

ORDINANCE NO. 009-10

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF CEDAR RAPIDS, IOWA, BY REPEALING CHAPTER 32B, FLOODPLAIN MANAGEMENT ORDINANCE, THEREFROM AND ENACTING A NEW CHAPTER 32B, FLOODPLAIN MANAGEMENT ORDINANCE, IN LIEU THEREOF AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR RAPIDS, IOWA, that the Municipal Code of the City of Cedar Rapids, Iowa, is amended as follows:

Section 1. That Chapter 32B, Municipal Code, City of Cedar Rapids, Iowa, be repealed, and the following new Chapter 32B be enacted in lieu thereof:

"CHAPTER 32B FLOODPLAIN MANAGEMENT ORDINANCE

32B.01 LEGAL AUTHORITY, FINDINGS OF FACT AND PURPOSE

(a) **Legal Authority.** Chapter 364 of the Code of Iowa grants cities the authority, except as expressly limited by the Constitution and if not inconsistent with the laws of the General Assembly, 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.

(b) **Findings of Fact.**

1. The flood hazard areas of the City of Cedar Rapids are subject to 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 peace, safety, health, welfare, comfort, and convenience of its residents.

2. These flood losses, hazards, and related adverse effects are caused by:

A. 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.

B. The cumulative effect of development in the floodplain causing increases in flood heights and velocities.

3. This chapter relies upon engineering methodology for analyzing flood hazards which meet or exceed standards established by the National Flood Insurance Program.

(c) **Statement of Purpose.** It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City of Cedar Rapids 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 with provisions designed to:

1. Maintain or reduce flood peaks, flood stage, flood velocity, erosion, and sedimentation in public works projects, development, and other activities.
2. 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.
3. Require that uses vulnerable to floods, including public utilities which serve such uses, be protected against flood damage at the time of initial construction.
4. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.
5. Assure that eligibility is maintained for any property owner in the City to purchase flood insurance through the National Flood Insurance Program.
6. Maximize the benefits of floodplain lands, such as natural flood and erosion control, ecological productivity, and recreation.

32B.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.

100-Year Flood: The flood having a one percent chance of being equaled or exceeded in any given year.

500-Year Flood: The flood having a two-tenths percent chance of being equaled or exceeded in any given year.

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year. Also see "100-Year Flood".

Base Flood Elevation (BFE): The water surface elevation of the 100-year flood.

Basement: Any enclosed area having its floor below grade level on all sides.

City: The City of Cedar Rapids, Iowa.

Community Rating System: A FEMA program that provides discounted flood insurance premiums to policyholders in communities actively partaking in creditable floodplain management activities.

Design Standards Manual: The latest edition of the Cedar Rapids Metropolitan Area Engineering Design Standards as approved by the City Council.

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 or 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 and/or grading.

Digital Flood Insurance Rate Map (DFIRM): A Flood Insurance Rate Map with floodplains delineated using digital elevation data.

Existing Urban Area: Improved real estate inside and outside the corporate limits of the City of Cedar Rapids, on the effective date of this ordinance.

Existing Factory-Built Home Park or Subdivision: An existing 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 the final site grading or the pouring of concrete pads) that is completed before the effective date of the first floodplain management regulations adopted by the City.

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 chapter factory-built homes include mobile homes, manufactured homes and modular homes and also include park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

Proposed Factory-Built Home Park or Subdivision: A proposed 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 the final site grading or the pouring of concrete pads) that was or is to be completed after the effective date of the first floodplain management regulations adopted by the City.

FEMA: The Federal Emergency Management Agency.

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.

Flood Elevation: 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.

Flood (or Floodway) Fringe: The FEMA-mapped floodplain outside of the Floodway.

Flood Insurance Rate Map (FIRM): The Flood Insurance Rate Map effective April 5, 2010 and any revisions thereto, on which FEMA has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study: The Flood Insurance Study for Linn County Iowa, including Cedar Rapids, published by FEMA in conjunction with the FIRM and containing background data such as base flood discharges and water surface elevations used to prepare the FIRM.

Floodplain: Lands which are subject to a one percent or greater chance of flooding in any given year shown as Zones A and AE on the Flood Insurance Rate Maps issued by FEMA for Linn County, Iowa and incorporated areas, as amended. Also referred to as the "100-year floodplain".

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, flood-proofing and floodplain management regulations.

Flood-prone: Lands subject to a one percent or greater chance of flooding in any given year, as determined by hydrologic and hydraulic studies completed by the City or other government agency, or other acceptable source as approved by the City where this is the best available information.

Flood-proofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway: The channel of a river or other watercourses and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Historic Structure: Any structure that is:

1. 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;
2. 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;
3. 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
4. Individually listed on a local inventory of historic places in Cedar Rapids 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.

Letter of Map Change (LOMC): A determination document issued by FEMA that officially revises the FIRM based on updated information, whether improved data or topography changes created by fill placement. This includes Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), Letter of Map Revision Based on Fill (LOMR-F), Conditional Letter of Map Revision (CLOMR), and Conditional Letter of Map Revision Based on Fill (CLOMR-F).

Lowest Floor: The floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

1. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 32B.05 (d) 1; and
2. The enclosed area is unfinished (not carpeted, drywall, etc.) and used solely for low damage potential uses such as building access, parking or storage; and

3. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot above the 100-year flood level; and

4. The enclosed area is not a "basement" as defined in this section. In cases where the lowest enclosed area satisfies criteria 1, 2, 3, and 4 above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

Market Value: The value established by the City Assessor for that property.

Minor Project: Small development activities (except for filling, grading and excavating) valued at less than \$500.

NAVD: The North American Vertical Datum of 1988.

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 ordinance codified in this chapter.

Non-substantial improvement: Any improvement that does not meet the definition of substantial improvement, as defined in this section.

Qualified engineer: A licensed professional engineer in the State of Iowa who, by reason of training and experience, is considered knowledgeable and has demonstrated competence in hydrology and hydraulics and their application to the flood insurance study.

Recreational Vehicle (under Chapter 32B only): A vehicle which is:

(a) built on a single chassis;

(b) 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 temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Flood Protection Elevation (RFPE): An elevation at least one foot above the Base Flood Elevation plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

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.

Special Flood Hazard Area (SFHA): The land in the floodplain subject to a one percent or greater chance of flooding in any given year.

Start of construction: The first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured 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 as part of the main structure. For a substantial improvement, the actual start of construction shall mean the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimension of the building.

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, and other similar uses.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to a before-damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred. 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.

Substantial improvement: Any improvement to a structure which satisfies one or more of the following criteria:

1. Any reconstruction, rehabilitation, addition or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either before the "start of construction" of the improvement whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include either:

- A. 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 officer and which are the minimum necessary to assure safe living conditions; or

- B. Any alteration will not preclude the structures continued designation as a "historic structure."

2. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after June 1, 1987, shall be added to any

proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

3. The cumulative cost of any repairs or improvements undertaken over a period of five years equals or exceeds fifty percent of the market value of the structure.

Variance: A grant of relief from the terms of a floodplain management regulation.

Violation: Failure to be fully compliant with the floodplain management regulations as set forth in this chapter. A structure or other development without an elevation certificate, other certifications, or other evidence of compliance as required is presumed to be in violation until such time as that documentation is provided.

Watershed Plan: A plan prepared by the City or in cooperation with other agencies, which includes hydrologic and hydraulic modeling for the 100-year event, including 100-year floodplain elevation and limits.

32B.03 GENERAL PROVISIONS.

(a) **Lands to Which Regulations Apply.** These floodplain management regulations shall apply to Special Flood Hazard Areas. The Flood Insurance Rate Map (FIRM) for Linn County and Incorporated Areas, City of Cedar Rapids, Panels 0279, 0280, 0284, 0287, 0290, 0291, 0295, 0311, 0313, 0385, 0405, 0410, 0415, 0420, 0430, 0435, 0440 and 0535, dated April 5, 2010, which were prepared as part of the Linn 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 100-year flood shall be considered as having significant flood hazards. Where uncertainty exists with respect to the precise location of the 100-year flood boundary, the location shall be determined on the basis of the 100-year flood elevation at the particular site in question. The Linn County Flood Insurance Study is hereby adopted by reference and is made a part of this chapter for the purpose of administering floodplain management regulations.

(b) **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.

(c) **Review and Approval.** Any proposed development within the floodplain shall be reviewed and approved by the City as part of the Floodplain Development Application process.

(d) **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 provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are repealed to the extent of the inconsistency only.

(e) **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 governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(f) **Warning and Disclaimer of Liability.** The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur. Flood heights may be

increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that areas outside the regulated areas or that uses permitted within the regulated areas will be free from flooding or flood damages. This chapter shall not create liability on the part of Cedar Rapids or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

32B.04 FLOODWAY, FLOODPLAIN AND FLOOD-PRONE AREA REQUIREMENTS

(a) Development of any land in the floodway shall cause no increase in the water surface elevation of the 100-year flood.

(b) Development of any land in the floodplain, flood-prone area, or floodway shall not:

1. Result in any new or additional expense to any person or agency other than the developer for flood protection or for lost environmental stream uses or functions;
2. Pose any new or additional increase in flood velocity or impairment of the hydrologic and hydraulic functions of streams and floodplains;

(c) Analysis and design of floodplain development shall consider existing and ultimate watershed and land use conditions, with and without the proposed development. The analysis of floodway, floodplain, and flood-prone areas shall utilize the most current flood studies, hydrologic and hydraulic models provided by FEMA, the City, or other source approved by the City. If a study of the affected area does not exist, the land developer shall submit an analysis prepared by a qualified engineer for City review.

(d) The location, grade, and flood-proofing of all proposed utilities which are to be extended into or through any portion of the floodplain or flood-prone area to serve the proposed development shall be approved by the City, prior to the extension of such utilities into the floodplain or flood-prone area.

(e) Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood-carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Iowa Department of Natural Resources.

(f) Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.

(g) Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

(h) No use shall affect the capacity or conveyance of the channel or floodway or any tributary to the main stream, drainage ditch, or any other drainage facility or system.

(i) Special Provisions for Shallow Flooding Areas: In addition to the General Floodplain Standards, uses within shallow flooding areas must meet the following applicable standards.

1. In shallow flooding areas designated as an AO Zone on the Flood Insurance Rate Map (FIRM), the minimum floodproofing/flood protection elevation shall be

equal to the number of feet as specified on the FIRM (or a minimum of 2.0 ft. if no number is specified) above the highest natural grade adjacent to the structure.

2. In shallow flooding areas designated as an AH Zone on the Flood Insurance Rate Map, the minimum floodproofing/flood protection elevation shall be equal to the elevation as specified on the FIRM.

32B.05 STRUCTURES IN FLOODPLAIN

(a) All structures shall be:

1. Adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including buoyancy.
2. Constructed with materials and utility equipment resistant to flood damage.
3. Constructed by methods and practices that minimize flood damage.
4. Issued all other necessary permits from federal, state and local government agencies including approval when required from the Iowa Department of Natural Resources.

(b) All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one 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, 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.

(c) All new or substantially improved non-residential buildings shall have the first floor (including basement) elevated a minimum of one foot above the 100-year flood level, or together with attendant utility and sanitary systems, be flood-proofed to such a level. When flood-proofing is utilized, a licensed professional engineer or licensed professional architect registered in the State of Iowa shall certify that the flood-proofing methods used are in accordance with accepted standards of practice for withstanding 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 North American Vertical Datum of 1988 (NAVD 1988)) to which any structures are flood-proofed shall be maintained by the Administrator.

(d) New and Substantially Improved Structures.

1. Fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or low damage potential storage in an area other than a basement and which 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 licensed professional engineer registered in the State of Iowa or meet or exceed the following minimum criteria:

A. A minimum of 2 openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.

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 that they permit the automatic entry and exit of floodwaters.

2. New and substantially improved structures must be designed (or modified) and adequately anchored to resist 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 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.

(e) Factory-built Homes.

1. Factory-built homes placed or substantially improved inside or outside of new, existing, or expanded factory-built home parks or subdivisions shall be ground anchored to resist flotation, collapse, or lateral movement. Specific requirements are that:

A. Over-the-top ties provided at each of the 4 corners of the factory-built home with 2 additional ties per side at intermediate locations for factory-built homes 50 feet or more in length or one such tie for factory-built homes less than 50 feet in length.

B. Frame ties provided at each corner of the home with 5 additional ties per side at intermediate points for factory-built homes 50 feet or more in length or 4 such ties for homes less than 50 feet in length.

C. All components of the anchoring system capable of carrying a force of 4800 pounds.

D. Any additions to the factory-built home shall be similarly anchored.

E. Chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

2. Factory-built homes shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of 1 foot above the 100-year flood level.

(f) Utility and Sanitary Systems.

1. All new and replacement water and wastewater systems shall be designed to minimize and eliminate infiltration of floodwaters into the system as well as the discharge of effluent into floodwaters. Water and wastewater treatment facilities

shall be provided with a level of flood protection equal to or greater than 3 feet above the 100-year flood elevation:

A. On-site waste disposal systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

B. 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) Existing or future storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of 1 foot above the 100-year flood level. Other material and equipment must be either be similarly elevated or

(1) not be subject to major flood damage and be anchored to prevent movement due to floodwaters or

(2) 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 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 Iowa Department of Natural Resources.

(i) No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch, or other drainage facility or system.

(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. Subdivision development (including the installation of public utilities) shall meet the applicable performance standards. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to assure that all public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage. Subdivision proposals intended for residential development shall provide all lots with a means of vehicular access that will remain dry during occurrence of 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 area of significant flood hazard.

(k) Detached Accessory Structures

1. New detached accessory structures are prohibited in the floodway. Accessory structures shall meet the following standards if constructed or placed in the floodplain:

A. Accessory structures shall not be used for human habitation;

B. Accessory structures and uses shall be designed to have a low flood damage potential;

- C. Accessory structures shall be placed on the building site and constructed so as to offer the minimum resistance to the flow of floodwaters.
- D. Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.
- D. A Structure's service facilities such as electrical and heating equipment shall be elevated or flood-proofed to at least one foot above the 100-year flood level.
- E. The structure shall not exceed 600 gross square feet in area.

(l) Recreational Vehicles

1. Recreational Vehicles are exempt from the requirements of Section 32B.05 (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 Section 32B.05 (e) of this Ordinance regarding anchoring and elevation of factory-built homes.

(m) Where floodway data has been provided in the Flood Insurance Study, such data shall be used to define the floodway limits. Where no floodway data has been provided, the Iowa Department of Natural Resources shall be contacted to provide a floodway delineation.

(n) In addition to the general floodplain standards, all uses within the floodway shall meet the following applicable standards.

- 1. Consistent with the need to minimize flood damage.
- 2. Use construction methods and practices that will minimize flood damage.
- 3. Use construction materials and utility equipment that are resistant to flood damage.
- 4. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable general floodplain standards and shall be constructed or aligned to present the minimum possible resistance to flood flows.
- 5. Buildings, if permitted, shall have low flood damage potential and shall not be for human habitation.

6. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the floodway within the time available after flood warning.

32B.06 EXCEPTIONS

(a) Exceptions are provided to Section 32B.04 for the following:

1. Residential non-substantial improvements.
2. Flood proofing of existing buildings, other than filling.
3. Minor projects clearly having negligible impact, such as street resurfacing and rehabilitation, certain utility infrastructure and appurtenances (e.g. hydrants, poles, manholes, underground pipes), bridge/culvert rehabilitation projects, landscaping, stream rehabilitation, and minor water quality features which typically pose no increase fill or flood potential that would increase flood elevations are not required to submit study information to document no net rise unless specifically required by the Public Works Department.
4. Public stream crossing structures.
5. Storm water detention/retention facilities, ponds, streambank stabilization, and wetlands.
6. A historic structure is not required to meet elevation or flood-proofing requirements when it is substantially improved, provided the modifications do not preclude the structure's continued designation as a historic structure.

32B.07 ADMINISTRATION

(a) Duties and Responsibilities of Administrator.

1. The Floodplain Manager of the City of Cedar Rapids shall administer and enforce the provisions of this chapter and will herein be referred to as the Administrator.
2. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:
 - A. Review all floodplain development permit applications to ensure that the provisions of this Ordinance will be satisfied.
 - B. Review all floodplain development permit applications to ensure that all necessary permits have been obtained from federal, state or local governmental agencies.
 - C. Obtain and maintain a record of:
 - (1) The NAVD elevation of the lowest floor of all new or substantially improved buildings.

(2) The elevation to which new or substantially improved structures have been flood-proofed.

D. Notify adjacent communities and/or counties and the Iowa 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.

E. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

F. Keep a record of all permits, appeals, variances and such other transactions and correspondence pertaining to the administration of this ordinance.

G. Charge and receive such reasonable fees, as set forth by the City Council by resolution from time to time, to help defray administrative costs related to floodplain/floodway development permits, variances and amendments.

(b) Floodplain Development Permit Required.

1. A floodplain development permit issued by the Administrator shall be secured prior to initiation of any floodplain development (any manmade change to improved or 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 a floodplain development permit shall be made on forms supplied by the Administrator and shall include the following information:

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. NAVD Elevation 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 for the purpose of this ordinance.

3. The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain 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 therefore.

4. Floodplain Development Permits based on 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 licensed architect, licensed engineer or licensed land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, flood-proofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

5. All other necessary permits required by Federal or State Law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C 1334 shall be received prior to the Administrator's approval of Floodplain Development Permits, including approval when required from the Iowa Department of Natural Resources.

32B.08 VARIANCE

(a) The Building Code Board of Appeals 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.

(b) No variance shall be granted for any development within the floodway which would result in any increase in flood heights during the occurrence of the 100-year flood. 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:

1. A showing of good and sufficient cause.
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant.
3. 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.

(d) Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(e) 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:

1. The issuance of a variance will result in increased premium rates for flood insurance.
2. Such construction increases risks to life and property.

(f) All variances granted shall have the concurrence or approval of the Iowa Department of Natural Resources.

(g) In passing upon applications for variances, the Building Code Board of Appeals 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 land 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 City.
6. The requirements of the facility for a floodplain 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 floodplain 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 floodwater 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.

(h) Upon consideration of the factors listed above, the Building Code Board of Appeals 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 Iowa Department

of Natural Resources and are deemed the only practical alternative to achieving the purpose of this chapter.

5. Flood-proofing measures.

(i) Variances will not be granted for the following circumstances:

1. Perceived loss in property value.
2. Requirements inconvenience the property owner.
3. Lack of funds to bring property into compliance.
4. Property will look different from other nearby properties.

32B.09 APPEAL PROCESS

(a) **Appeal to City Council.** Any person adversely affected by any decision made under this Ordinance may appeal to the City Council by filing a written notice of such appeal with the City Clerk setting forth the issues within 20 days of said decision.

(b) **Appeal to District Court.** Any person adversely affected by any decision of the City Council may appeal to the Iowa District Court for Linn County by filing a petition with said court and serving a copy thereof on the City of Cedar Rapids, Iowa, in the same manner as the service of process in a civil action within 30 days of said decision.

(c) **Review by Other Agency.** If any decision by the City needs the review or approval of any State and/or Federal agency, then the times for appeal herein shall not begin to run until such review or approval has been received by the City of Cedar Rapids, Iowa.

32B.10 ENFORCEMENT

(a) In addition to any other actions, the Administrator, upon determination of a violation, shall request a denial of flood insurance from the Federal Insurance Administration. The request shall consist of;

1. Name of the property owner and address or legal description of the property sufficient to confirm its identity or location.
2. A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance.
3. A clear statement that the public body making the declaration has authority to do so and a citation to that authority.
4. Evidence that the property owner has been provided notice of the violation and a prospective denial of insurance.
5. A clear statement that the declaration is being submitted pursuant to Section 1316, National Flood Insurance Act of 1968, as amended.

32B.11 NON-CONFORMING USES

(a) 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:

1. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.
2. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

(b). 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.

32B.12 AMENDMENTS

(a) The regulations and standards set forth in this chapter may periodically be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior review of the Iowa Department of Natural Resources.”

Section 2. It is the intention of the Council that each section, paragraph, sentence, clause, and provision of this Ordinance is separable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance nor any part thereof other than that affected by such decision.

Section 3. This Ordinance shall be in full force and effect beginning on April 5, 2010.

Section 4. The changes as provided in this Ordinance shall be made a part of the replacement pages of the Municipal Code, City of Cedar Rapids, Iowa, and made a part of said Code as provided by law.

Section 5. All ordinances or parts of ordinances in conflict with any provision of this Ordinance are hereby repealed.

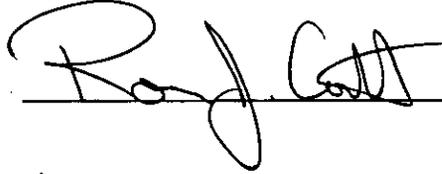
Section 6. Any person, firm or corporation violating any provision, section or paragraph of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof be subject to a fine of at least \$65.00 but not more than \$625.00, or be imprisoned for not more than 30 days, or both. That each day a violation occurs shall constitute a separate offense.

Additionally, violation of any provision, section, or paragraph of this ordinance constitutes a municipal infraction subject to all the penalties and other relief provisions as set forth in Iowa Code Section 364.22 (2007, as amended).

As part of the penalty provision of this Ordinance, Sections 1.06 and 1.12 of the Municipal Code, City of Cedar Rapids, Iowa, are adopted, and shall apply to this Ordinance, and supersede the penalty clause as above provided when this Ordinance is incorporated into and made a part of the Municipal Code, City of Cedar Rapids, Iowa, and such penalty clause is herewith adopted and made applicable to all violations of this Ordinance.

Introduced this 3rd day of March, 2010.

Passed this 9th day of March, 2010.


_____, Mayor

Attest:

_____, City Clerk