



**MARSHALLTOWN  
MORE THAN EVER**

**CITY OF MARSHALLTOWN  
BUILDING BOARD OF APPEALS  
NOTICE OF PUBLIC MEETING  
CITY HALL COUNCIL CHAMBERS  
10 WEST STATE STREET  
JULY 9, 2025, 5:00 PM**

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**AGENDA**

**CALL TO ORDER**

**ROLL CALL**

Heidi Hogan, John Mahlstedde, David G. Schulze, Jeff Sims, Kellissa Thurston

**APPROVAL OF MEETING MINUTES**

1. Approval of April 16, 2025 Meeting Minutes

**BUSINESS**

2. Consider Dangerous Building Designation Appeal Pertaining to 402 Union Street
3. Consider Dangerous Building Designation Appeal Pertaining to 607 N 2nd Avenue

**ADJOURNMENT**

**MISSION STATEMENT**

The City of Marshalltown collaborates to provide a welcoming, safe, vibrant, and growing community.

## **Building Board of Appeals**

Meeting Minutes – April 16<sup>th</sup>, 2025

Meeting was called to order at 5:00 PM in the City Council Chambers at 10 W. State Street

### **1. Roll Call:**

Present: Hogan, Mahlstedte, Simms, Thurston, & Schulze

Absent:

### **2. Election of Officers for 2025**

Motion to appoint Thurston as chairperson for 2025 made by Schultze, seconded by Simms.

All ayes upon roll call. Motion Carried.

Motion to appoint Hogan as vice-chairperson for 2025 made by Mahlstedte, seconded by Schultze.

All ayes upon roll call. Motion Carried.

### **3. Appeal Application for 2007 Gethmann Drive**

Clayton Ender, Assistant Director of Housing and Community Development, presented the staff report.

Applicant provided documentation to support the use of an ASTM-rated pool covers, in lieu of a fence. In presentation shared why the cover is safer than a fence, as other people can open a fence, or children allowing other people into the pool. The pool cover is controlled through a panel that is under lock & key.

Pool cover is tested 2x a year by the installation company, for pool cover drainage & safety. Pool cover is opened 40 to 50x a summer. Applicant has a backup generator if power goes out, but the cover can be operated manually. This is an add on, not required, but recommended.

Schultze believes a fence (passive system) states that the area is not to be accessed, and believes that a fence would increase the safety.

The pool & cover have been installed in 2021.

Thurston doesn't believe it's an either/or situation, believing it should be an "and" situation of having both.

Simms is concerned about setting a precedent. Applicant has done a great job thus far, however would if they sell their home, and the next owner of the property, the next owners may be not be as responsible with closing the cover when unsupervised.

Schultz doesn't like to rely on an "active system" as it can fail, if it's not maintained. "Redundancy is a good thing." Asked if there are any alarms systems in addition to the pool cover, for safety precautions. No active monitoring is being done.

Thurston shared a concern that anyone with this system has the same level of care. Thurston concerned about the language utilized should they approve this type of cover. Thurston would like a 2x a year testing, locking cover switch and a backup option should this move through to amend city code, realizing that the city should be able to trust it's systems.

Clayton confirmed that this meeting is only pertaining to this applicant's pool. Any changes to code would need to be approved by city council.

Motion by Thurston to modify the staff determination regarding requirement for a five-foot fence at 2007 Gethmann Drive subject to the following conditions, seconded by Mahlstede.

1. No fence required provided an ASTM rated pool cover compliant with the following conditions is maintained on the property.
  - a. Cover shall undergo annual testing.
  - b. Cover control switch contains a locking mechanism.
  - c. Cover supported by a backup electric source and/or manual operation.

Roll Call:

Hogan – No

Mahlstede – Yay

Simms – Yay

Thurston – Yay

Schulze - Yay

All ayes upon roll call. Motion Carried.

Meeting Adjourned at 6:02 PM

# MARSHALLTOWN

I O W A

HOUSING & COMMUNITY DEVELOPMENT

Deb Millizer, Director  
 Clayton Ender, Assistant Director  
 24 North Center Street  
 Marshalltown, IA 50158-4911  
 Tel - (641) 754-5756  
 Fax - (641) 754-5717

**TO:** Building Board of Appeals  
**FROM:** Clayton Ender, Assistant Housing & Community Development Director  
**DATE:** July 9<sup>th</sup>, 2025  
**RE:** Appeal Application for 402 Union Street

<b>City Staff Contact:</b>	Clayton Ender, AICP Assistant Director of Housing and Community Development Phone: 641-754-5756 Email: cender@marshalltown-ia.gov
<b>Property Owner &amp; Applicant:</b>	DC Brown, Randy Brown, and Cameron Robertson POB 340 Chowchilla CA 93610
<b>Building Board of Appeals Authority:</b>	The board shall not have the authority to waive requirements of the building code or interpret the administration of the code.  The board shall only modify or reverse the decision of the code official by a concurring vote of three or more members.
<b>Notice of Violation:</b>	In June 2025 city staff was contacted by an individual completing debris clean-up in the detached garage at 402 Union Street indicating that the roof and eastern wall of the detached garage collapsed during the clean-up. Upon follow-up inspection staff observed that 100% of the roof and the eastern wall did in fact collapse, as shown in the attached photos from June 11, 2025.  In addition to the dangerous building conditions which exist as a result of dilapidation and damage to the detached garage, the structure is classified as a non-conforming structure per the zoning code due to non-compliance with current accessory structure setbacks. This structure would be classified as a minor non-conforming structure. This category establishes that if a minor non-conforming structure is damaged, partially destroyed, or deemed to be unsafe to an extent greater than

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75% of the gross floor area or 75% or greater of the replacement value of the structure then the building is not eligible for repair. As a result of 100% of the roof collapsing and the eastern wall also collapsing staff has determined that greater than 75% of the gross floor area has been damaged, partially destroyed, or deemed to be unsafe. Based on this determination of dangerous building conditions and the extent of damage observed staff has provided notice to the owners that the structure is required to be demolished in accordance with the zoning code requirements.

<b>Appeal Request:</b>	The applicant has stated the following as their basis for appeal,  “Because the garage has been on the property for over 50 years. I’m wondering why it has to be torn down when all it needs is a new roof, trusses and backwall. We can repair it for under 10k instead of building a new one for 30k or more and it should be grandfathered in. And we cleaned it up because the city wanted it, now you are saying it needs torn down.”
<b>Recommendation:</b>	Staff recommends that the Building Board of Appeals affirm the findings of city staff that the structure constitutes a dangerous building and due to extent of damage and the non-conforming structure status be ordered for demolition.

- Attachments:**
- Findings of Fact Report
  - Aerial Vicinity Map
  - Appeal Application
  - Notices of Violation
  - Pictures from June 11, 2025
  - Section 151.035 to Section 151.042 Code of Ordinances
  - Section 156.K.001 and Section 156.K.003 Code of Ordinances

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Aerial Vicinity Map



**Building Board of Appeals Finding of Fact Report**

<b>Meeting Date:</b> 6/9/2025	<b>Application Type:</b> Dangerous Building Appeal
<b>Property Address:</b> 402 Union Street	
<b>Property Owner:</b> DC Brown, Randy Brown, and Cameron Robertson POB 340 Chowchilla CA 93610	
<b>Applicant (if different than owner):</b> N/A	

Request Description

DC Brown, Randy Brown, and Cameron Robertson have submitted an appeal regarding dangerous building designation and order to demolish as it pertains to a detached garage structure located at 402 Union Street.

Based on the Findings of Fact the following action occurred:

- Motion by \_\_\_\_\_ to AFFIRM the determination of city staff regarding dangerous building classification and the order to demolish due to extent of damage exceeding 75% of the gross floor area of the no-conforming structure.

Second by \_\_\_\_\_

Vote results:

Name:	YES	NO	Abstain	Comment
<i>MAHLSTEDE</i>				
<i>SIMMS</i>				
<i>HOGAN</i>				
<i>SCHULZE</i>				
<i>THURSTON</i>				

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HOUSING & COMMUNITY DEVELOPMENT

Deb Millizer, Director  
Clayton Ender, Assistant Director  
24 North Center Street  
Marshalltown, IA 50158-4911  
Tel - (641) 754-5756  
Fax - (641) 754-5717

Case #: D&D-005687-2025  
Service Date: June 12, 2025  
Appeal Deadline: June 22, 2025  
Compliance Date: July 12, 2025

**SENT VIA REGULAR MAIL, CERTIFIED MAIL, AND EMAIL**

DC BROWN, CAMERON ROBERTSON, & RANDY BROWN  
POB 340  
CHOWCHILLA CA 93610

**RE: NOTICE OF PROPERTY CODE VIOLATION AND ORDER TO ABATE**

Questions regarding this notice should be directed to Clayton Ender at [cender@marshalltown-ia.gov](mailto:cender@marshalltown-ia.gov) or 641-754-5756 Ext 3108.

Tenemos servicios en Español en City Hall por favor no dude en contactarnos al 641-754-5756 si necesita mas ayuda.

မြို့တော်ခန်းမတွင် မြန်မာဘာသာစကား ဝန်ဆောင်မှုများ ရရှိနိုင်သည်။  
နောက်ထပ်အကူအညီလိုအပ်ပါက ရက်ချိန်းတစ်ခုစီစဉ်ရန် 641-754-5756 တွင် ကျွန်ုပ်တို့ထံ  
ဆက်သွယ်နိုင်ပါသည်။

This letter is to notify you that property you own at 402 Union Street, Marshalltown, IA, 50158 (Herein after referred to as "SUBJECT PROPERTY"), as a result of roof collapse and partial wall collapse which occurred on June 9<sup>th</sup>, 2025, is in violation of various provisions of the Code of Ordinances of the City of Marshalltown, Iowa (Hereinafter referred to as "CITY CODE").

The following table identifies the sections of City Code in which the subject property is in violation. Pictures illustrating the non-compliance are attached to this letter.

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CITY CODE REFERENCE	CONDITION / REQUIRED ACTION:
<p><b>§ 156.K.003</b></p> <p>(A) Generally. A building or structure is classified as nonconforming if it was lawfully constructed before the effective date of this Zoning Ordinance (or amendment hereto) and does not conform to the height, yard, density, intensity, building scale, or design standards that are applicable to the same type of building or structure in the zoning district in which the building or structure is located. Such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:</p> <p>(1) Increase in nonconformity prohibited. No such structure may be enlarged or altered in any way which increases its nonconformity.</p> <p>(2) Movement of structure. Should any on-site structure, in whole or in part, be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.</p> <p>(3) Minimum floor area. A residential dwelling unit having a lesser floor area at the time of the passage of this Zoning Ordinance than the minimum floor area required for the district in which it is located shall not be construed to be nonconforming.</p> <p>(B) Repairs and alterations. Routine maintenance, including necessary non-structural repairs, paint, finish, and incidental alterations to a nonconforming structure is allowed without having to bring the nonconformity into compliance.</p> <p>(C) Damage and reconstruction. If a major or minor nonconforming structure is damaged, partially destroyed, or deemed to be unsafe the structure may be restored to its original dimensions provided that:</p> <p>(1) The original nonconformity is not enlarged, increased, or extended;</p>	<p><b>Condition:</b></p> <p>The detached garage in the rear yard of 402 Union Street is classified as legal non-conforming structure due to non-conformance to current accessory structure setback standards for the RM, Medium Density Residential Zoning District. Current zoning standards require that detached accessory structures maintain a minimum 5-foot side yard setback and a 10-foot rear yard setback. The existing structure is not compliant with these setbacks.</p> <p>§156.K.003 specifically states that the structure may not be restored to its current configuration in instances in which the damage or destruction exceeds 75% of the gross floor area or 75% of the replacement cost of the structure.</p> <p>On June 9<sup>th</sup>, 2025 the buildings roof and eastern wall collapsed which has resulted in damage or destruction of the structure in excess of the 75% gross floor area threshold as established by city code.</p> <p><b>Required Action:</b></p> <p>As a result of the non-conforming status of the structure and the extent of damage to the structure you are hereby required to demolish the structure. A demolition permit is required.</p> <p>A demolition permit must be applied for within 30 days of service of this notice. Demolition work must commence within 6 months of issuance of a demolition permit and demolition must be complete within one year of issuance of a demolition permit.</p> <p>A new structure may be constructed provided the new structure follows current zoning code standards. Should you desire to construct a new garage a building permit is required.</p>

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(2) A building permit is obtained for repairs within six months of the date the building was damaged;

(3) For a major nonconforming structure, the construction is commenced within six months after obtaining the required building permits;

(4) For a minor nonconforming structure, the construction is commenced within 12 months after obtaining the required building permits;

(5) For a major nonconforming structure, the damage or destruction does not exceed 50% of the gross floor area (GFA) of a nonconforming structure or 50% of the replacement cost of the structure; and

(6) For a minor nonconforming structure, the damage or destruction does not exceed 75% of the GFA of a nonconforming structure or 75% of the replacement cost of the structure.

(D) Existing nonconforming structures in a regulated floodplain or floodway. It is the intent of the city that no permanent buildings or structures be located or substantially improved in a regulated floodplain or floodway and that existing nonconforming structures shall be removed upon abandonment. As such, a property with an abandoned nonconforming structure in a regulated floodplain or floodway shall not be eligible for any development review approval until the property owner removes the abandoned nonconforming structure.

(E) Nonconforming density. Buildings on lots with nonconforming density may be expanded or extended as may be allowed by this Zoning Ordinance, but such expansions or extensions shall not create additional dwelling units.

**REPAIR OF THE EXISTING DETACHED GARAGE STRUCTURE WILL NOT BE PERMITTED PURSUANT TO CITY CODE.**

**YOU ARE HEREBY GIVEN THIRTY (30) DAYS FROM THE DATE OF THIS NOTICE TO ABATE THE VIOLATIONS SPECIFIED HEREIN IN THE MANNER SPECIFIED.**

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Failure to comply with this Notice and Order to Abate could result in the City of Marshalltown taking legal action including without limitation filing a municipal infraction citation against you in the Iowa District Court for Marshall County, including but not limited to seeking injunctive relief and/or civil penalties of not more than \$750 for the first offense and not more than \$1,000 for each repeat offense, with each day the violation occurs or is permitted to exist constituting a repeat offense.

You do have the right to appeal this Notice and Order to Abate. You must file a notice of appeal at 24 North Center Street which shall be submitted on an appeal application as available with the city. Please contact the staff member cited in this Notice and Order to Abate to receive an appeal application if you wish to file an appeal. The appeal shall be filed within 10 days from the date of service of this Notice and Order to Abate.

Sincerely,

Clayton Ender, AICP  
Assistant Director of Housing and Community Development & Zoning Administrator

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Condition of the Property as of June 11, 2025



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**CITY OF MARSHALLTOWN APPEAL REQUEST FORM**

This form may be completed when appealing various City Codes that provide for an appeal opportunity. Please complete all lines and add additional information if applicable. Submit to the designated City representative identified in the notice you received.

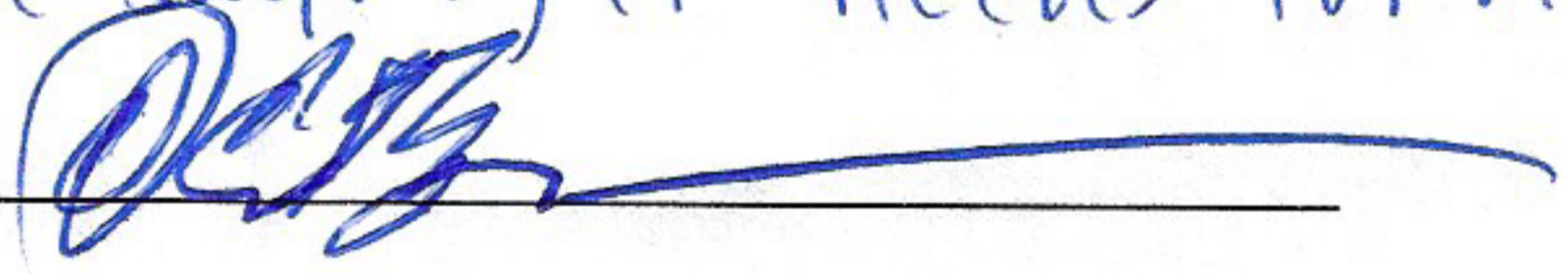
Name: DC Brown

Address: 402 Union St - Marshalltown IA 50158

Phone Number: 559.201.3783

E-Mail Address (if available): brown4402@sbcglobal.net

Description requesting appeal: Because the garage has been on the property for over 50 yrs. Im wondering why it has to be torn down when all it needs is a new roof, trusses and backwall. We can repair it for under 10k instead of building a new one for 30k or more and it should be grandfathered in. And we cleaned it up because the city wanted it, now you are saying it needs torn down.

Signature: 

Date: 06.17.25

## **DANGEROUS BUILDINGS**

### **§ 151.035 PURPOSE AND SCOPE.**

It is the purpose of the provisions of this subchapter to provide a just, equitable, and practicable method whereby buildings and structures may be required to be repaired, removed, vacated, or demolished when the buildings or structures, from any cause, endanger the life, limb, health, morals, property, safety, or welfare of the general public or the occupants of the buildings. The provisions of this subchapter shall apply to all dangerous buildings, as defined in this subchapter, which are in existence or which may be constructed in this city. All buildings or structures, which are required to be repaired under the provisions of this subchapter, shall be subject to the provisions of the Building Code.

(2013 Code, § 7-30) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018)

### **§ 151.036 DEFINITION.**

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**DANGEROUS BUILDING.** Any building or structure which has any or all of the following conditions or defects; provided that, such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered whenever:

- (1) Any portion or member or appurtenance thereof is likely to fail or to become detached or dislodged or to collapse and thereby injure persons or damage property;
- (2) Any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;
- (3) The building or structure or any portion thereof, because of dilapidation, deterioration or decay; faulty construction; the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building or portion thereof; the deterioration, decay or inadequacy of its foundations beyond repair; or any other cause, is likely to partially or completely collapse;
- (4) For any reason, the building or structure or any portion thereof is manifestly unsafe for the purpose for which it is being used;
- (5) The exterior walls or other vertical structural members list, lean or buckle more than two degrees or to an extent that upon inspection it is determined that the exterior walls or other vertical structural members are beyond repair or create an unsafe condition;
- (6) The building or structure or any portion thereof has been so damaged by fire, wind, earthquake, flood or any other cause, or has become so dilapidated or deteriorated as to become an attractive nuisance; to become a harbor for vagrants, criminals or immoral persons; to enable persons to resort thereto for the purpose of committing unlawful or immoral acts; or to create a haven for rodents, snakes and/or other vermin;
- (7) A building or structure or portion thereof, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities or otherwise is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that it is likely to cause sickness or disease;
- (8) Any building or structure or portion thereof, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire resistive construction, faulty electric wiring, gas connections, heating apparatus or any other cause, is determined by the Fire Marshal to be a fire hazard;
- (9) Any portion of a building or structure remains on a site after the demolition or destruction of the building or structure, or any building or structure is abandoned so as to constitute such building or portion thereof an attractive nuisance or hazard to the public;
- (10) Any door, aisle, passageway, corridor, stairway, or other means of egress in is so warped, worn, loose, torn, or otherwise unsafe so it would not provide safe and adequate means of egress in case of fire or panic;
- (11) Any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to an extent that the structural strength or stability thereof is materially less than it was before the catastrophe;
- (12) Any building, structure, or portion thereof is in violation of this chapter so as to constitute such building, structure or portion thereof an unsafe condition; and
- (13) Any building or structure is in a condition as to constitute a public nuisance or hazard.

(2013 Code, § 7-31) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018)

### **§ 151.037 PROCEDURES AND RULES.**

- (A) The Building Official or his or her designee is authorized to enforce the provisions of this subchapter.
- (B) The Building Official or his or her designee are authorized to make such inspections and take such actions as may be

required to enforce the provisions of this subchapter.

(C) (1) Whenever necessary to make an inspection to enforce any of the provisions of this subchapter or whenever the Building Official or his or her designee has reasonable cause to believe that there exists in any building or upon unsafe, dangerous, or hazardous conditions, the Building Official or his or her designee, upon presentation of proper credentials to the property owner and/or occupant, may enter such building or premises at all reasonable times to inspect the building or premises or perform any duty imposed upon the Building Official or his or her designee by this code of ordinances. The Building Official or his or her designee may apply for an administrative search warrant to the Iowa District Court for Marshall County, pursuant to I.A.C. § 808.14. No owner or occupant or any other person having charge, care, or control of any building or premises shall fail or neglect, after presentation of a search warrant, to promptly permit entry therein by the Building Official or his or her designee for the purpose of inspection and examination pursuant to this subchapter. Any person violating this section shall be guilty of a municipal infraction.

(2) All buildings, structures, or portions thereof which are determined after inspection by the Building Official or his or her designee to be dangerous as defined in this subchapter are declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal.

(D) The Building Official shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this subchapter, the Building Official shall give to the owner of such building or structure written notice stating the defects thereof and ordering the abatement of such defects ("Notice of Dangerous Building and Order to Abate"). This notice may require the owner or person in charge of the building or premises, within a reasonable time as the circumstances require, as determined by the Building Official in his or her discretion, to commence the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within the time provided in the notice. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and/or improvements are completed, inspected, and approved by the Building Official. Said notice shall also advise the property owner of the right to request a hearing before the Board of Appeals by filing a written request for hearing within ten days of the service of the notice and that failure to appeal will constitute a waiver of all rights to an administrative hearing and determination of the matter.

(E) In an emergency, the city may abate a dangerous building without prior notice and assess the costs as provided in § 151.042 of this subchapter after notice to the property owner and hearing.

(2013 Code, § 7-32) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018) Penalty, see § 151.999

**Statutory reference:**

*Similar provisions, see I.A.C. §§ 364.12(3)(c) and 384.12(3)(h)*

**§ 151.038 SERVICE OF NOTICE AND ORDERS OF BUILDING OFFICIAL.**

The notice in § 151.037 of this subchapter shall be served by certified mail or personal delivery to the property owner as shown by the records of the County Auditor. Nothing in this section shall be construed to prohibit the use of any other manner of service allowable under the Iowa Rules of Civil Procedure.

(2013 Code, § 7-33) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018) Penalty, see § 151.999

**Statutory reference:**

*Similar provisions, see I.A.C. § 364.12(3)(h)*

**§ 151.039 APPEAL.**

Any person entitled to service under § 151.037 of this subchapter may appeal from any notice and order or any action of the Building Official or his or her designee under this subchapter by filing a notice of appeal at the office of the Building Official on the form supplied for the filing purposes. The appeal shall be filed within ten days from the date of service of the order or action of the Building Official or his or her designee. Upon receipt of any appeal filed pursuant to this section, the Building Official or his or her designee shall present it to the Board of Appeals.

(A) As soon as practicable after receiving the written appeal, the Board of Appeals shall fix a date, time and place of hearing. Said hearing shall be not less than five days nor more than 20 days from the date the written notice of appeal is filed.

(B) Failure of any person to file an appeal in accordance with the provisions of this subchapter shall constitute a waiver of rights to an administrative hearing and adjudication of the notice and order or any portion thereof.

(C) Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

(D) After hearing all testimony, the Board of Appeals shall have 15 days to issue a decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. The decision shall be served on the appellant by certified mail, return receipt requested.

(2013 Code, § 7-34) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018)

**§ 151.040 POSTING OF SIGNS.**

(A) The Building Official shall cause to be posted at each entrance to a dangerous building a notice reading:

**DANGEROUS BUILDING DO NOT OCCUPY**  
It is a misdemeanor infraction to occupy this building, or to remove or deface this notice.  
Building Official  
City of Marshalltown

(B) Such notice shall remain posted until the required repairs, demolition or removal are completed. Such notice shall not be removed or defaced until the repairs, demolition or removal ordered by the Building Official have been completed, and no person shall enter the building except for the purpose of making the required repairs or of demolishing the dangerous building.

(C) Failure to comply with this section shall be a municipal infraction, with each day the violation continues a separate offense.

(2013 Code, § 7-35) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018) Penalty, see § 151.999

**§ 151.041 RIGHT TO ABATE.**

If the property owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the city may perform the required action.

(2013 Code, § 7-36) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018)

**Statutory reference:**

*Similar provisions, see I.A.C. § 364.12(3)(h)*

**§ 151.042 COSTS.**

Any and all costs incurred pursuant to this subchapter, for the removal, repair, demolition, or dismantling of a dangerous building or structure from private property may be certified to the County Treasurer for property assessment and collection as taxes and/or the city may obtain a personal judgment against the property owner.

(2013 Code, § 7-37) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018)

## § 156.K.001 PURPOSE AND APPLICABILITY.

(A) *Generally.* This article sets out equitable rules for the continuing use, occupation, and conversion of nonconformities. A nonconformity occurs when existing development within the city may become affected by the application of new regulations. This change may cause existing uses, structures, lots, signs, and site improvements to not strictly comply with this Zoning Ordinance, even though they complied with the regulations in effect at the time they were permitted and constructed.

(B) *Purpose.* The purpose of this article is to:

- (1) *No expansion.* Ensure that nonconforming uses do not expand;
- (2) *Protection.* Protect conforming uses from nuisances that may be associated with nonconformities;
- (3) *Encourage conformance.* Encourage property owners of nonconformities to alter a nonconforming use, structure, lot, sign, or site improvement into one that complies with the standards of this Zoning Ordinance;
- (4) *Elimination.* Eliminate substantially damaged or abandoned nonconformities whose degrees of incompatibility with adjacent lands uses are high; and
- (5) *Balance.* Balance the city's objective to eliminate nonconformities with a landowner's right to maintain and make use of a nonconformity.

(C) *Applicability.* The regulations of this article govern uses, structures, lots, signs, and site improvements that came into existence legally but that do not conform to one or more requirements of this Zoning Ordinance. These are referred to as nonconformities. Nonconformities are permitted to continue without immediate retrofit or removal until significant site or land use changes are proposed.

(D) *Major and minor nonconforming uses and structures.* Nonconforming uses and structures are classified as major or minor, as follows:

(1) *Major.* Major nonconforming uses or structures are those that the Zoning Administrator finds have the following characteristics to such an extent that they should, over time, be eliminated:

- (a) Generation of nuisances;
- (b) Incompatibility with adjacent properties;
- (c) Incompatibility with the Comprehensive Plan; or
- (d) Generation of substantiated criminal complaints.

(2) *Minor.* Minor nonconforming uses or structures are those not classified as major nonconformities.

(3) *Conversion.* Refer to § 156.K.007, Conversion of Nonconformities, for provisions related to changing a minor nonconformity to a conforming use or structure.

(Ord. 15039, passed 4-11-2022)

## § 156.K.003 NONCONFORMING STRUCTURES.

(A) *Generally.* A building or structure is classified as nonconforming if it was lawfully constructed before the effective date of this Zoning Ordinance (or amendment hereto) and does not conform to the height, yard, density, intensity, building scale, or design standards that are applicable to the same type of building or structure in the zoning district in which the building or structure is located. Such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) *Increase in nonconformity prohibited.* No such structure may be enlarged or altered in any way which increases its nonconformity.

(2) *Movement of structure.* Should any on-site structure, in whole or in part, be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.

(3) *Minimum floor area.* A residential dwelling unit having a lesser floor area at the time of the passage of this Zoning Ordinance than the minimum floor area required for the district in which it is located shall not be construed to be nonconforming.

(B) *Repairs and alterations.* Routine maintenance, including necessary non-structural repairs, paint, finish, and incidental alterations to a nonconforming structure is allowed without having to bring the nonconformity into compliance.

(C) *Damage and reconstruction.* If a major or minor nonconforming structure is damaged, partially destroyed, or deemed to be unsafe the structure may be restored to its original dimensions provided that:

- (1) The original nonconformity is not enlarged, increased, or extended;
- (2) A building permit is obtained for repairs within six months of the date the building was damaged;
- (3) For a major nonconforming structure, the construction is commenced within six months after obtaining the required

building permits;

(4) For a minor nonconforming structure, the construction is commenced within 12 months after obtaining the required building permits;

(5) For a major nonconforming structure, the damage or destruction does not exceed 50% of the gross floor area (GFA) of a nonconforming structure or 50% of the replacement cost of the structure; and

(6) For a minor nonconforming structure, the damage or destruction does not exceed 75% of the GFA of a nonconforming structure or 75% of the replacement cost of the structure.

(D) *Existing nonconforming structures in a regulated floodplain or floodway.* It is the intent of the city that no permanent buildings or structures be located or substantially improved in a regulated floodplain or floodway and that existing nonconforming structures shall be removed upon abandonment. As such, a property with an abandoned nonconforming structure in a regulated floodplain or floodway shall not be eligible for any development review approval until the property owner removes the abandoned nonconforming structure.

(E) *Nonconforming density.* Buildings on lots with nonconforming density may be expanded or extended as may be allowed by this Zoning Ordinance, but such expansions or extensions shall not create additional dwelling units.

(Ord. 15039, passed 4-11-2022)

# MARSHALLTOWN

I O W A

HOUSING & COMMUNITY DEVELOPMENT

Deb Millizer, Director  
 Clayton Ender, Assistant Director  
 24 North Center Street  
 Marshalltown, IA 50158-4911  
 Tel - (641) 754-5756  
 Fax - (641) 754-5717

**TO:** Building Board of Appeals  
**FROM:** Clayton Ender, Assistant Housing & Community Development Director  
**DATE:** July 9<sup>th</sup>, 2025  
**RE:** Dangerous Building Determination Appeal for 607 N 2<sup>nd</sup> Avenue

<b>City Staff Contact:</b>	Clayton Ender, AICP Assistant Director of Housing and Community Development Phone: 641-754-5756 Email: cender@marshalltown-ia.gov
<b>Property Owner &amp; Applicant:</b>	Larry D Kerr C/O Noel Kerr 883 75 <sup>th</sup> Ave Pleasantville IA 50225
<b>Building Board of Appeals Authority:</b>	The board shall not have the authority to waive requirements of the building code or interpret the administration of the code.  The board shall only modify or reverse the decision of the code official by a concurring vote of three or more members.
<b>Notice of Violation:</b>	In October 2024 the subject property was involved in a fire incident that destroyed a neighboring garage and heavily damaged the detached garage on the subject property. Attached to this staff report is a copy of the fire incident report from the Marshalltown Fire Department. Due to the damage from the fire staff has determined that the detached garage constitutes a dangerous building.  In addition to the dangerous building conditions which exist as a result of the fire, the structure is classified as a non-conforming structure per the zoning code due to non-compliance with current accessory structure setbacks. This structure would be classified as a minor non-conforming structure. This category establishes that if a minor non-conforming structure is damaged, partially destroyed, or deemed to be unsafe to an extent greater than 75% of the gross floor area or 75% or greater of the

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replacement value of the structure then the building is not eligible for repair.

Per the fire incident report the pre-fire valuation of the garage was \$30,000 and the fire resulted in structural damages of \$30,000 (100% loss). For the purposes of determining if a structure can be repaired we would use the valuation of a new garage of similar size to determine if the 75% threshold has been exceeded. For a new 720 SF detached garage, the adopted building valuation table which is utilized for determining valuations with building permits establishes a valuation of \$25,200.

Based upon the valuations as described in the previous paragraph, staff has determined that the fire resulted in a 119% loss in valuation which is greater than 75% of the replacement value loss as a result of the structure being damaged, partially destroyed, or being deemed to be unsafe. Based on this determination of dangerous building conditions and the extent of damage, staff has provided notice to the owner that the structure is required to be demolished in accordance with the zoning code requirements.

**Appeal Request:**

The applicant has stated the following as their basis for appeal,

“My dad passed away. I sold the house as-is and it will be closing on July 7, 2025. I did not get the city citation until after the house was sold.”

Staff has spoken with the pending buyer of the property regarding this notice. They were advised they can provide additional commentary or evidence for the board’s consideration. As of publication of the staff report no additional commentary or evidence has been submitted.

**Recommendation:**

Staff recommends that the Building Board of Appeals affirm the findings of city staff that the structure constitutes a dangerous building and due to extent of damage and the non-conforming structure status be ordered for demolition.

**Attachments:**

- Findings of Fact Report
- Aerial Vicinity Map
- Appeal Application
- Notice of Violation
- Fire Department Incident Report
- Section 151.035 to Section 151.042 Code of Ordinances
- Section 156.K.001 and Section 156.K.003 Code of Ordinances

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Aerial Vicinity Map



**Building Board of Appeals Finding of Fact Report**

<b>Meeting Date:</b> 6/9/2025	<b>Application Type:</b> Dangerous Building Appeal
<b>Property Address:</b> 607 N 2 <sup>nd</sup> Avenue	
<b>Property Owner:</b> Larry D Kerr C/O Noel Kerr 883 75 <sup>th</sup> Ave Pleasantville IA 50225	
<b>Applicant (if different than owner):</b> N/A	

Request Description

Noel Kerr has submitted an appeal regarding dangerous building designation and order to demolish as it pertains to a detached garage structure located at 607 N 2<sup>nd</sup> Avenue.

Based on the Findings of Fact the following action occurred:

- Motion by \_\_\_\_\_ to AFFIRM the determination of city staff regarding dangerous building classification and the order to demolish due to extent of damage exceeding 75% of the replacement value of the non-conforming structure.

Second by \_\_\_\_\_

Vote results:

Name:	YES	NO	Abstain	Comment
<i>MAHLSTEDE</i>				
<i>SIMMS</i>				
<i>HOGAN</i>				
<i>SCHULZE</i>				
<i>THURSTON</i>				

# MARSHALLTOWN

I O W A

HOUSING & COMMUNITY DEVELOPMENT

Deb Millizer, Director  
Clayton Ender, Assistant Director  
24 North Center Street  
Marshalltown, IA 50158-4911  
Tel - (641) 754-5756  
Fax - (641) 754-5717

Case #: D&D-005649-2025  
Service Date: June 6, 2025  
Appeal Deadline: June 16, 2025  
Compliance Date: July 6, 2025

**SENT VIA PRIORITY MAIL AND VIA CERTIFIED PRIORITY MAIL**

LARRY D KERR & NOEL KERR  
883 75<sup>TH</sup> AVE  
PLEASANTVILLE IA 50225

**RE: NOTICE OF PROPERTY CODE VIOLATION AND ORDER TO ABATE**

Questions regarding this notice should be directed to Clayton Ender at [cender@marshalltown-ia.gov](mailto:cender@marshalltown-ia.gov) or 641-754-5756 Ext 3108.

Tenemos servicios en Español en City Hall por favor no dude en contactarnos al 641-754-5756 si necesita mas ayuda.

မြို့တော်ခန်းမတွင် မြန်မာဘာသာစကား ဝန်ဆောင်မှုများ ရရှိနိုင်သည်။  
နောက်ထပ်အကူအညီလိုအပ်ပါက ရက်ချိန်းတစ်ခုစီစဉ်ရန် 641-754-5756 တွင် ကျွန်ုပ်တို့ထံ  
ဆက်သွယ်နိုင်ပါသည်။

This letter is to notify you that property you own at 607 N 2<sup>nd</sup> Avenue, Marshalltown, IA, 50158 (Herein after referred to as "SUBJECT PROPERTY"), as a result of fire damage sustained on October 10<sup>th</sup>, 2024, is in violation of various provisions of the Code of Ordinances of the City of Marshalltown, Iowa (Hereinafter referred to as "CITY CODE").

The following table identifies the sections of City Code in which the subject property is in violation. Pictures illustrating the non-compliance are attached to this letter.

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CITY CODE REFERENCE	CONDITION / REQUIRED ACTION:
<p><b>§ 156.K.003</b></p> <p>(A) Generally. A building or structure is classified as nonconforming if it was lawfully constructed before the effective date of this Zoning Ordinance (or amendment hereto) and does not conform to the height, yard, density, intensity, building scale, or design standards that are applicable to the same type of building or structure in the zoning district in which the building or structure is located. Such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:</p> <p>(1) Increase in nonconformity prohibited. No such structure may be enlarged or altered in any way which increases its nonconformity.</p> <p>(2) Movement of structure. Should any on-site structure, in whole or in part, be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.</p> <p>(3) Minimum floor area. A residential dwelling unit having a lesser floor area at the time of the passage of this Zoning Ordinance than the minimum floor area required for the district in which it is located shall not be construed to be nonconforming.</p> <p>(B) Repairs and alterations. Routine maintenance, including necessary non-structural repairs, paint, finish, and incidental alterations to a nonconforming structure is allowed without having to bring the nonconformity into compliance.</p> <p>(C) Damage and reconstruction. If a major or minor nonconforming structure is damaged, partially destroyed, or deemed to be unsafe the structure may be restored to its original dimensions provided that:</p> <p>(1) The original nonconformity is not enlarged, increased, or extended;</p>	<p><b>Condition:</b></p> <p>The detached garage in the rear yard of 607 N 2<sup>nd</sup> Avenue is classified as legal non-conforming structure due to non-conformance to current accessory structure setback standards for the RM, Medium Density Residential Zoning District. Current zoning standards require that detached accessory structures maintain a minimum 5-foot side yard setback and a 10-foot rear yard setback. The existing structure is not compliant with these setbacks.</p> <p>§156.K.003 specifically states that the structure may not be restored to its current configuration in instances in which the damage or destruction exceeds 75% of the gross floor area or 75% of the replacement cost of the structure.</p> <p>The Marshalltown Fire Department issued an incident report of for the fire which occurred at the subject property on October 10<sup>th</sup>, 2024. This report noted that the pre-incident property values was \$30,000 and that the property loss value was \$30,000. A copy of this incident report is attached to this notice for reference. Furthermore, the current building valuation table adopted by the city for valuations of new structures establishes a value for a 720 SF garage (the same size as the garage on this property) at \$25,200. Based on this information it is found that the damage or destruction exceeded the 75% threshold as established by city code.</p> <p><b>Required Action:</b></p> <p>As a result of the non-conforming status of the structure and the extent of damage to the structure you are hereby required to demolish the structure. A demolition permit is required.</p> <p>A demolition permit must be applied for within 30 days of service of this notice. Demolition</p>

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<p>(2) A building permit is obtained for repairs within six months of the date the building was damaged;</p> <p>(3) For a major nonconforming structure, the construction is commenced within six months after obtaining the required building permits;</p> <p>(4) For a minor nonconforming structure, the construction is commenced within 12 months after obtaining the required building permits;</p> <p>(5) For a major nonconforming structure, the damage or destruction does not exceed 50% of the gross floor area (GFA) of a nonconforming structure or 50% of the replacement cost of the structure; and</p> <p>(6) For a minor nonconforming structure, the damage or destruction does not exceed 75% of the GFA of a nonconforming structure or 75% of the replacement cost of the structure.</p> <p>(D) Existing nonconforming structures in a regulated floodplain or floodway. It is the intent of the city that no permanent buildings or structures be located or substantially improved in a regulated floodplain or floodway and that existing nonconforming structures shall be removed upon abandonment. As such, a property with an abandoned nonconforming structure in a regulated floodplain or floodway shall not be eligible for any development review approval until the property owner removes the abandoned nonconforming structure.</p> <p>(E) Nonconforming density. Buildings on lots with nonconforming density may be expanded or extended as may be allowed by this Zoning Ordinance, but such expansions or extensions shall not create additional dwelling units.</p>	<p>work must commence within 6 months of issuance of a demolition permit and demolition must be complete within one year of issuance of a demolition permit.</p> <p>A new structure may be constructed provided the new structure is in compliance with current zoning code standards. Should you desire to construct a new garage a building permit is required.</p>
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**YOU ARE HEREBY GIVEN THIRTY (30) DAYS FROM THE DATE OF THIS NOTICE TO ABATE THE VIOLATIONS SPECIFIED HEREIN IN THE MANNER SPECIFIED.**

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Failure to comply with this Notice and Order to Abate could result in the City of Marshalltown taking legal action including without limitation filing a municipal infraction citation against you in the Iowa District Court for Marshall County, including but not limited to seeking injunctive relief and/or civil penalties of not more than \$750 for the first offense and not more than \$1,000 for each repeat offense, with each day the violation occurs or is permitted to exist constituting a repeat offense.

You do have the right to appeal this Notice and Order to Abate. You must file a notice of appeal at 24 North Center Street which shall be submitted on an appeal application as available with the city. Please contact the staff member cited in this Notice and Order to Abate to receive an appeal application if you wish to file an appeal. The appeal shall be filed within 10 days from the date of service of this Notice and Order to Abate.

Sincerely,

Clayton Ender, AICP  
Assistant Director of Housing and Community Development & Zoning Administrator

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Mark Mitchell, Greg Nichols, Jeff Schneider, Gary Thompson



Condition of the Property as of June 5, 2025



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**CITY OF MARSHALLTOWN APPEAL REQUEST FORM**

This form may be completed when appealing various City Codes that provide for an appeal opportunity. Please complete all lines and add additional information if applicable. Submit to the designated City representative identified in the notice you received.

Name: Noel Kerr

Address: 883 75th Ave Pleasantville Iowa 50225

Phone Number: 641-218-9461

E-Mail Address (if available): Twiggy1144@gmail.com

Description requesting appeal: My dad passed away. I sold the house as is and it will be closing on July 7th 2025. I did not get the city citation until after the house was sold.

Signature: Noel Kerr

Date: 06/16/2025



## Incident Report

**Incident Number**  
FMAR2402570-001

**Incident type**  
Building fire

**PSAP Call Date/Time**  
10/10/2024 02:02:54

**Officer in Charge**  
GORDER, MATT, Lieutenant, Engine 171

**Incident Address**  
607 N 2ND AVE, MARSHALLTOWN, IA, 50158

**County**  
--

**Property Type**  
1- or 2-family dwelling, detached, manufactured home,  
mobile home not in transit, duplex.

**Property Status**  
In normal use

### Dispatch Information

**Alarm Date/Time**

10/10/2024 02:02:54

### Incident Location Information

<b>Structure Type</b>	Enclosed building	<b>Property Status</b>	In normal use
<b>Construction Type</b>	Type V - Wood Frame (Light Weight)	<b>Number of Residential Units</b>	0
<b>Pre-incident Property Value</b>	30,000	<b>Pre-incident Contents Value</b>	30,000
<b>Property Loss</b>	30,000	<b>Contents Loss</b>	30,000
<b>Floors Above Grade</b>	1	<b>Floors Below Grade</b>	0
<b>Length</b>	30	<b>Width</b>	24
<b>Area</b>	720	<b>Presence of Detectors</b>	None present
<b>Presence of AES</b>	None Present		

**Apparatus****Department Unit 1 of 5**

<b>Apparatus Name</b>	Rescue 177	<b>Dispatch Date/Time</b>	10/10/2024 02:02:54
<b>Type</b>	Ground fire suppression, other	<b>Acknowledge Date/Time</b>	10/10/2024
<b># of Crewmembers</b>	2	<b>En Route Date/Time</b>	10/10/2024 02:54:00
<b>Use</b>	EMS	<b>Arrive Date/Time</b>	10/10/2024 02:58:13
<b>ALS Support Capable</b>	No	<b>Clear Date/Time</b>	10/10/2024 04:10:00
<b>Location at Dispatch</b>	Assigned station	<b>Back in Service Date/Time</b>	10/10/2024 04:10:00
<b>Crewmembers</b>	CORNWELL, PATRICK   SCHMIDT, CODY		
		<b>Apparatus Arrived Patient Date/Time</b>	--
		<b>Apparatus Transfer of Care Date/Time</b>	--
		<b>Patient Left Scene Date/Time</b>	--
		<b>Patient Arrived at Destination Date/Time</b>	--

**Apparatus****Department Unit 2 of 5**

<b>Apparatus Name</b>	Car 1712	<b>Dispatch Date/Time</b>	10/10/2024 02:02:54
<b>Type</b>	Ground fire suppression, other	<b>Acknowledge Date/Time</b>	10/10/2024
<b># of Crewmembers</b>	1	<b>En Route Date/Time</b>	10/10/2024 02:40:04
<b>Use</b>	Other	<b>Arrive Date/Time</b>	10/10/2024 02:48:28
<b>ALS Support Capable</b>	No	<b>Clear Date/Time</b>	10/10/2024 04:30:00
<b>Location at Dispatch</b>	Assigned station	<b>Back in Service Date/Time</b>	10/10/2024
<b>Crewmembers</b>	WARNELL, JOSHUA		
		<b>Apparatus Arrived Patient Date/Time</b>	--
		<b>Apparatus Transfer of Care Date/Time</b>	--

**Apparatus****Department Unit 3 of 5**

<b>Apparatus Name</b>	Engine 171	<b>Dispatch Date/Time</b>	10/10/2024 02:03:37
<b>Type</b>	Engine	<b>Acknowledge Date/Time</b>	10/10/2024
<b># of Crewmembers</b>	3	<b>En Route Date/Time</b>	10/10/2024 02:07:02
<b>Use</b>	Suppression	<b>Arrive Date/Time</b>	10/10/2024 02:10:19
<b>ALS Support Capable</b>	No	<b>Clear Date/Time</b>	10/10/2024 04:10:00
<b>Location at Dispatch</b>	Assigned station	<b>Back in Service Date/Time</b>	10/10/2024 04:10:00
<b>Crewmembers</b>	GORDER, MATT   NEEDHAM, ALEX   SIMMS, JEFFERSON B		
		<b>Apparatus Arrived Patient Date/Time</b>	--
		<b>Apparatus Transfer of Care Date/Time</b>	--

**Apparatus****Department Unit 4 of 5**

<b>Apparatus Name</b>	Ladder 175	<b>Dispatch Date/Time</b>	10/10/2024 02:03:37
<b>Type</b>	Truck or aerial	<b>Acknowledge Date/Time</b>	10/10/2024
<b># of Crewmembers</b>	3	<b>En Route Date/Time</b>	10/10/2024 02:09:49
<b>Use</b>	Suppression	<b>Arrive Date/Time</b>	10/10/2024 02:15:57
<b>ALS Support Capable</b>	No	<b>Clear Date/Time</b>	10/10/2024 04:10:00
<b>Location at Dispatch</b>	Assigned station	<b>Back in Service Date/Time</b>	10/10/2024 04:10:00
<b>Crewmembers</b>	MOORE, JACOB   HOMEYER, TYLER   RAUE, CURTIS		
		<b>Apparatus Arrived Patient Date/Time</b>	--
		<b>Apparatus Transfer of Care Date/Time</b>	--

**Apparatus****Department Unit 5 of 5**

<b>Apparatus Name</b>	Utility 178	<b>Dispatch Date/Time</b>	10/10/2024 02:02:54
<b>Type</b>	Ground fire suppression, other	<b>Acknowledge Date/Time</b>	10/10/2024
<b># of Crewmembers</b>	1	<b>En Route Date/Time</b>	10/10/2024 02:54:00
<b>Use</b>	Other	<b>Arrive Date/Time</b>	10/10/2024 02:58:22
<b>ALS Support Capable</b>	No	<b>Clear Date/Time</b>	10/10/2024 04:10:00
<b>Location at Dispatch</b>	Assigned station	<b>Back in Service Date/Time</b>	10/10/2024 04:10:00
<b>Crewmembers</b>	HIGGINS, LUKE		
		<b>Apparatus Arrived Patient Date/Time</b>	--
		<b>Apparatus Transfer of Care Date/Time</b>	--

Larry Kerr

Person 1 of 1 - Demographic Information

<b>Incident Involvement</b>	Involved Person	<b>Primary Phone</b>	(641) 758-4535 (mobile)
<b>Gender</b>	Male	<b>Race</b>	White
<b>Home Address</b>	607 N 2nd Ave, Marshalltown, IA, 50158	<b>Use as primary contact address?</b>	No
<b>Primary contact home?</b>	No		

Fire Information

<b>Extent of Fire Involvement on Arrival</b>	Fully involved	<b># of Buildings involved</b>	1
<b>Area of Fire Origin</b>	Undetermined	<b>Floor of Origin</b>	1
<b># of Rooms Damaged</b>	1	<b>Amount of Flame Damage</b>	50-75%
<b>Factors contributing to ignition</b>	Exposure fire	<b>Heat Source</b>	Undetermined
<b>Fire Spread</b>	Beyond building of origin	<b>Item first Ignited</b>	Undetermined
<b>Type of Material</b>	Undetermined	<b>Equipment Involved in Ignition</b>	No
<b>Vehicle involved in Incident?</b>	Yes	<b>Type of Vehicle Involvement</b>	Not involved in ignition, but burned
<b>Acres burned</b>	Less than one		

Hazardous Materials Information

<b>HazMat Released</b>	None
------------------------	------

## Mobile Equipment On Scene

### Vehicle 1 of 1

<b>Owner</b>	Larry Kerr	<b>Involved in Incident?</b>	Yes
<b>Vehicle Type</b>	Automobile, passenger car, ambulance, race car	<b>Make</b>	Lexus
<b>Model</b>	330	<b>Year</b>	2006
<b>State</b>	Iowa		

## Actions Taken

### Department

Extinguishment by fire service personnel

Salvage & overhaul

## Narratives

### Department NFIRS Narrative

Dispatched for flames visible from North 3rd Ave driving by unknown what is on fire. E171/L175 responded emergent to the address with a fire crew of six fire fighters. While enroute dispatch radioed that MPD officers on scene advised this would be a detached garage in the alley the correct address was 609 North 2nd Ave and the fire was spreading into another garage nearby. Arrived on scene to find two detached garages fully involved in fire. E171 crew pulled a preconnected attack line and performed a defensive fire attack as the fire had burnt through the north wall and was moving into the rafters quickly. L175 crew laid supply line from the hydrant to E171 and then joined the fire attack by pulling another preconnected attack line off E171. Fire crew made an initial knock down of the fire and found the structure safe to make entrance, which they did searching for fire extension. There was a pile of rubble on the north side of the garage at 607 North 2nd Ave which we found through interviewing neighbors was a small garage that had collapsed and burned up upon our arrival. Three callback personal responded to the scene and assisted with overhaul which included removing all soffit and fascia from the structure finding no further extension. Fire Marshal Warnell was called to the scene to investigate due the suspicious nature of the fire. I spoke with the home owner who stated he had only been out twice today with his car and that no one else was in his garage. He also stated that his next door neighbor had some information about the property owner at 609 North 2nd Ave. I spoke with MPD officers on scene if they made contact with people in the area about the fire to which he responded a female at 610 North 3rd Ave had camera footage from her garage with two individuals on bicycles were in the vacant garage at 609 they left and shortly after the fire started. I relayed all relevant information onto to Fire Marshal Warnell as he arrived on scene. Fire crew broke down and picked up all equipment, call complete all units returned to service. Scene released to Fire Marshal and is under investigation.

**Last update on --/--/-- at --:--:-- by MATT GORDER**

**Report Completion****Officer In Charge****GORDER, MATT**

Rank	Lieutenant
Assignment	Engine 171

**Member Completing Report****GORDER, MATT**

Rank	Lieutenant
Assignment	Engine 171
Date	2024-10-10

## **DANGEROUS BUILDINGS**

### **§ 151.035 PURPOSE AND SCOPE.**

It is the purpose of the provisions of this subchapter to provide a just, equitable, and practicable method whereby buildings and structures may be required to be repaired, removed, vacated, or demolished when the buildings or structures, from any cause, endanger the life, limb, health, morals, property, safety, or welfare of the general public or the occupants of the buildings. The provisions of this subchapter shall apply to all dangerous buildings, as defined in this subchapter, which are in existence or which may be constructed in this city. All buildings or structures, which are required to be repaired under the provisions of this subchapter, shall be subject to the provisions of the Building Code.

(2013 Code, § 7-30) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018)

### **§ 151.036 DEFINITION.**

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**DANGEROUS BUILDING.** Any building or structure which has any or all of the following conditions or defects; provided that, such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered whenever:

- (1) Any portion or member or appurtenance thereof is likely to fail or to become detached or dislodged or to collapse and thereby injure persons or damage property;
- (2) Any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;
- (3) The building or structure or any portion thereof, because of dilapidation, deterioration or decay; faulty construction; the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building or portion thereof; the deterioration, decay or inadequacy of its foundations beyond repair; or any other cause, is likely to partially or completely collapse;
- (4) For any reason, the building or structure or any portion thereof is manifestly unsafe for the purpose for which it is being used;
- (5) The exterior walls or other vertical structural members list, lean or buckle more than two degrees or to an extent that upon inspection it is determined that the exterior walls or other vertical structural members are beyond repair or create an unsafe condition;
- (6) The building or structure or any portion thereof has been so damaged by fire, wind, earthquake, flood or any other cause, or has become so dilapidated or deteriorated as to become an attractive nuisance; to become a harbor for vagrants, criminals or immoral persons; to enable persons to resort thereto for the purpose of committing unlawful or immoral acts; or to create a haven for rodents, snakes and/or other vermin;
- (7) A building or structure or portion thereof, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities or otherwise is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that it is likely to cause sickness or disease;
- (8) Any building or structure or portion thereof, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire resistive construction, faulty electric wiring, gas connections, heating apparatus or any other cause, is determined by the Fire Marshal to be a fire hazard;
- (9) Any portion of a building or structure remains on a site after the demolition or destruction of the building or structure, or any building or structure is abandoned so as to constitute such building or portion thereof an attractive nuisance or hazard to the public;
- (10) Any door, aisle, passageway, corridor, stairway, or other means of egress in is so warped, worn, loose, torn, or otherwise unsafe so it would not provide safe and adequate means of egress in case of fire or panic;
- (11) Any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to an extent that the structural strength or stability thereof is materially less than it was before the catastrophe;
- (12) Any building, structure, or portion thereof is in violation of this chapter so as to constitute such building, structure or portion thereof an unsafe condition; and
- (13) Any building or structure is in a condition as to constitute a public nuisance or hazard.

(2013 Code, § 7-31) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018)

### **§ 151.037 PROCEDURES AND RULES.**

- (A) The Building Official or his or her designee is authorized to enforce the provisions of this subchapter.
- (B) The Building Official or his or her designee are authorized to make such inspections and take such actions as may be

required to enforce the provisions of this subchapter.

(C) (1) Whenever necessary to make an inspection to enforce any of the provisions of this subchapter or whenever the Building Official or his or her designee has reasonable cause to believe that there exists in any building or upon unsafe, dangerous, or hazardous conditions, the Building Official or his or her designee, upon presentation of proper credentials to the property owner and/or occupant, may enter such building or premises at all reasonable times to inspect the building or premises or perform any duty imposed upon the Building Official or his or her designee by this code of ordinances. The Building Official or his or her designee may apply for an administrative search warrant to the Iowa District Court for Marshall County, pursuant to I.A.C. § 808.14. No owner or occupant or any other person having charge, care, or control of any building or premises shall fail or neglect, after presentation of a search warrant, to promptly permit entry therein by the Building Official or his or her designee for the purpose of inspection and examination pursuant to this subchapter. Any person violating this section shall be guilty of a municipal infraction.

(2) All buildings, structures, or portions thereof which are determined after inspection by the Building Official or his or her designee to be dangerous as defined in this subchapter are declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal.

(D) The Building Official shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this subchapter, the Building Official shall give to the owner of such building or structure written notice stating the defects thereof and ordering the abatement of such defects ("Notice of Dangerous Building and Order to Abate"). This notice may require the owner or person in charge of the building or premises, within a reasonable time as the circumstances require, as determined by the Building Official in his or her discretion, to commence the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within the time provided in the notice. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and/or improvements are completed, inspected, and approved by the Building Official. Said notice shall also advise the property owner of the right to request a hearing before the Board of Appeals by filing a written request for hearing within ten days of the service of the notice and that failure to appeal will constitute a waiver of all rights to an administrative hearing and determination of the matter.

(E) In an emergency, the city may abate a dangerous building without prior notice and assess the costs as provided in § 151.042 of this subchapter after notice to the property owner and hearing.

(2013 Code, § 7-32) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018) Penalty, see § 151.999

**Statutory reference:**

*Similar provisions, see I.A.C. §§ 364.12(3)(c) and 384.12(3)(h)*

**§ 151.038 SERVICE OF NOTICE AND ORDERS OF BUILDING OFFICIAL.**

The notice in § 151.037 of this subchapter shall be served by certified mail or personal delivery to the property owner as shown by the records of the County Auditor. Nothing in this section shall be construed to prohibit the use of any other manner of service allowable under the Iowa Rules of Civil Procedure.

(2013 Code, § 7-33) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018) Penalty, see § 151.999

**Statutory reference:**

*Similar provisions, see I.A.C. § 364.12(3)(h)*

**§ 151.039 APPEAL.**

Any person entitled to service under § 151.037 of this subchapter may appeal from any notice and order or any action of the Building Official or his or her designee under this subchapter by filing a notice of appeal at the office of the Building Official on the form supplied for the filing purposes. The appeal shall be filed within ten days from the date of service of the order or action of the Building Official or his or her designee. Upon receipt of any appeal filed pursuant to this section, the Building Official or his or her designee shall present it to the Board of Appeals.

(A) As soon as practicable after receiving the written appeal, the Board of Appeals shall fix a date, time and place of hearing. Said hearing shall be not less than five days nor more than 20 days from the date the written notice of appeal is filed.

(B) Failure of any person to file an appeal in accordance with the provisions of this subchapter shall constitute a waiver of rights to an administrative hearing and adjudication of the notice and order or any portion thereof.

(C) Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

(D) After hearing all testimony, the Board of Appeals shall have 15 days to issue a decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. The decision shall be served on the appellant by certified mail, return receipt requested.

(2013 Code, § 7-34) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018)

**§ 151.040 POSTING OF SIGNS.**

(A) The Building Official shall cause to be posted at each entrance to a dangerous building a notice reading:

**DANGEROUS BUILDING DO NOT OCCUPY**  
It is a misdemeanor infraction to occupy this building, or to remove or deface this notice.  
Building Official  
City of Marshalltown

(B) Such notice shall remain posted until the required repairs, demolition or removal are completed. Such notice shall not be removed or defaced until the repairs, demolition or removal ordered by the Building Official have been completed, and no person shall enter the building except for the purpose of making the required repairs or of demolishing the dangerous building.

(C) Failure to comply with this section shall be a municipal infraction, with each day the violation continues a separate offense.

(2013 Code, § 7-35) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018) Penalty, see § 151.999

**§ 151.041 RIGHT TO ABATE.**

If the property owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the city may perform the required action.

(2013 Code, § 7-36) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018)

**Statutory reference:**

*Similar provisions, see I.A.C. § 364.12(3)(h)*

**§ 151.042 COSTS.**

Any and all costs incurred pursuant to this subchapter, for the removal, repair, demolition, or dismantling of a dangerous building or structure from private property may be certified to the County Treasurer for property assessment and collection as taxes and/or the city may obtain a personal judgment against the property owner.

(2013 Code, § 7-37) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018)

## § 156.K.001 PURPOSE AND APPLICABILITY.

(A) *Generally.* This article sets out equitable rules for the continuing use, occupation, and conversion of nonconformities. A nonconformity occurs when existing development within the city may become affected by the application of new regulations. This change may cause existing uses, structures, lots, signs, and site improvements to not strictly comply with this Zoning Ordinance, even though they complied with the regulations in effect at the time they were permitted and constructed.

(B) *Purpose.* The purpose of this article is to:

- (1) *No expansion.* Ensure that nonconforming uses do not expand;
- (2) *Protection.* Protect conforming uses from nuisances that may be associated with nonconformities;
- (3) *Encourage conformance.* Encourage property owners of nonconformities to alter a nonconforming use, structure, lot, sign, or site improvement into one that complies with the standards of this Zoning Ordinance;
- (4) *Elimination.* Eliminate substantially damaged or abandoned nonconformities whose degrees of incompatibility with adjacent lands uses are high; and
- (5) *Balance.* Balance the city's objective to eliminate nonconformities with a landowner's right to maintain and make use of a nonconformity.

(C) *Applicability.* The regulations of this article govern uses, structures, lots, signs, and site improvements that came into existence legally but that do not conform to one or more requirements of this Zoning Ordinance. These are referred to as nonconformities. Nonconformities are permitted to continue without immediate retrofit or removal until significant site or land use changes are proposed.

(D) *Major and minor nonconforming uses and structures.* Nonconforming uses and structures are classified as major or minor, as follows:

(1) *Major.* Major nonconforming uses or structures are those that the Zoning Administrator finds have the following characteristics to such an extent that they should, over time, be eliminated:

- (a) Generation of nuisances;
- (b) Incompatibility with adjacent properties;
- (c) Incompatibility with the Comprehensive Plan; or
- (d) Generation of substantiated criminal complaints.

(2) *Minor.* Minor nonconforming uses or structures are those not classified as major nonconformities.

(3) *Conversion.* Refer to § 156.K.007, Conversion of Nonconformities, for provisions related to changing a minor nonconformity to a conforming use or structure.

(Ord. 15039, passed 4-11-2022)

## § 156.K.003 NONCONFORMING STRUCTURES.

(A) *Generally.* A building or structure is classified as nonconforming if it was lawfully constructed before the effective date of this Zoning Ordinance (or amendment hereto) and does not conform to the height, yard, density, intensity, building scale, or design standards that are applicable to the same type of building or structure in the zoning district in which the building or structure is located. Such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) *Increase in nonconformity prohibited.* No such structure may be enlarged or altered in any way which increases its nonconformity.

(2) *Movement of structure.* Should any on-site structure, in whole or in part, be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.

(3) *Minimum floor area.* A residential dwelling unit having a lesser floor area at the time of the passage of this Zoning Ordinance than the minimum floor area required for the district in which it is located shall not be construed to be nonconforming.

(B) *Repairs and alterations.* Routine maintenance, including necessary non-structural repairs, paint, finish, and incidental alterations to a nonconforming structure is allowed without having to bring the nonconformity into compliance.

(C) *Damage and reconstruction.* If a major or minor nonconforming structure is damaged, partially destroyed, or deemed to be unsafe the structure may be restored to its original dimensions provided that:

- (1) The original nonconformity is not enlarged, increased, or extended;
- (2) A building permit is obtained for repairs within six months of the date the building was damaged;
- (3) For a major nonconforming structure, the construction is commenced within six months after obtaining the required

building permits;

(4) For a minor nonconforming structure, the construction is commenced within 12 months after obtaining the required building permits;

(5) For a major nonconforming structure, the damage or destruction does not exceed 50% of the gross floor area (GFA) of a nonconforming structure or 50% of the replacement cost of the structure; and

(6) For a minor nonconforming structure, the damage or destruction does not exceed 75% of the GFA of a nonconforming structure or 75% of the replacement cost of the structure.

(D) *Existing nonconforming structures in a regulated floodplain or floodway.* It is the intent of the city that no permanent buildings or structures be located or substantially improved in a regulated floodplain or floodway and that existing nonconforming structures shall be removed upon abandonment. As such, a property with an abandoned nonconforming structure in a regulated floodplain or floodway shall not be eligible for any development review approval until the property owner removes the abandoned nonconforming structure.

(E) *Nonconforming density.* Buildings on lots with nonconforming density may be expanded or extended as may be allowed by this Zoning Ordinance, but such expansions or extensions shall not create additional dwelling units.

(Ord. 15039, passed 4-11-2022)