

TITLE V.

BUILDINGS

CHAPTERS:

- 5-01. Building Code.
- 5-02. Dangerous Buildings.
- 5-03. Moving Buildings.
- 5-04. Flood Damage Prevention. (Source: Ord. 2014-5, Sec. 1)
- 5-05. Minimum Housing Standards.
- 5-06. International Property Maintenance Code. (Source:
Ord. 2014-3, Sec. 1)

CHAPTER 5-01

BUILDING CODE

SECTIONS:

- 5-0101. Adoption of State Building Code.
- 5-0102. Modifications of State Building Code.
- 5-0103. Penalty.
- 5-0104. Fee for Copy of Relevant Code Provisions.

5-0101. **ADOPTION OF STATE BUILDING CODE.** The erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of buildings or structures in the City of Argusville, North Dakota, shall meet with the provisions of the rules and regulations of the State Building Code, a copy of which is on file in the office of the building inspector for the City of Argusville, with the exception of the sections hereinafter set forth affecting local conditions in the City of Argusville, which sections shall be substituted for and in lieu of like sections or paragraphs in said State Code; and the City Council of said City of Argusville, by this section hereby approves and adopts such rules and regulations, as so modified, for use and application in the City of Argusville, North Dakota, as well as for any area within the extraterritorial zoning jurisdiction of the City. Provided, that any amendments of the State Building Code may be adopted by the City by resolution.

5-0102. **MODIFICATIONS OF STATE BUILDING CODE.** The provisions of the State Building Code, which encompass the International Building Code (as proscribed by Section 54-21.3-03 of the North Dakota Century Code), in order to conform to local needs, is hereby changed and amended as follows:

1. Section 107 - Fees is hereby amended to read as follows:

107.2 Permit Fees. The fee for each permit shall be based on the permit fee schedule as adopted by resolution of the City Council for the City of Argusville.

107.3 Plan Review Fees. When submittal documents are required by Section 106.3.2, a plan review fee shall be paid at the time of submitting the submittal documents for plan review. Said plan review fee shall be 65% of

the building permit fee as indicated in Section 107.2.

The plan review fees specified in this subsection are separate from the permit fees specified in Section 107.2 and are in addition to the permit fees.

When submittal documents are incomplete or changed so as to require additional plan review or when the project involves deferred submittal items as defined in Section 106.3.4.2, an additional plan review fee shall be charged in an amount equal to 50%, if required, of the building permit fee at the rate indicated in Section 107.2.

2. Whenever a reference is made in said Building Code regarding the frost line, said frost line shall be determined to be four (4) feet. Four (4) feet should, therefore, be the minimum depth below finish grade to the bottom of footings, excluding detached residential garages.
3. Section 105.1 is hereby changed and amended as follows:

Appeals. A person may appeal an order, decision or determination made by the building official relative to the application and interpretation of this Code to the Argusville City Council. The appeal must be filed in writing with the City Auditor of the City of Argusville within thirty (30) days from the date of the decision, order or determination of the building official.

Source: Ord. 2013-2, Sec. 1 (2014)

5-0103. **PENALTY.** Any person violating any provision of the State Building Code adopted by this title or any section of this title shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

5-0104. **FEE FOR COPY OF RELEVANT CODE PROVISIONS.** Every licensed contractor, pursuant to Chapter 43-07 of the North Dakota Century Code, upon applying for a building permit, shall be provided a copy of the Building Code Ordinances of the City of Argusville and the relevant portions of the State Building Code adopted by the City which apply to residential construction, or commercial construction, depending on the type of permit sought. The contractor will be charged a fee for such copies in an amount

set by the City Council. A contractor will only be provided one copy of the relevant Building Code sections and pay one fee for residential construction and one fee for commercial construction, no matter how many building permits are requested by that particular contractor. Provided, however, that if the City later adopts another Building Code, the contractor will again be required to pay another fee to get the revised Building Code provisions. Notwithstanding the above provisions, if a contractor shows the Building Official his/her copy of the appropriate Building Code, then the contractor shall just be supplied a copy of the Argusville Building Code Ordinances and shall not be required to be provided nor pay the charge for obtaining a copy of the relevant Building Code.

CHAPTER 5-02

DANGEROUS BUILDINGS

SECTIONS:

- 5-0201. Definitions
- 5-0202. Standards for Repair, Vacation, or Demolition.
- 5-0203. Dangerous Buildings - Nuisances.
- 5-0204. Duties of Building Administrator.
- 5-0205. Duties of City Council.
- 5-0206. Owner Absent from the City.
- 5-0207. Appeal.
- 5-0208. Penalty.

5-0201. **DEFINITIONS.** All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings":

- (a) Those whose interior walls or other vertical structural members lean, list or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- (b) Those which, exclusive of the foundation, show thirty-three percent or more of damage or deterioration of the supporting member or members, or fifty percent of damage or deterioration of the nonsupporting enclosing or outside walls or covering.
- (c) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
- (d) Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the city.
- (e) Those which have become, or are, so dilapidated, decayed, unsafe or unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause or aggravate sickness or disease, so as to work injury to

the health, morals, safety, or general welfare of those living therein.

- (f) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.
- (g) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.
- (h) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- (i) Those which because of their condition are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of this city.
- (j) Those buildings existing in violation of any provision of the Building Code, zoning ordinances, any provision of the Fire Prevention Code or other ordinances of this city.

5-0202. **STANDARDS FOR REPAIR, VACATION, OR DEMOLITION.** The following standards shall be followed in substance by the Board of City Council in ordering repair, vacation, or demolition:

- (a) If the "dangerous building" can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be ordered repaired.
- (b) If the "dangerous building" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants it shall be ordered to be vacated.
- (c) In any case where a "dangerous building" is fifty percent damaged, decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer be in violation of the terms of this chapter, it shall be demolished. In all cases where a "dangerous building" is a fire hazard existing or erected in violation of the terms of this chapter or any ordinance of this city or statute of the state of North Dakota, it shall be demolished.

5-0203. **DANGEROUS BUILDINGS - NUISANCES.** All "dangerous buildings" within the terms of Section 5-0201 are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as hereinbefore and hereinafter provided.

5-0204. **DUTIES OF BUILDING ADMINISTRATOR.** The building administrator shall:

- (a) Inspect any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be existing in violation of this chapter.
- (b) Inspect any building, wall, or structure reported (as hereinafter provided for) by any agent of the City as probably existing in violation of the terms of this chapter.
- (c) Notify in writing the owner, occupant, lessee, mortgagee, and all other persons having an interest in said building, as shown by the records in the office of the register of deeds of the county of Cass, of any building found by the building administrator to be a "dangerous building" within the standards set forth in Section 5-0201 of this chapter, that: (1) the owner must vacate, or repair, or demolish said building in accordance with the terms of the notice and this chapter; (2) the owner or occupant must vacate said building or may have it repaired in accordance with the notice and remain in possession. Provided, that any person notified under this subsection to repair, vacate, or demolish any building shall be given such reasonable time, not exceeding thirty days, as may be necessary to do, or have done, the work or act required by the notice provided for herein.
- (d) Set forth in the notice provided for in subsection (c) hereof a description of the building, or structure deemed unsafe, a statement of the particulars which make the building or structure a "dangerous building," and an order requiring the same to be put in such condition as to comply with the terms of this ordinance within such length of time, not exceeding thirty days, as is reasonable.
- (e) Report to the City Council any noncompliance with the "notice" provided for in subsections (c) and (d) hereof.

- (f) Appear at all hearings conducted by the City Council and testify as to the condition of "dangerous buildings."
- (g) Place a notice on all "dangerous buildings" reading as follows: "This building has been found to be a 'dangerous building' by the building administrator. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass. It is unlawful to remove this notice until such notice is complied with."

5-0205. **DUTIES OF CITY COUNCIL.** The City Council shall:

- (a) Upon receipt of a report of the building administrator as provided for in Section 5-0204, subsection (e), give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass to appear before it on the date specified in the notice to show cause why the building or structure reported to be a "dangerous building" should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building administrator's notice provided for herein in Section 5-0204, subsection (d).
- (b) Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records of the register of deeds of the county of Cass shall offer relative to the "dangerous building".
- (c) Make written findings of fact from the testimony offered pursuant to subsection (b) as to whether or not the building in question is a "dangerous building" within the terms of Section 5-0201.
- (d) Issue an order based upon findings of fact made pursuant to subsection (c) hereof commanding the owner, occupant, mortgagee, lessee, and all other persons having an interest in said building as shown by the records of the register of deeds of the County of Cass to repair, vacate, or demolish any building found to be a "dangerous building" within the terms of this chapter and provided

that any person so notified, except the owners, shall have the privilege of either vacating or repairing said "dangerous building".

- (e) If the owner, occupant, mortgagee, or lessee fails to comply with the order provided for in subsection (d) hereof, within thirty days, the City Council shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant, under the standards, hereinbefore provided for in Section 5-0202 of this chapter. The cost to the City of Argusville of demolishing, repairing or removing any building or structure under this chapter shall be determined by the City Council after written notice to the property owner of a hearing thereon; and shall then be certified to the County Auditor as a special assessment levied upon the described property and to be spread upon the taxes against said property.
- (f) Report to the city attorney the names of all persons not complying with the order provided for in subsection (d) of this section.

5-0206. **OWNER ABSENT FROM THE CITY.** All notices or orders provided for herein shall be sent by registered mail to such owner, occupant, lessee or mortgagee, and all other persons having an interest in said building, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the "dangerous building" to which it relates. Such mailing and posting shall be deemed adequate service.

5-0207. **APPEAL.** The owner and the occupant shall have thirty (30) days from the date of the order provided for in Section 5-0205 hereof in which to appeal to the Courts from the action of the City Council. The City Council shall not demolish, repair, or remove the building or structure or cause the same to be done during the period of time herein provided for appeal.

5-0208. **PENALTY.** Any person violating any section of this chapter shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

CHAPTER 5-03

MOVING BUILDINGS

SECTIONS:

- 5-0301. Permit Required.
- 5-0302. Permit Application.
- 5-0303. Information Contained for Permit Application.
- 5-0304. Building Permit Required.
- 5-0305. House-Mover's License - Requirements.
- 5-0306. Removal of Overhead Wires and Cables - Notice.
- 5-0307. Removal of Attached Wires, Cables and Pipes.
- 5-0308. Building in Street - Warning Light Required.
- 5-0309. Equipment in Street - Lights Required.

5-0301. **PERMIT REQUIRED.** No person shall move, remove, raise or support free of its foundation, any building or structure within the limits of the City of Argusville, or cause or hire said work to be done, or assist in said work, unless a permit for said work has been obtained from the City of Argusville in accordance with the provisions of this chapter.

5-0302. **PERMIT APPLICATION.** No permit to move, remove, raise or support free of its foundation, any building or structure within the limits of the City of Argusville shall be issued until written application for permit has been filed with the City Engineer on forms provided by the City of Argusville, and the application for permit has been approved by the City Auditor. The City Auditor in granting a moving permit may condition the permit upon the applicant meeting certain conditions such as having a licensed mover move the building, time limits in which the building must be moved, routes that must be followed, posting a bond, and any other similar conditions as deemed advisable by the City Auditor. Any person denied a moving permit or contesting any conditions placed on the permit, may appeal to the City Council, who shall review the permit and its conditions at its next regularly scheduled meeting.

5-0303. **INFORMATION CONTAINED FOR PERMIT APPLICATION.** Written application for permit to move, remove, raise or support free of its foundation any building or structure within the limits of the City of Argusville shall contain the following information concerning the building or structure to be moved, removed, raised or supported:

1. Date of application.
2. Name and address of applicant for permit.
3. Name and address of owner of building.

4. Name and address of person, firm or corporation the applicant for permit will employ to do the moving.
5. Size of building or structure.
6. Age and general description of building or structure.
7. Location of building or structure at time of making application.
8. Proposed new location for building or structure.
9. Route or road along which it is proposed to move the building or structure from present location to proposed new location.
10. Condition of building or structure at time application is made for permit.
11. How long the moving of building or structure is expected to take and when moving is expected to be completed if permit is granted.
12. What changes in condition of building or structure will be made after building or structure is moved to proposed new location, and when these changes will be completed.

5-0304. **BUILDING PERMIT REQUIRED.** No moving permit shall be granted to a structure being moved into the city limits of the City of Argusville unless and until the applicant also receives a building permit from the Building Administrator.

5-0305. **HOUSE-MOVER'S LICENSE - REQUIREMENTS.** The City Auditor may require as a condition to the approval of application for permit and issuance of permit under this chapter that the moving be done only by one holding a license for the moving of buildings and structures within the City of Argusville. No such license shall be granted until the person applying therefor shall have paid to the City Auditor a license fee of Five Dollars (\$5.00), and shall have given a surety bond payable to the City in the sum of Five Thousand Dollars (\$5,000), on a form satisfactory to the City Auditor, and conditioned, among other things, that said party will pay any and all damages which may be caused to any property, either public or private, within the City, whether said damages or injury be inflicted by said party, his employees, agents or workmen; and conditioned also that said party will save and indemnify and keep harmless the said City against all liabilities, judgments, costs and expenses which may in any way accrue against the City in consequence of the granting of such license, and will in all things strictly comply with the provisions of this chapter and with the conditions of any and all permits which may be issued hereunder to said house-mover or one employing him.

Upon the execution of such bond, and its acceptance by the City Auditor, the "house-mover's" license for the moving of buildings and structures within the City of Argusville shall be issued. All such licenses shall expire one (1) year from date of issue.

5-0306. **REMOVAL OF OVERHEAD WIRES AND CABLES - NOTICE.**

1. In every case in which a permit shall be issued as herein provided for the removal of any house or structure, when such removal requires the displacement of any overhead electrical or other wire or cable, it shall be the duty of the person, association or corporation owning, operating or controlling such wire or cable to remove or displace the same as far as may be necessary to permit the removal of such house, building or structure.
2. The person to whom a removal permit shall have been issued shall notify the person, association or corporation owning, operating or controlling such wire or cable, to remove or displace the same to facilitate the removal of said house, building or structure and shall exhibit to said person, association or corporation the properly issued permit authorizing the removal of said house, building or structure, and it shall thereupon be the duty of said person, association or corporation, within a reasonable time, not exceeding twenty-four (24) hours thereafter to remove or displace such wires or cables sufficiently to allow the passage of said house, building or structure.

5-0307. **REMOVAL OF ATTACHED WIRES, CABLES AND PIPES.** The person to whom a removal permit has been issued shall, before raising, moving or removing any building or structure to which electric wires are attached, notify the persons, associations or corporations owning or controlling such electric wiring, cables or piping of the proposed moving of said building or structure. The person, association or corporation so notified shall within a reasonable time, not exceeding twenty-four (24) hours, thereafter, disconnect and make safe all such electric wiring, cables or piping.

5-0308. **BUILDING IN STREET - WARNING LIGHT REQUIRED.** When any building or structure is being moved across or through any street or alley, a warning light must be in operation at each corner of such building or structure, from sunset to sunrise.

5-0309. **EQUIPMENT IN STREET - LIGHTS REQUIRED.** All ropes, blocks, winches, windlasses, or other equipment used in the moving of said building or structure must, when obstructing the free use of a street or alley, be protected by suitable warning lights from sunset to sunrise.

CHAPTER 5-04

FLOOD DAMAGE PREVENTION
(Source: Ord. 2014-3, Sec. 1)

SECTIONS:

- 5-0401. Statutory Authorization.
- 5-0402. Findings of Fact.
- 5-0403. Statement of Purpose.
- 5-0404. Methods of Reducing Flood Losses.
- 5-0405. Definitions.
- 5-0406. Lands to Which This Ordinance Applies.
- 5-0407. Basis for Establishing the Special Flood Hazard Areas.
- 5-0408. Compliance.
- 5-0409. Greater Restrictions.
- 5-0410. Interpretation.
- 5-0411. Warning and Disclaimer of Liability.
- 5-0412. Establishment of Development Permit.
- 5-0413. Designation of the Building Administrator.
- 5-0414. Duties and Responsibilities of the Building Administrator.
- 5-0415. Variance Procedure.
- 5-0416. Provisions for Flood Hazard Reduction - General Standards.
- 5-0417. Provisions for Flood Hazard Reduction - Specific Standards.
- 5-0418. Penalties for Violations.

5-0401. STATUTORY AUTHORIZATION. The Legislature of the State of North Dakota has in North Dakota Century Code, Chapters 40-47, 11-33 and 58-03, delegated responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Argusville, North Dakota, does ordain as follows:

5-0402. FINDINGS OF FACT.

1. The flood hazard areas of the City of Argusville are subject to periodic inundation which can endanger life, result in loss of property, create health and safety hazards, disrupt commerce and governmental services, cause extraordinary public expenditures for flood protection and relief, and impair the tax base, all of which adversely affect the public health, safety, and general welfare.

2. Flood losses caused by the cumulative effect of obstructions in the special flood hazard areas cause increases in flood heights and velocities. Inadequately floodproofed, elevated or otherwise unprotected structures also contribute to the flood loss.

5-0403. STATEMENT OF PURPOSE. It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

1. To protect human life and health;
2. To minimize expenditure of public money for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding, and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in special flood hazard areas;
6. To help maintain a stable tax base by providing for the second use and development of special flood hazard areas so as to minimize future flood blight areas;
7. To ensure that potential buyers are notified that property is in a special flood hazard area; and
8. To ensure that those who occupy the special flood hazard areas assume responsibility for their actions.

5-0404. METHODS OF REDUCING FLOOD LOSSES. In order to accomplish its purposes, this ordinance includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging, and other development which may increase flood damage; and
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

5-0405. DEFINITIONS. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

1. "Appeal" means a request for a review of the Building Administrator's interpretation of any provision of this ordinance or a request for a variance.
2. "Base flood" or "100-year flood" means the flood having a one percent chance of being equaled or exceeded in any given year.
3. "Base Flood Elevation" (BFE) means the height of the base flood or 100-year flood usually in feet above mean sea level.
4. "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.
5. "Best Available Data" (BAD) means water elevation information from any source used to estimate or determine a base flood elevation (i.e. high water mark).
6. "Conveyance" or "hydraulic conveyance" means a geometric characteristic of a river or watercourse at a given point that determines the flow-carrying capacity at that point.
7. "Development" means 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 located within the special flood hazard area.
8. "Flood Insurance Rate Map" (FIRM) means the official map issued by the Federal Emergency Management Agency where special flood hazard areas are designated as Zones A, AE, AO, AH, A1-A30, or A-99.

9. "Flood Insurance Study" (FIS) means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, and the water surface elevation of the base flood.
10. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or; from the unusual and rapid accumulation or runoff of surface waters from any source.
11. "Floodproofing" (Dry) means protection provided a structure, together with attendant utilities and sanitary facilities, which is watertight two feet above the base flood elevation with walls that are substantially impermeable to the passage of water.
12. "Floodway" or "regulatory floodway" means the channel of a river or other watercourse 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.
13. "Lowest floor" means the lowest floor of a structure including the basement.
14. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle," but does include "mobile home."
15. "Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
16. "New construction" means structures for which the "start of construction" commenced on or after the effective date of this ordinance.
17. "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area, and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
18. "Recreational vehicle" means 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;
 - d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use; including, but not limited to:
 - i. travel trailers, trailers on wheels, park-model trailers, and other similar vehicles.
19. "Special Flood Hazard Area" (SFHA) means an area of land that would be inundated by a flood having a one percent chance of being equaled or exceeded in any given year.
20. "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab 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 part of the main structure.
21. "Structure" means a walled and roofed building, including manufactured homes and gas or liquid above-ground storage tanks.
22. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the building to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
23. "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- a. Before the improvement or repair is started; or
- b. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- a. 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 living conditions; or
- b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

24. "Variance" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

5-0406. LANDS TO WHICH THIS ORDINANCE APPLIES. This ordinance will apply to all special flood hazard areas within the jurisdiction of the City of Argusville.

5-0407. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS. The special flood hazard areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the City of Argusville dated January 16, 2015," with an accompanying Flood Insurance Rate Map is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at the City Hall in Argusville.

5-0408. COMPLIANCE. No structure or land may hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations.

5-0409. GREATER RESTRICTIONS. This ordinance is not intended to repeal, remedy, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions will prevail.

5-0410. INTERPRETATION. In the interpretation and application of this ordinance, all provisions will be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

5-0411. WARNING AND DISCLAIMER OR LIABILITY. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance will not create liability on the part of the City of Argusville, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

5-0412. ESTABLISHMENT OF DEVELOPMENT PERMIT. A development permit must be obtained before construction or development begins within any special flood hazard area established in Section 5-0407. Application for a development permit must be made on forms furnished by the Building Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill storage materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

1. Elevation in relation to mean sea level, of the lowest floor of all structures;
2. Elevation in relation to mean sea level to which any structure has been floodproofed;
3. Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in Section 5-0417; and
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

5-0413. DESIGNATION OF THE BUILDING ADMINISTRATOR. The Building Administrator is hereby appointed to administer and

implement this ordinance by granting or denying development permit applications in accordance with its provisions.

5-0414. DUTIES AND RESPONSIBILITIES OF THE BUILDING ADMINISTRATOR. Duties of the Building Administrator will include, but not be limited to:

1. Permit Review
 - a. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
 - b. Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
 - c. Review all development permits to determine if the proposed development adversely affects the flood-carrying capacity of the special flood hazard area. For purposes of this ordinance, "adversely affects" means that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-foot at any point.
2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 5-0407, BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS, the Building Administrator must obtain, review, and reasonably utilize any base flood elevation data and floodway data available (known as best available data) from a federal, state, or other source, as criteria for requiring that new construction, substantial improvements, or other development in the floodplain are administered in accordance with Section 5.0417, PROVISIONS FOR FLOOD HAZARD REDUCTION -- SPECIFIC STANDARDS.
3. Information to be Obtained and Maintained
 - a. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
 - b. For all new or substantially improved floodproofed structures:
 - i. obtain and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed;

- ii. maintain the floodproofing certifications required in Section 5-0412(3).
 - c. Maintain for public inspection all records pertaining to the provisions of this ordinance.
- 4. Alteration of Watercourses. The responsible person shall:
 - a. Notify nearby communities, water resource districts, and the North Dakota State Engineer, as necessary, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished; and
 - c. Notify the appropriate water resource district prior to removal or placement of fill within two hundred feet of the bank of a body of water during normal flow or stage.
- 5. Interpretation of Flood Insurance Rate Map (FIRM) Boundaries. Make interpretation, where needed, as to the exact location of the boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary will be given a reasonable opportunity to appeal the interpretation as provided in Section 5-0415.

5-0415. VARIANCE PROCEDURE.

- 1. Appeal Board
 - a. The City Council as established by the City of Argusville will hear and decide appeals and requests for variances from the requirements of this ordinance.
 - b. The City Council will hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Building Administrator in the enforcement or administration of this ordinance.
 - c. Those aggrieved by the decision of the City Council, or any taxpayer, may appeal such decision to the appropriate court, as provided in North Dakota law.
 - d. In passing upon such applications, the City Council must consider all technical evaluations, all

relevant factors, standards specified in other sections of this ordinance; and:

- i. the danger that materials may be swept onto other lands to the injury of others;
- ii. the danger to life and property due to flooding or erosion damage;
- iii. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- iv. the importance of the services provided by the proposed facility to the community;
- v. the necessity to the facility of a waterfront location, where applicable;
- vi. the availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;
- vii. the compatibility of the proposed use with existing and anticipated development;
- viii. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- ix. the safety of access to the property in times of flood for ordinary and emergency vehicles;
- x. the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- xi. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

e. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Section 5-0415(1)(d) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

f. Upon consideration of the factors of Section 5-0415(1)(d) and the purposes of this ordinance, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

g. The Building Administrator will maintain the records of all appeal actions and report any

variances to the Federal Emergency Management Agency upon request.

2. Conditions for Variances

- a. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
- b. Variances will not be issued within the identified floodplain if any increase in flood levels during the base flood discharge would result.
- c. Variances will only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- d. Variances will only be issued 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 a variance will not result in increased flood heights, additional threats to public safety, cause fraud on or victimization of the public as identified in Section 5-0415(1)(d), or conflict with existing local laws or ordinances.
- e. Any applicant to whom a variance is granted will be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

5-0416. PROVISIONS FOR FLOOD HAZARD REDUCTION - GENERAL STANDARDS. In all special flood hazard areas the following standards are required:

1. Anchoring

- a. All new construction and substantial improvements, including additions, must be anchored to prevent flotation, collapse or lateral movement of the structure.
- b. All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame

ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

2. Construction Materials and Methods

- a. All new construction and substantial improvements must be constructed with materials and utility equipment resistant to flood damage.
- b. All new and substantial improvements must be constructed using methods and practices that minimize flood damage.
- c. All new construction and substantial improvements 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.

3. Utilities

- a. All new and replacement water supply systems must be designed to minimize or eliminate infiltration of flood waters into the system;
- b. New and replacement sanitary sewage systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
- c. On-site waste disposal systems must be located to avoid impairment to them or contamination from them during flooding.

4. Subdivision Proposals

- a. All subdivision proposals must be consistent with the need to minimize flood damage;
- b. All subdivision proposals must have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- c. All subdivision proposals must have adequate drainage provided to reduce exposure to flood damage; and
- d. Base flood elevation data must be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

5. Encroachments. The cumulative effect of any proposed development, when combined with all other existing and

anticipated development, must not increase the water surface elevation of the base flood more than one foot at any point.

5-0417. PROVISIONS FOR FLOOD HAZARD REDUCTION - SPECIFIC STANDARDS. In all special flood hazard areas where base flood elevation data have been provided as set forth in Section 5-0407 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS or Section 5-0414(2), Use of Other Base Flood Data, the following provisions are required:

1. Residential Construction
 - a. New construction and substantial improvement of any residential structure will have the lowest floor, including basement, elevated on fill to at least one foot above the base flood elevation.
 - b. Require within any AO and AH Zone on the FIRM that all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated on fill one foot above the highest adjacent grade as high as the depth number specified in feet on the FIRM.
 - c. Require within Zones AO and AH adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
2. Nonresidential Construction. New construction and substantial improvement of any nonresidential structure must either have the lowest floor, including basement, elevated on fill to at least one foot above the base flood elevation or, together with attendant utility and sanitary facilities must:
 - a. Be floodproofed to at least two feet above the base flood elevation, so that below this elevation the structure is watertight with walls substantially impermeable to the passage of water.
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 5-0414(3)(b).
 - d. Require within any AO and AH Zone on the FIRM that all new construction and substantial improvements of nonresidential structures:

- i. have the lowest floor (including basement) elevated on fill one foot above the highest adjacent grade as high as the depth number specified in feet on the FIRM, or
 - ii. together with attendant utility and sanitary facilities be completely floodproofed two feet over base flood elevation to meet the floodproofing standard specified in Section 5-0417(2) (a).
- e. Require within Zones AO and AH adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

3. Manufactured Homes

- a. Manufactured homes must be anchored in accordance with Section 5-0416(1) (b).
- b. All manufactured homes or those to be substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated on fill to at least one foot above the base flood elevation, and is securely anchored to an adequately anchored foundation system.

5-0418. PENALTIES FOR VIOLATIONS. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violations on conditions and safeguards established in connection with grants or variances or conditional uses, will be subject to the penalties set forth in Section 1-0211. Each day such violation continues will be considered a separate offense. Nothing herein contained will prevent the City Council from taking such other lawful action as is necessary to prevent or remedy any violation.

CHAPTER 5-05

MINIMUM HOUSING STANDARDS

SECTIONS:

- 5-0501. Adoption of Housing Code.
- 5-0502. Exceptions to Housing Code.
- 5-0503. Penalty.

5-0501. **ADOPTION OF HOUSING CODE.** There is hereby adopted by reference by the City Council, for the purpose of prescribing regulations governing standards, relative to housing in the City of Argusville, that certain code known as the Uniform Housing Code, recommended and compiled by the International Conference of Building Officials, being particularly the 1988 edition thereof, as the same are now established in said Code, a copy of which is on file in the office of the Auditor for the City of Argusville, with the exception of the sections hereinafter set forth affecting local conditions of the City of Argusville, which sections shall be substituted for and in lieu of like sections or paragraphs in said Uniform Housing Code; the City Council of said City of Argusville, by this section hereby approves and adopts such rules and regulations, so modified, for the use and application within the city limits of Argusville, North Dakota. Provided, that any amendments of the 1988 edition of the Code may be adopted by the City by resolution.

5-0502. **EXCEPTIONS TO HOUSING CODE.** When any provisions of the Uniform Housing Code are in conflict with the Building Code, Mechanical Code, zoning provisions or other ordinances of the City of Argusville, those other ordinances shall prevail and supersede the provisions of the Uniform Housing Code.

5-0503. **PENALTY.** Any person violating any section of this chapter shall, upon conviction, be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

Source: Ord. 2014-6, Sec. 2 (2015)

CHAPTER 5-06

INTERNATIONAL PROPERTY MAINTENANCE CODE

Source: Ord. 2014-3, Sec. 1, 2014

SECTIONS:

- 5-0601. Adoption of International Property Maintenance Code.
- 5-0602. Amendment to International Property Maintenance Code.
- 5-0603. Penalty.
- 5-0604. Appeals.

5-0601. ADOPTION OF INTERNATIONAL PROPERTY MAINTENANCE CODE. There is hereby adopted by reference by the City Council, for the purpose of prescribing regulations governing standards relative to housing in the City of Argusville, that certain code known as the International Property Maintenance Code, recommended and compiled by the International Code Council, being particularly the 2012 edition thereof, as the same are now established in said code, a copy of which is on file in the office of the Building Administrator for the City of Argusville, with the exception of the sections hereinafter set forth affecting local conditions of the City of Argusville, which sections shall be substituted for and in lieu of like sections or paragraphs in said International Property Maintenance Code; the City Council of said City of Argusville, by this section hereby approves and adopts such rules and regulations, so modified, for the use and application within the city limits of Argusville, North Dakota. Provided, that any amendments of the 2012 edition of the Code may be adopted by the City by resolution.

5-0602. AMENDMENT TO INTERNATIONAL PROPERTY MAINTENANCE CODE. The International Property Maintenance Code, as adopted in Section 5-0601, is hereby changed and amended as follows:

SECTION 101.1 is hereby amended to read as follows:

101.1 Title. These regulations shall be known as the *Property Maintenance Code* of ~~{NAME OF JURISDICTION}~~ the City of Argusville, hereinafter to as "this code."

SECTION 102.3 is hereby amended to read as follows:

102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of ~~the International~~

~~Building Code, International Energy Conservation Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, International Residential Code, International Plumbing Code and the NFPA 70 all applicable ordinances adopted by the City of Argusville. Nothing in this code shall be construed to cancel, modify or set aside any provision of the International Zoning Code.~~

SECTION 103.4 is hereby amended to read and to include a new final paragraph as follows:

103.4 Liability. The building official, member of the board of appeals or employee charged with the enforcement of this code. While acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act or omission performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be afforded all the protection provided by the city's insurance pool and immunities and defenses provided by other applicable state and federal laws and shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or the city be held as assuming any such liability by reason of the inspection authorized by this code or any permits or certificates issued under this code.

SECTION 103.5 is added to read as follows:

103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the following schedule:

- A. Initial Inspection - No charge
- B. First Re-inspection - No charge
- C. Second Re-inspection - As to the second re-inspection, a fee of \$100
- D. Third Re-inspection - As to the third re-inspection, a fee of \$100
- E. Fourth and continuing Re-inspection - as to the fourth and any subsequent re-inspection, a fee of \$100

SECTION 111 is hereby deleted in its entirety.

SECTION 112.4 is hereby amended to read as follows:

112.4 Failure to comply. Any person who shall continue any work after been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be ~~liable to a fine of not less than [AMOUNT] dollars or more than [AMOUNT] dollars~~ subject to penalties prescribed by law.

SECTION 201.3 is hereby amended to add the following:

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the *International Building Code, International Existing Building Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, International Plumbing Code, International Residential Code, ~~International Zoning Code~~* or NFPA 70, such terms shall have meanings ascribed to them as in those codes.

Throughout this code, wherever reference is made to the International Plumbing Code it shall mean the North Dakota State Plumbing Code. Throughout this code, wherever reference is made to the ICC Electrical Code it shall mean the National Electrical Code together with the North Dakota State Wiring Standards.

SECTION 302.4 is hereby amended to read as follows:

302.4 Weeds. All *premises* and *exterior property* shall be maintained free from weeds or plant growth ~~in excess of (jurisdiction to insert height in inches)~~ as per the City of Argusville Ordinances. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens. Upon failure of the *owner* or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the *owner* or agent responsible for the property.

SECTION 304.14 is hereby amended to read as follows:

304.14 Insect screens. During the period from ~~{DATE}~~ April 1 to ~~{DATE}~~ October 31, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

SECTION 602.2 is hereby amended to read as follows:

602.2 Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms ~~based on the winter outdoor design temperature for~~

~~the locality indicated in Appendix D of the International Plumbing Code. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.~~

~~**Exception:** In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.~~

SECTION 602.3 is hereby amended to read as follows:

602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat ~~during the period from [DATE] to [DATE]~~ to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms, and toilet rooms.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. ~~The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.~~
2. ~~In areas where the average monthly temperature is above 30°F (-1°C) a minimum temperature of 65°F (18°C) shall be maintained.~~

SECTION 603.2 is hereby amended to read as follows:

603.2 Removal of combustion products. All fuel burning equipment and appliances shall be connected to an approved chimney or vent.

~~**Exception:** Fuel burning equipment and appliances which are labeled for unvented operation.~~

5-0603. PENALTY. A violation of the regulations contained in this chapter will be deemed an offense and will be punishable by a

fine not to exceed Five Hundred Dollars (\$500). Each day a violation is permitted to exist will constitute a separate offense. The provisions of Section 1-0211 will also apply.

5-0604. APPEALS. A person will have the right to appeal a decision of the Code Official to the Board of Appeals. The Argusville City Council will be the Board of Appeals. An appeal in writing to the Code Official must be made within 20 days of the decision of the Code Official. The Argusville City Council must hear the appeal within 30 days of the Code Official receiving written notice of the appeal. The Council may only reverse or modify a decision of the Code Official by a vote of at least three members of the Council. If not all members of the Council are present at the hearing, the person appealing the decision may request a postponement, which may extend the 30-day period to hold such a hearing. An application for an appeal must be based on a claim that the true intent of the Code has been incorrectly interpreted, the provisions of the Code do not fully apply, or an equally good or better form of construction is proposed. The Council will have no authority to waive requirements of the Code.