- A.     Nuisance.
  - 1.     The city council or its designee may declare the property, building, or structure a nuisance under Section 7.12.020(T) of this Code.
  - 2.     The city council or its designee may abate the nuisance pursuant to Section 7.12.070 of this Code and Section 364.12(3)(h) of the Code of Iowa.
  - 3.     The cost(s) of such abatement may be assessed against the property pursuant to Section 7.12.080 of this Code and Section 364.12(3)(h) of the Code of Iowa.
  
- B.     Dilapidated building.
  - 1.     The city council or its designee may determine that the building or structure is an unsafe building under Section 7.36.020 of this Code, including any portion of the building or structure remaining on the demolition site after the demolition.
  - 2.     If the owner or contract purchaser of the property fails to completely demolish the building or structure, the city council or its designee may complete the demolition pursuant to Section 7.36.050 of this Code and Section 364.12(3)(h) of the Code of Iowa.
  - 3.     If the city council or its designee completes the demolition, the city council may assess the cost(s) of such completion against the property pursuant to Section 7.36.060 of this Code and Section 364.12(3)(h) of the Code of Iowa.
  
- C.     Civil action for damages.
  - 1.     The city council or its designee may seek reimbursement for any cost(s) incurred in performing any of the actions required under this Chapter through a civil suit for damages against the owner or contract purchaser of the property pursuant to Section 364.12 of the Code of Iowa.
  
- D.     Other remedies.
  - 1.     The city council may avail itself of any other remedies available under applicable local, state, and/or federal law.