

# BUILDING AND PROPERTY REGULATIONS

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ORDINANCE 601-16

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF OLIN, IOWA, 2012, BY AMENDING PROVISIONS PERTAINING TO DANGEROUS BUILDINGS.

BE IT ENACTED by the City Council of Olin:

SECTION 1. SECTION MODIFIED, Chapter 145, Section 03, of the Code of Ordinances of the City of Olin, Iowa, 2012, is repealed and the following adopted in lieu thereof;

145.03 UNSAFE BUILDING. "Unsafe building" means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.
6. Collapse of Member. Whenever any portion or member or appurtenance thereof is likely to fail or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
7. Wind Resistance. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not a sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of twenty (20) pounds per square foot.
8. Material Deterioration. Whenever any portion thereof has cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes that is required in the case of similar new construction.
9. Exterior Walls. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
10. Deterioration. Whenever the building or structure, exclusive of the foundation shows thirty-three percent (33%) or more damage or deterioration of its supporting member or members, or fifty percent (50%) damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
11. Damaged Structurally. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; (b) harbor for vagrants, criminals or immoral persons; or as to (c) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

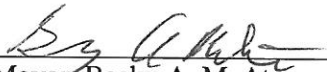


12. Public Nuisance. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

SECTION 2. SEVERABILITY CLAUSE. If, any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the 13<sup>th</sup> day of June, 2016, and approved the 23<sup>rd</sup> day of June, 2016.

  
\_\_\_\_\_  
Mayor, Becky A. McAtee

ATTEST:

  
\_\_\_\_\_  
Clerk, Jean A. McPherson

ROLL CALL:	YES	NO	ABSTAIN/ABSENT
DIRCKS	✓		
EGANHOUSE	✓		
McCORMICK	✓		
SAUER	✓		
ZIMMERMAN	✓		



## CHAPTER 145

### DANGEROUS BUILDINGS

145.01 Enforcement Officer  
145.02 General Definition of Unsafe  
145.03 Unsafe Building  
145.04 Notice to Owner

145.05 Conduct of Hearing  
145.06 Posting of Signs  
145.07 Right to Demolish  
145.08 Costs

**145.01 ENFORCEMENT OFFICER.** The Mayor is responsible for the enforcement of this chapter.

**145.02 GENERAL DEFINITION OF UNSAFE.** All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

*(Code of Iowa, Sec. 657A.1 & 364.12[3a])*

**145.03 UNSAFE BUILDING.** “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.
6. Collapse of Member. Whenever any portion or member or appurtenance thereof is likely to fail or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
7. Wind Resistance. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not a sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of twenty (20) pounds per square foot.
8. Material Deterioration. Whenever any portion thereof has cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes that is required in the case of similar new construction.
9. Exterior Walls. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
10. Deterioration. Whenever the building or structure, exclusive of the foundation shows thirty-three percent (33%) or more damage or deterioration of its supporting member or members, or fifty percent (50%) damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
11. Damaged Structurally. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; (b) harbor for vagrants, criminals or immoral persons; or as to (c) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
12. Public Nuisance. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period



in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

*(Ord. 601-16 – Jan. 17 Supp.)*

**145.04 NOTICE TO OWNER.** The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

*(Code of Iowa, Sec. 364.12 [3h])*

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the Code of Iowa, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

**145.05 CONDUCT OF HEARING.** If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

**145.06 POSTING OF SIGNS.** The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF OLIN, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

**145.07 RIGHT TO DEMOLISH.** In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

*(Code of Iowa, Sec. 364.12[3h])*

**145.08 COSTS.** Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

*(Code of Iowa, Sec. 364.12[3h])*

#### EDITOR'S NOTE

Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX of this Code of Ordinances.

Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

## CHAPTER 146

# MANUFACTURED, MOBILE AND MODULAR HOMES

146.01 Definitions

146.02 Conversion to Real Property

146.03 Restricted Homes

**146.01 DEFINITIONS.** For use in this chapter the following terms are defined:

1. “Manufactured home” means a factory built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed within the last 5 years, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.

*(Code of Iowa, Sec. 435.1)*

2. “Modular home” means a factory-built structure built on a permanent chassis which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa State Building Code for modular factory built structures, and must display the seal issued by the State Building Code Commissioner.

*(Ord. 401-13 – Jan. 17 Supp.)*

**146.02 CONVERSION TO REAL PROPERTY.** A manufactured or modular home that is located outside a mobile home park shall be converted to real estate by being placed on a permanent foundation consisting of block or concrete and shall be assessed for real estate taxes within 90 days of placement of the home.

*(Ord. 1101-06 – Oct. 12 Supp.)*

**146.03 RESTRICTED HOMES.** No person shall move any manufactured or modular home that is more than five (5) years of age into the City of Olin, Iowa.

*(Ord. 1101-06 – Oct. 12 Supp.)*

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## CHAPTER 148

### MINIMUM DWELLING STANDARDS

148.01 Supplied Facility  
148.02 Kitchens  
148.03 Toilet Required  
148.04 Bath Required

148.05 Lavatory Basin Required  
148.06 Privacy in a Room Containing a Toilet and Bath  
148.07 Water Heating Facilities Required  
148.08 Connection of Sanitary Facilities to Water and  
Sewer System

**148.01 SUPPLIED FACILITY.** Every supplied facility, piece of equipment, and required utility shall be constructed and/or installed such that it will not constitute a violation of this code or expose occupants to any unsafe or unsanitary conditions. Buildings and structures erected with applicable permits and inspections and in possession of certificates of occupancy shall be deemed as meeting the intent of the code. Modifications of said structures shall satisfy current code requirements.

**148.02 KITCHENS.** Every dwelling unit shall have a kitchen room or kitchenette. Every kitchen or kitchenette shall be equipped with the following:

1. It shall include a kitchen sink.
2. It shall contain space capable of properly accommodating a refrigerator and a stove or range and/or microwave.
3. It shall contain proper access terminals to utilities necessary to properly operate a refrigerator and stove or range in addition to two duplex outlets.
4. It shall include at least one cabinet suitable for the storage of food and eating and cooking utensils.
5. Counters for food preparation shall be furnished with surfaces that are easily cleanable and that will not impart any toxic or harmful effect to food.
6. It shall contain at least one switched ceiling or wall-type electric light fixture.

**148.03 TOILET REQUIRED.** Every dwelling unit shall contain a toilet.

**148.04 BATH REQUIRED.** Every dwelling unit shall contain a bath.

**148.05 LAVATORY BASIN REQUIRED.** Every dwelling shall contain a lavatory basin within or adjacent to the room containing the toilet.

**148.06 PRIVACY IN A ROOM CONTAINING A TOILET AND BATH.**

One toilet and a minimum of one bath shall be contained within a room or within separate rooms which afford privacy for a person within said rooms.

**148.07 WATER HEATING FACILITIES REQUIRED.**

Every kitchen sink, bath, and lavatory basin required by this code shall be properly connected to supplied water heating facilities. Every supplied water heating facility shall be properly connected and shall be capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every kitchen sink, bath, and lavatory basin as required by this code.

**148.08 CONNECTION OF SANITARY FACILITIES TO WATER**

**AND SEWER SYSTEM.** Every kitchen sink, toilet, lavatory basin, and bath shall be properly connected to an approved water and sewer system.

*(Chapter 148 added by Ord. 401-07 – Oct. 12 Supp.)*

## CHAPTER 149

# HEALTH REGULATIONS – MINIMUM LIVING STANDARDS

149.01 Persons Regulated	149.10 Method of Service
149.02 Sanitary Premises	149.11 Request for Hearing
149.03 Pollution of Water Courses	149.12 Abatement in an Emergency
149.04 Impure Water	149.13 Abatement by City
149.05 Refuse Disposal	149.14 Collection of Costs
149.06 Minimum Living Standards	149.15 Installment Payment of Cost of Abatement
149.07 Prohibited Acts/Standards	149.16 Failure to Abate
149.08 Abatement of Prohibited Standards	149.17 Mayor/Council Authority
149.09 Notice to Abate Contents	

**149.01 PERSONS REGULATED.** Whenever in the health regulations of this code any acts in reference to any premises are commanded or forbidden or any specified condition of any premises is enjoined or prohibited, it shall be jointly and severally the duty of the lessee, occupant, owner, or person having control of such premises to do such acts as are commanded, and prevent the doing of acts that are forbidden, and to put and keep the premises in the condition enjoined.

**149.02 SANITARY PREMISES.** Every building and premises, and the alley adjoining thereto, shall be kept clean and wholesome condition, free from filth, stagnant water, or other nuisances, and all avoidable conditions causing or promoting disease. No person shall store on residential property any material the presence of which is economically detrimental to the neighborhood considering the zoning and use classification of the area.

**149.03 POLLUTION OF WATER COURSES.** No person shall deposit upon any parcel of ground or into any gutter, river, lake, pond, creek, or any other body of water, or upon the banks thereof, any animal or vegetable matter, garbage, rubbish, ashes or any nauseous or unwholesome substance, fluid, or thing, except such as are authorized by the Board of Health.

**149.04 IMPURE WATER.**

1. No one shall keep open, use, or allow to be used, for drinking or culinary purposes, any well, cistern, or reservoir, the water of which is perceptibly or demonstrably impure or unwholesome, or which is so situated or in such condition as to be especially liable to contamination by filthy drainage or otherwise. Wells used jointly by more than one

household or business shall be tested for safe use every three months or more often if necessary.

2. In the event of alteration, reconstruction, or repair of the water supply system, or the installation of additional sanitary facilities, a laboratory analysis of the water supply shall be made to assure that the water is bacterially and chemically safe for drinking or culinary purposes.

**149.05 REFUSE DISPOSAL.** No offal, garbage, or other wastes shall be thrown or deposited upon any lot or land, or into any ravine or open ditch, stream or pond, or upon any land adjoining which is subject to overflow. Any wastes not properly disposed of as garbage and common sewage shall be disposed of by independent disposal means.

**149.06 MINIMUM LIVING STANDARDS.** Any person living within the City limits shall obtain and sustain adequate living values while in occupancy:

1. Continuous water supply from City well or approved private facilities (regulated in Section 149.04).
2. Continuous sanitary waste removal as assigned by the City.
3. Subscribe and maintain garbage removal as assigned by the City.
4. Maintain sanitary conditions inside the dwelling so as not to cause exposure outside the dwelling whereas the public may be in contact.
  - A. Rodents, not limited to: mice and rats.
  - B. Insects, not limited to roaches.
  - C. Refuse that may cause noxious odors.

**149.07 PROHIBITED ACTS/STANDARDS.** The creation or maintenance of infraction of this chapter is prohibited, whether public or private, and may be abated in the manner provided for in this chapter or State Law.

*(Code of Iowa, Sec. 657.3)*

**149.08 ABATEMENT OF PROHIBITED STANDARDS.** Whenever the Mayor or other authorized municipal officer finds that a breach exists, such officer shall cause to be served upon the property owner a written notice to abate the breach in code within a reasonable time after notice.

**149.09 NOTICE TO ABATE CONTENTS.** The notice to abate shall contain:

*(Code of Iowa, Sec. 364)*



1. Description of breach and what constitutes the breach.
2. Location of said infraction.
3. Acts necessary to abate.
4. Reasonable time.
5. A statement of City costs that if the condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against such person/property.

**149.10 METHOD OF SERVICE.** The notice may be in the form of an ordinance and/or letter sent by certified mail to the property owner and dwelling occupant, if not the same.

**149.11 REQUEST FOR HEARING** Any person ordered to abate may have a hearing with the Council as to whether a breach exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that the breach exists and must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a breach exists, it shall be ordered abated within a reasonable time under the specific circumstances.

**149.12 ABATEMENT IN AN EMERGENCY.** If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action which may be required in this chapter without prior notice. The City shall assess the costs as provided in Section 149.13 after notice to the property owner under the applicable provisions of Sections 149.08, 149.09, and 149.10, and a hearing as provided in Section 149.11.

**149.13 ABATEMENT BY CITY.** If the party notified to abate a breach or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expenses incurred. The itemized expense account shall be filed with the Clerk, who shall pay such expenses on behalf of the City.

*(Code of Iowa, Sec 364.12)*

**149.14 COLLECTION OF COSTS.** The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one (1) month, the Clerk shall certify the costs to the

County Treasurer and such costs shall then be collected with, and in the same manner as, general property taxes.

*(Code of Iowa, Sec 364.12)*

**149.15 INSTALLMENT PAYMENT OF COST OF ABATEMENT.** If the amount expended to abate the nuisance or condition exceeds one hundred dollars (\$100.00), the City shall permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against the benefited property under State Law.

**149.16 FAILURE TO ABATE.** Any person causing or maintaining a breach who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate is in violation of this Code of Ordinances.

**149.17 MAYOR/COUNCIL AUTHORITY.** The Mayor and/or City Council have the authority and may exercise the right to engage an officer assigned with the County to act in the interest of the City. The City may also impose a fine in such instance that the breach has not been abated according to this chapter. A fine of up to twenty-five dollars (\$25.00) per day will be scheduled under the discretion of the City.

*(Chapter 149 added by Ord. 402-07 – Oct. 12 Supp.)*

[The next page is 675]

## CHAPTER 150

# BUILDING NUMBERING

150.01 Definitions

150.02 Owner Requirements

150.03 Building Numbering Map

**150.01 DEFINITIONS.** For use in this chapter, the following terms are defined:

1. "Owner" means the owner of the principal building.
2. "Principal building" means the main building on any lot or subdivision thereof.

**150.02 OWNER REQUIREMENTS.** Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

*(Code of Iowa, Sec. 364.12[3d])*

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than four (4) inches in height and of a contrasting color with their background.

*(Code of Iowa, Sec. 364.12[3d])*

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

*(Code of Iowa, Sec. 364.12[3h])*

**150.03 BUILDING NUMBERING MAP.** The Clerk shall be responsible for preparing and maintaining a building numbering map.

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## CHAPTER 151

### TREES

151.01 Definition  
151.02 Planting Restrictions  
151.03 Duty to Trim Trees

151.04 Trimming Trees to be Supervised  
151.05 Disease Control  
151.06 Inspection and Removal

**151.01 DEFINITION.** For use in this chapter, “parking” means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

**151.02 PLANTING RESTRICTIONS.** No tree shall be planted in any parking or street except in accordance with the following:

1. Spacing. Trees shall be planted inside the property lines and not between the sidewalk and the street. Trees shall not be planted closer than twenty (20) feet from street intersections and ten (10) feet from driveways.
2. Prohibited Trees. No person shall plant any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow or black walnut.

*(Ord. 1001-06 – Oct. 12 Supp.)*

**151.03 DUTY TO TRIM TREES.** The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

*(Code of Iowa, Sec. 364.12[2c, d & e])*

**151.04 TRIMMING TREES TO BE SUPERVISED.** Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done after notifying and gaining approval from the City.

*(Ord. 1001-06 – Oct. 12 Supp.)*

**151.05 DISEASE CONTROL.** Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

**151.06 INSPECTION AND REMOVAL.** The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be infected with or damaged by any disease or insect or disease pests, and such trees and shrubs shall be subject to removal as follows:

1. **Removal from City Property.** If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, and that danger to other trees within the City is imminent, the Council shall immediately cause such condition to be corrected by treatment or removal so as to destroy or prevent as fully as possible the spread of the disease or the insect or disease pests. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. **Removal from Private Property.** If it is determined with reasonable certainty that any such condition exists on private property and that the danger to other trees within the City is imminent, the Council shall immediately notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt of notice, the Council may cause the nuisance to be removed and the cost assessed against the property.

*(Code of Iowa, Sec. 364.12[3b & h])*

## CHAPTER 152

### MOWING OF PROPERTIES

152.01 Mowing of Properties  
152.02 Penalty

152.03 Method of Service and Billing

**152.01 MOWING OF PROPERTIES.** Any property within the City of Olin, whether vacated or non-vacated, is required to be mowed any time the vegetation reaches a height of more than 8 inches for residential and commercial property.

**152.02 PENALTY.** Any property that is not mowed by the above dates may be mowed by the City or its agents, and a charge of \$200.00 will be charged to the property owner per lot included in property. Any property owners who fail to mow their properties, thus allowing the same to be mowed by the City or its agents, and who do not provide payment for the mowing as required, will be assessed by the City for such costs, which will be collected in the same manner as general property taxes.

**152.03 METHOD OF SERVICE AND BILLING.** Annual publication of this ordinance will serve as notice to property owners. Any billings for mowing done by the City or its agents are to be sent by regular mail and are payable within 30 days of billing date.

*(Chapter 152 – Ord. 801-14 – Jan. 17 Supp.)*

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## CHAPTER 160

# FLOOD PLAIN REGULATIONS

160.01 Statutory Authority; Purpose	160.11 Flood Plain Development Permit
160.02 Definitions	160.12 through 160.14 included in 160.11
160.03 Lands to Which Chapter Applies	160.15 Variances
160.04 Rules for Interpretation of Flood Hazard Boundaries	160.16 Factors Upon Which the Decision to Grant Variances Shall be Based
160.05 Compliance	160.17 Conditions Attached to Variances
160.06 Abrogation and Greater Restrictions	160.18 Nonconforming Uses
160.07 Interpretation	160.19 Amendments
160.08 Warning and Disclaimer of Liability	160.20 Penalties for Violation
160.09 Flood Plain Management Standards	160.21 Severability
160.10 Administration	

**160.01 STATUTORY AUTHORITY; PURPOSE.** 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. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City and its residents and to preserve and improve the peace, safety, health, welfare and comfort and convenience of its residents by minimizing flood losses with provisions designed to: *(Ord. 301-11 – Oct. 12 Supp.)*

1. **Restrict Use.** 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.
2. **Vulnerable Uses Protected.** 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.
3. **Unsuitable Land Purchases.** Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
4. **Flood Insurance.** Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

**160.02 DEFINITIONS.** Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning

they have in common usage and to give this chapter its most reasonable application.

1. "Base flood" means the flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood.)
2. "Basement" means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."
3. "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
4. "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the community's Flood Insurance Rate Map. May also be referred to as "existing structure."
5. "Existing factory-built home park or subdivision" means 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) was completed before the effective date of these flood plain management regulations.
6. "Expansion of existing factory-built home park or subdivision" means 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).
7. "Factory-built home" means 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 chapter, factory-built homes include mobile homes, manufactured homes and modular homes and also includes "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
8. "Factory-built home park" means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

9. "Flood" means 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.
10. "Flood elevation" means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of floodwaters related to the occurrence of the 100-year flood.
11. "Flood Insurance Rate Map (FIRM)" means 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.
12. "Flood plain" means any land area susceptible to being inundated by water as a result of a flood.
13. "Flood plain management" means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.
14. "Floodproofing" means 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.
15. "Floodway" means the channel of a river or stream and those portions of the flood plains 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.
16. "Floodway fringe" means those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.
17. "Historic structure" means 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 in 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.
18. "Lowest floor" means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:
- A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 160.09(4)(A); 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 100-year flood level; and
  - D. The enclosed area is not a "basement" as defined in this section.

In cases where the lowest enclosed area satisfies criteria A, B, C and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. "Minor projects" means small development activities (except for filling, grading, and excavating) valued at less than \$500.00.

*(Ord. 301-11 – Oct. 12 Supp.)*

20. "New construction" (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.

21. "New factory-built home park or subdivision" means 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 these flood plain management regulations.

22. “100-Year Flood” means a flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.

23. “Recreational vehicle” means 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.

24. “Routine maintenance of existing buildings and facilities” means 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.

*(Ord. 301-11 – Oct. 12 Supp.)*

25. “Special flood hazard area” means the land within a community subject to the “100-year flood.” This land is identified as Zone A on the Flood Insurance Rate Map.

26. “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 of 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.

27. "Structure" means 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 and other similar uses.

28. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

29. "Substantial improvement" means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the 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 improvement, 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 comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use. 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."

B. Any addition which increases the original floor area of a building by twenty-five (25) percent or more.

All additions constructed after the effective date of the Flood Insurance Rate Map shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty-five percent.

30. "Variance" means a grant of relief by a community from the terms of the flood plain management regulations.

31. "Violation" means the failure of a structure or other development to be fully compliant with this chapter.

**160.03 LANDS TO WHICH CHAPTER APPLIES.** The provisions of this chapter shall apply to all areas having special flood hazards within the jurisdiction of the City of Olin. For the purpose of this chapter, the special flood hazard areas are those areas designated as Zone A on the Flood Insurance Rate Map (FIRM) for Jones County and Incorporated Areas, City of Olin, Panels 19105C0244E, 0332E, dated April 4, 2011, which is hereby adopted and made a part of this chapter. *(Ord. 301-11 – Oct. 12 Supp.)*

**160.04 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 Clerk shall make the necessary interpretation. The Council shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Clerk in the enforcement or administration of this chapter.

**160.05 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 chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

**160.06 ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. Any ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

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

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

**160.09 FLOOD PLAIN MANAGEMENT STANDARDS.** All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards. Where 100-year flood data has not been provided in the Flood Insurance Rate Map, the Department of Natural Resources shall be contacted to compute such data.

1. All development within the special flood hazard areas shall:
  - A. Be consistent with the need to minimize flood damage.
  - B. Use construction methods and practices that will minimize flood damage.
  - C. Use construction materials and utility equipment that are resistant to flood damage.
  - D. Obtain all other necessary permits from Federal, State and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. Residential buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one (1) foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) 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 shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.
3. Nonresidential buildings. All new or substantially improved nonresidential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or



together with attendant utility and sanitary systems, be flood-proofed to such a level. When floodproofing is utilized, a professional engineer registered in the State 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 100-year flood; and that the structure, below the 100-year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to National Geodetic Vertical Datum) to which any structures are flood-proofed shall be maintained by the Administrator.

4. All new and substantially improved structures:

A. 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:

- (1) A minimum of two openings 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.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage. *(Ord. 301-11 – Oct. 12 Supp.)*

B. 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.

C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-built homes:
  - A. All 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 100-year flood level.
  - B. All factory-built homes including those placed in existing factory-built home parks or subdivisions shall be anchored to resist flotation, collapse or lateral movement. The following specific requirements (or their equivalent) shall be met:
    - (1) Over-the-top ties shall be provided at each of the four corners of the factory-built home, with two (2) additional ties per side at intermediate locations and factory-built homes less than fifty (50) feet long requiring one (1) additional tie per side;
    - (2) Frame ties shall be provided at each corner of the home with five (5) additional ties per side at intermediate points and factory-built homes less than fifty (50) feet long requiring four (4) additional ties per side;
    - (3) All components of the anchoring system shall be capable of carrying a force of 4800 pounds.
    - (4) Any additions to factory-built homes shall be similarly anchored.
6. Utility and Sanitary Systems.
  - A. 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.
  - B. 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 100-year flood elevation.
  - C. 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 100-year flood elevation.

- D. 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.
7. 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 100-year flood level. 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.
8. Flood control structural works such as levees, flood-walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.
9. Watercourse alterations or relocations must be designed to maintain the flood within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations. *(Ord. 301-11 – Oct. 12 Supp.)*
10. 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 chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Special Flood Hazard Area.
11. Accessory Structures.
- A. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied:
- (1) The structure shall not be used for human habitation.
  - (2) The structure shall be designed to have low flood damage potential.

(3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

(4) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.

(5) The structure's service facilities such as electrical and heating equipment shall be elevated or flood-proofed to at least one (1) foot above the 100-year flood level.

B. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles.

A. Recreational vehicles are exempt from the requirements of Section 160.09(5) of this chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

(1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and,

(2) 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.

B. Recreational vehicles that are located on the site for more than 180 consecutive days and are not ready for highway use must satisfy requirements of Section 160.09 (5) of this chapter regarding anchoring and elevation of factory-built homes.

13. 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.

**160.10 ADMINISTRATION.** The Clerk shall implement and administer the provisions of this chapter and will herein be referred to as the Administrator. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to, the following:

1. Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.

2. Review all flood plain development permit 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 flood plain construction.
3. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.
4. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) to which all new or substantially improved structures have been flood-proofed.
5. Notify adjacent communities and/or 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.
6. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

#### **160.11 FLOOD PLAIN DEVELOPMENT PERMIT.**

1. **Permit Required.** A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any manmade 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.
2. **Application for Permit.** Application shall be made on forms furnished by the Administrator and shall include the following:
  - A. Description of the work to be covered by the permit for which application is to be made.
  - B. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
  - C. Indication of the use or occupancy for which the proposed work is intended.
  - D. Elevation of the 100-year flood.
  - E. Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood-proofed.

F. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.

G. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

3. Action on Permit Application. The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the Council.

4. Construction and Use to be as Provided In Application and Plans. Flood Plain Development Permits, issued 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 chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

*(Ord. 301-11 – Oct. 12 Supp.)*<sup>†</sup>

**160.15 VARIANCES.** The Council may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards:

1. Cause. 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.

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<sup>†</sup> **EDITOR'S NOTE:** Former Sections 160.12 through 160.14 are now included in Section 160.11, pursuant to Ordinance No. 301-11.

2. Prohibited. Variances shall not be issued within any designated floodway if any increase in flood levels during the 100-year 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.
3. Required To Afford Relief. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Notice To Applicant. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, 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.

**160.16 FACTORS UPON WHICH THE DECISION TO GRANT VARIANCES SHALL BE BASED.** In passing upon applications for variances, the Council shall consider all relevant factors specified in other sections of this chapter and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept on to other lands or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The importance of the services provided by the proposed facility to the community.
6. The requirements of the facility for a flood plain location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
12. 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.
13. Such other factors which are relevant to the purpose of this chapter.

**160.17 CONDITIONS ATTACHED TO VARIANCES.** Upon consideration of the factors listed in Section 160.16, the Council may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

1. Modification of waste disposal and water supply facilities.
2. Limitation of periods of use and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. 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 purposes of this chapter.
5. Floodproofing measures.

**160.18 NONCONFORMING USES.**

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, 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 chapter.
  - B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
2. 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, except unless it is reconstructed in conformity with the provisions of this chapter. 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.

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

**160.20 PENALTIES FOR VIOLATION.** Violations of the provisions of this chapter or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than thirty (30) days. Nothing herein contained shall prevent the City of Olin from taking such other lawful action as is necessary to prevent or remedy violation.

*(Ord. 301-11 – Oct. 12 Supp.)*

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

*(Ord. 301-11 – Oct. 12 Supp.)*

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