

1. 5:00 P.M. Planning And Zoning Meeting

Documents:

[9.27.17 AGENDA.PDF](#)  
[170 FINAL REDLINE.PDF](#)  
[CHAPTER 166 REDLINE FINAL.PDF](#)  
[CHAPTER 169 FINAL REDLINE.PDF](#)



# AGENDA

## Planning and Zoning Commission

**LOCATION**  
**City Council Chambers**  
**1133 66 th St.**  
**Windsor Heights**  
**Wednesday, September 27, 2017**  
**5:00 PM**

### **Brief training with legal team.**

- 1) **Call to Order**
- 2) **Approval of the Agenda**
- 3) **Approval of the Minutes:**
  - a) July 26, 2017
- 4) **Discussion and Appropriate Follow Up on Zoning Amendments to Chapter 167 Zoning Use Type and Chapter 168 Zoning District Regulations Regarding AirBnB.**
- 5) **Discuss changes in Chapter 166, 169, and 170.**
- 6) **Adjourn**

### **Planning and Zoning Commission**

**Chair**  
Jim Egger

**Vice-Chair**  
Carole Tillotson

Diane Foss  
Georgie Libbie  
Stu Turner  
Joseph Jones  
Tim Korpela

**Council Liaison**  
Tony Timm

*\*it is possible that members, including a quorum of members, of the City Council and other committees may be present. No business will be discussed outside of this agenda.*

## CHAPTER 170

### ZONING CODE – DEVELOPMENT AND DESIGN STANDARDS

#### Part 1 Part 2

170.01 Development and Design Standards 170.11 Intent

170.02 Purpose and Scope 170.12 Definitions

170.03 Jurisdiction 170.13 Commercial Site Design Requirements - General Provisions

170.04 Validity of Approval 170.14 Commercial Architectural Requirements - Buildings

170.05 Amendment 170.15 Commercial Parking Standards

170.06 Existing Development 170.16 Commercial Parking Lot Design and Landscaping Standards

170.07 Non-Conforming Uses 170.17 Commercial Connectivity and Pedestrian Elements

170.08 Severability 170.18 Big Box/Large Retail Strip Establishments

170.09 ~~Development Site~~ Review Process 170.19 Open Space; Landscaping – General Provisions

170.10 Site Plan Requirements 170.20 Landscaping Materials

170.21 Residential Standards – General

170.22 Residential Standards – Buildings

#### PART 1

170.01 DEVELOPMENT AND DESIGN STANDARDS. This section provides for the administration and enforcement of site plans and for establishing standards for site and building design and shall be known, referred to, and cited as the “Design and Development Standards Ordinance” of the City of Windsor Heights, Iowa.

170.02 PURPOSE AND SCOPE. The purpose of this Ordinance is to provide guidance and standards for development within the City in order to guide development in a manner which is conducive to protecting the health, safety, and general welfare of residents and property owners within the City. All development and redevelopment of land or property within the City shall minimize adverse effects upon adjacent properties by maintaining or improving upon the aesthetic quality of a surrounding area, and by providing adequate pedestrian and traffic safety, emergency access, water supply, sewage disposal, management of stormwater, erosion and sediment control. ~~Site plan~~ Site Plan review and approval by City Council shall be required of all

principle structures other than individual single family and two family residential dwellings in any zoning district.

170.03 JURISDICTION. No permit shall be issued for any lot or development requiring the approval of a ~~site plan~~ Site Plan after the effective date, unless in compliance with the provisions of the regulations herein. No development, except where specified herein, may be created, substantially improved, converted, enlarged or otherwise altered without conforming to the provisions of this section, all applicable provisions of the Code of Iowa, as amended, and all applicable provisions of the Windsor Heights City Code, as amended.

170.04 VALIDITY OF APPROVAL. A ~~site plan~~ Site Plan shall become effective upon certification of approval by the City Council. The City Council approval of any ~~site plan~~ Site Plan required by this article shall remain valid for one (1) year. A one (1) year extension may be granted with approval of City Council. If development has not been established or construction commenced within one (1) year or two (2) years in case of a received extension, then the ~~site plan~~ Site Plan shall be deemed null and void. For the purpose of this article "actual construction" shall mean that the permanent placement of construction materials and utility work has started and is proceeding without undue delay with an approved building permit. Preparation of plans, securing financial arrangements, issuance of building permits, letting of contracts, grading of property, or stockpiling of materials on the site shall not constitute actual construction. At the time of ~~site plan~~ Site Plan approval, the City Council may grant an exemption on the time construction shall begin after their approval is given for a utility service structure.

170.05 AMENDMENT. Any ~~site plan~~ Site Plan may be amended in accordance with the standards and procedures established herein, including payment of fees, provided that the Administrative Official may waive such procedures for those minor changes hereinafter listed. Such minor changes shall not be made unless the prior written approval for such changes is obtained from the Administrative Official. No fees shall be required for such minor changes. Minor changes include: Moving building walls within the confines of the smallest rectangle that would have enclosed each original approved building(s), relocation of building entrances or exits, shortening of building canopies, changing to a more restrictive commercial or industrial use, provided the number of off-street parking spaces meets the requirement of the Windsor Heights Zoning Ordinance. This does not apply to residential uses. Changing angle of parking or aisle provided there is no reduction in the amount of off-street parking as originally approved. Substituting plant species provided a landscape architect, engineer or architect certifies the substituted species is similar in nature and screening effect.

170.06 EXISTING DEVELOPMENT. Any improvement or maintenance to any structure or site feature shall not cause the site or building to become non-compliant with the regulations set forth in this Ordinance. If the site or building is already non-compliant, the change to the building or site proposed by the owner shall not cause them to become more non-compliant. In such instances, improvements shall be completed in a manner which makes the building, site, or

related items more substantially compliant with the current provisions of this Ordinance than was previous to the improvements. Any improvement proposed to modify the size of a building, lot, parking area, etc. shall be submitted for review by the City. If the proposed improvement(s) modify the size of a building or lot by less than 30%, it shall be submitted for review by City staff and approved or disapproved by an Administrative Official. The Administrative Official shall have the authority to require such a project be reviewed by the Planning and Zoning Commission and City Council if they feel such review is warranted. If the proposed change is in excess of 30% in size, it shall be submitted for full review and approval or disapproval by the Planning and Zoning Commission and City Council.

170.07 NON-CONFORMING USES. Any site or building use permitted under a previous zoning district's regulation shall conform to the regulations of this Ordinance under the current site and building design provisions determined to be most applicable to the non-conforming use by the Administrative Official.

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

170.09 ~~DEVELOPMENT SITE~~ REVIEW PROCESS. The Administrative Official is responsible for the established ~~site plan-Site Plan~~ and ~~development-Site R~~review ~~P~~process. The Administrative Official will serve as the Administrator of the Ordinance and the liaison between the applicant and reviewing bodies to ensure compliance with the Ordinance are met.

1. ~~Reviewing bodies- Notice and Hearings~~

~~A. — Development Committee. The purpose of the Development Committee is to act in an advisory capacity to the City Council on matters of development and redevelopment. The Committee reviews and makes recommendations on information received regarding the economic vitality of the city. The committee recommends policies to help support the Council's long-range vision and the comprehensive planning goals. The City uses this review to help support their technical review and formulate a response to the applicant.~~

~~Before submitting its recommendation on a Site Plan to the City Council, the Planning and Zoning Commission shall hold at least one public hearing thereon, notice of which will be given to all property owners within 200 feet whenever possible. Notice shall be published of said hearing in a newspaper of general circulation, as required by, and in conformance with, Iowa law. The notice shall state the place and time at which proposed amendment to the Ordinance will be held as well as the legal description or address of said property.~~

~~Applicant shall submit a Site Review application and all associated fees with preliminary plans to the Planning Department. Additional the applicant will provide:~~

~~\_\_\_\_\_ Full name, address and contact information for applicant in a reproducible electronic format~~

Full legal description for the property in a reproducible electronic format

Name and address of all property owners within 200' of proposed development a reproducible electronic format

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B. Planning and Zoning Commission. The Planning and Zoning Commission is a seven (7) member body of citizens appointed by the City Council, whose main task is to conduct thorough reviews of development proposals to ensure that the development proposals are consistent with the community's established land use patterns and development standards. The Commission ~~bases its~~ reviews site plans on the goals and policies ~~of the City~~, as outlined in the Comprehensive Plan, ~~and the~~ Zoning Ordinance and Chapter 170 Part 1 and 2. Upon completion of its review, the Commission makes a recommendation for approval, conditional approval, or denial of the development proposal to the City Council, who has final decision-making authority. The Commission may also defer a ~~site plan~~ Site Plan for more information before a recommendation is made.

2. A Site Plan Review shall be required for the following:

A. New construction;

B. Major reconstruction (more than 30% of the exterior structure is affected);

C. Major renovation (more than 30% of the ~~exterior~~ interior structure is affected);

~~D. Change of use in accord with the Zoning Ordinance and either #1 or #2 above; Mixed Use Development (MU)~~

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~~E. Conditional uses as detailed in this Zoning Code; Planned Unit Development (PUD)~~

F. Increases to parking by 10% or greater;

G. Any Development the Zoning Administrator deems is substantial enough to require oversight by the Planning Commission with Site Plan Review.

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3. The applicant is required to attend a scheduled predevelopment meeting with City staff to review a conceptual ~~site plan~~ Site Plan prior to submittal of a full ~~Site Plan~~. Following the predevelopment meeting, the applicant shall submit a complete ~~Site Plan~~ Site Plan in accordance with the requirements of the ~~site plan~~ Site Plan checklist and any other information determined to be necessary for the review at the Planning and Zoning Commission meeting.

4. As part of the review process, an applicant shall provide colored architectural elevation drawings for each elevation of the building or buildings proposed for new construction, addition, alteration, or the like.

A. The elevation drawings should be provided in 11” by 17” format unless otherwise approved by the Administrative Official.

B. Each elevation drawing should include massing dimensions and callouts of the proposed materials indicated on the elevation.

C. In the event that accessory structures are proposed as a part of the site plan review process, the Administrative Official shall have the ability to request elevation drawings or colored details of said accessory structures to ensure compliance with the provisions of this ordinance.

5. The applicant shall provide City staff with information determined to be applicable to the project by the Administrative Official. The proposal shall then be brought before the Planning and Zoning Commission in order to receive a recommendation before being presented to the City Council. Action of the Planning and Zoning Commission and City Council shall be approval, approval subject to conditions, denial, or table for further review. Action of the Council shall be approval, denial, or table for further review. A site plan may be presented for consideration by the City Council in the event of a recommendation of denial by the Planning and Zoning Commission. In the event of denial of a ~~site plan~~ Site Plan by the City Council, the applicant would be required to resubmit and begin the review process anew to have another proposal considered by the Planning and Zoning Commission and City Council. Resubmittal will not be accepted until one (1) year after a denial from the Planning and Zoning Commission or City Resubmittal Council. Resubmittal of a ~~site plan~~ Site Plan shall be subject to all applicable costs associated with review of the documentation unless exception is made by City staff. Site Plan Development review shall exist as a measurement determined by the City to meet the objectives outlined by the Windsor Heights Comprehensive Plan.

**170.10 SITE PLAN REVIEW REQUIREMENTS.** ~~The following information shall be clearly provided on the site plan.~~ Site Plans shall be submitted in electronic format and 24” by 36” format with ~~ten~~ three (103) copies of the plans submitted, unless otherwise approved by the Administrative Official. A ~~site plan~~ Site Plan will not be submitted to the Planning and Zoning Commission for action until they are deemed complete. The Administrative Official has the authority to deem the submittal complete. Approvals signed off by the Fire Inspector, ~~Department of Public Safety, City Public Works,~~ Engineer, and other Administrative Officials will be obtained before Planning and Zoning Commission review. It is permissible and encouraged to introduce large and potentially controversial projects ~~without a site plan to the City staff Development Committee before a Planning and Zoning Commission meeting as far in advance as possible.~~

The following information shall be clearly provided on the site plan:-

1. Narrative Information to be provided:

- A. Name and address of property owner; including telephone and email.
- B. Name and address of applicant; provide if different than property owner.
- C. Name and address of plan preparer; including telephone and email.
- D. Certification of Architect and Civil Engineer licensed in the State of Iowa. Include Seal, Date, and Signature on all applicable drawings prior to City Council approval of the Site Plan. Other certification may be requested when appropriate by the Administrative Official.
- E. Certification of a Registered Land Surveyor licensed in the State of Iowa. Include Seal, Date, and Signature on applicable drawings prior to City Council Approval.
- F. Current Zoning of Property. List the property's existing zoning consistent with the City of Windsor Heights' Official Zoning Map. Also include any overlay districts the property may be within and the land use identified in the current City of Windsor Heights Comprehensive Plan where the property is located.
- G. Legal Description of Site. Include the plat name and lot number for all new Site Plans. Building permits shall only be permitted on a platted lot of record.
- H. Total Area of Site. The total area of the site should be indicated in acres and square feet.



I. Open Space.

- (1) Indicate the total area of the proposed site in square feet, the area of open space within the site, and its percentage of the total site. The calculation should include all open space pervious areas and permitted pedestrian plazas.
- (2) The total area of the site reserved for parking facilities, the open space within the defined parking area, and its percentages of the total parking area should be calculated and indicated in square feet.

J. Pervious and Impervious Surface. Indicate the total area of the proposed site in square feet, the area of pervious surface and the area of impervious surface including all structures.

K. Proposed Use of Site. Indicate all proposed uses for the site and building(s) as known at the time of application.

L. Parking Stalls. The total amount of parking stalls required based upon the proposed building use(s) of the site should be indicated. If more than one building use is proposed for the site, each individual parking stall requirement should be indicated separate of the total.

M. Loading Areas. If applicable to the proposed building uses of the site, the number of required and provided loading stalls should be indicated.

N. Setback Requirements. All setback requirements of the applicable zoning district within which the proposed site is located should be provided.

O. 100-year Flood Elevation. The 100-year flood elevation should be indicated based upon the most recent FEMA Flood Insurance Study.

2. Plan Information.

A. General and Survey Information.

- (1) North Arrow. Include on Site Plan and all other applicable sketches, drawings, and details.
- (2) Scale of Drawing. A minimum scale of 1"= 80' shall be required.
- (3) Vicinity Sketch. A minimum scale of 1"= 800' shall be used to indicate the properties within 300 feet of the proposed site location. The boundary of the proposed site location should be clearly defined in relation to other properties shown within the vicinity sketch.
- (4) Site Boundary. All property lines shall be delineated with a heavy line.
- (5) Bearing and Distances or Curve Data along boundary. Information shall be indicated as platted. Any measured information different than platted should be identified.

(6) Names and address of all Adjoining Property Owners. All property lines adjacent to the proposed site, or across street right-of-way, shall be indicated with the owner and/or subdivision name(s) in addition to any adjoining lot numbers as appropriate.

(7) Existing Features. All existing physical features shall be indicated on the ~~site plan~~ Site Plan including but not limited to plant materials, drainage ways, structures, fences, and any encroachments. Projects involving numerous existing features may be requested to submit a demolition, removal, or relocation plan as determined to be most beneficial.

(8) Soil Tests and Similar Information. Soil tests and similar information may be required to determine the feasibility of the proposed development in relation to the design standards set forth herein.

(9) Topography. The existing and proposed topography shall be indicated with a maximum of two (2) foot intervals. Spot elevations may also be required at the request of the Administrative Official.

(10) Limits of Phased Construction. If the site is to be developed in more than one phase, the limits of each proposed construction/ development phase shall be indicated including all facets of the phasing proposed.

(11) Additional Information. Drawings or other materials necessary to describe a proposed project may be requested by the Planning and Zoning Commission or Administrative Official. The applicant may include additional information or materials such as sketches, videos, models, or photos, if they help explain the proposal.

#### B. Building Footprint.

(1) Footprint. An accurate representation of the proposed building(s) footprint including exterior structures incorporated into the building mass and proposed internal demising walls known at the time of application.

(2) Size. Include the total square footage of each proposed floor, the number of floors, and the amount of finished area on each floor including any proposed basement area. For all multi-family and townhome proposals the total number of units proposed for each building footprint should be indicated.

(3) Entryways. The location of all proposed entries, service doors and overhead doors.

(4) Mechanical Units. Indicate the proposed location and type of all proposed ground mechanical units including air conditioning units, telephone pedestals, transformers, coolers, or other similar units.

(5) Trash Enclosures. Indicate the proposed location of all trash enclosures for the site and provide a detail of the structure for review.

C. Pedestrian Circulation.

(1) Paths. All proposed sidewalks, trails, and pathways should be indicated as appropriate on the ~~site plan~~ Site Plan including the width, thickness, and type of pavement. All sidewalks, trails, and pathways shall be constructed to Windsor Heights Standard Specifications as applicable to the project. Wherever possible, bike racks should be provided.

(2) Connectivity. Pedestrian corridors should be indicated from any public street to all proposed principle buildings.

(3) Stoops. All proposed emergency exits where a sidewalk is not indicated shall provide a stoop of an approved dimension determined to be adequate in providing a safe exit from the building.

D. Streets and Access.

(1) Access. All existing and proposed access drives to the site from a public street shall be indicated on the ~~site plan~~ Site Plan and shall include appropriate spacing as determined by the City's Engineer.

(2) Public Improvements. All public improvements required of the developer shall be indicated on the site plan. The amount of improvements required shall be determined by the Windsor Heights Comprehensive Plan, streetscape plan, a traffic impact analysis, or any other approved documentation identifying the amount and type of improvements necessary to accommodate increased activity to the site or to facilitate future development as it relates to the development of said site.

(3) Private Streets. The use of private streets shall be allowed if the proposed private streets meet the following criteria:

a. Proposed private streets are built to Windsor Heights Standard Specifications for public streets.

b. They are maintained by the property owners requiring the private street(s) through a Homeowners Association or through an approved development agreement between the developer(s) and the City.

c. The width and thickness of the private street(s) is appropriate as determined by the City Engineer or a traffic impact study in accordance with the city specifications.

d. Sidewalks should be installed on both sides of the private street(s) unless additional landscaping or open space is incorporated into the site in an amount approved by the City Council in relief of one sidewalk per street.

e. A public ingress/egress easement is provided over the private street(s) location.

(4) Shared Access.

a. Any project where the development of townhomes provides access to garages from a public street shall provide a shared access drive between two or more units in order to minimize the amount of obstruction to the flow of traffic along said public street.

b. Any development of commercial property where shared access is anticipated shall provide an easement and conceptual building footprint(s) for all proposed lots which are proposed to share the access drive(s).

E. Parking and Loading Areas.

(1) All proposed parking and loading areas incorporated in the ~~site plan~~ Site Plan shall meet the requirements in the Zoning Ordinance and all other applicable State and Federal regulations.

(2) A complete traffic circulation and parking plan, showing the location and dimensions of all existing and proposed parking stalls, loading areas, entrance and exit drives, sidewalks, dividers, planters, and other similar permanent improvements in addition to indicating traffic movements within access drives in order to better identify any potential traffic impediments based upon the proposed parking configuration and access drives.

(3) Individual parking stalls should be indicated as appropriate and differentiated from parking aisles. Stalls intended to accommodate handicapped accessibility should be indicated appropriately.

(4) Proposed loading areas should indicate traffic movements where applicable to determine maneuverability within the site.

(5) Individual loading docks should be indicated on the site plan.

F. Lighting.

(1) A lighting plan should be provided with all site plans indicating the location, type, height, power rating, and any shielding methods required of all existing and/or proposed lighting fixtures. Lighting shall follow all applicable City ordinances including Dark-Sky standards.

(2) A manufacturer's cut-sheet shall be provided for each type of lighting fixture incorporated into the site layout including its material(s) and color. Information required from the cut-sheet shall include the description of lamps, supports, reflectors, and any other components of a particular lighting fixture. The ~~site plan~~ Site Plan shall indicate all proposed lighting as depicted by the manufacturer.

(3) A photometric plan shall also be required identifying the horizontal illumination of the site and the vertical light trespass along the perimeter of the site. The photometric plan shall show a point by point foot-candle reading for the entire site at a minimum spacing of 10 feet

between each point, including 2 feet past the property line. The vertical photometric plan shall only be required along the property line with a maximum spacing of 10 feet.

#### G. Lighting Standards.

(1) Definitions. Unless the context clearly indicates otherwise, the words and phrases used in this Ordinance shall have the following meaning:

- a. Exterior lighting. Temporary or permanent lighting that is installed, located or used in such a manner to cause light rays to shine outdoors.
- b. Exterior lighting fixture. The complete exterior lighting unit, including: the artificial source of light, the parts required to distribute the light, elements for light output control such as the reflector (mirror), or refractor (lens), the housing that protects and holds the lamp in place, the connection to the power supply, and the component that anchors the lighting unit to the ground or onto a structure.
- c. Floodlight. A lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.
- d. Foot-candle. The illuminance measured one (1) foot from a one (1) candle source.
- e. Full cut-off. A shielded light fixture that emits no light above a horizontal plane touching the lowest point of the fixture.
- f. Glare. The light in a direction near one's line of sight that either causes discomfort to the eye or impairs visibility.
- g. Horizontal and vertical foot-candles. The illuminance, measured by a light meter, striking a vertical or horizontal plane.
- h. Illuminance. The intensity of light in a specified direction measured at a specified point.
- i. Light. A form of radiant energy acting on the retina of the eye to make sight possible.
- j. Light trespass. Unwanted light falling on public or private property from an external location.
- k. Recreational Facility. Football fields, soccer fields, baseball fields, tennis courts, swimming pools, or any other special event or show area.

#### H. Lighting Design.

(1) Required Lamps – Generally, all lamps shall be halogen, metal halide, LED, or others with similar qualities to reduce glare and provide for improved color correct vision. Full cut-off high pressure sodium lamps, not exceeding a maximum lumen rating of 16,000 lumens, may be

used in outdoor storage areas where the need for good color rendering capabilities for safety and security is not necessary. Such areas shall not be accessible to the general public or adjacent to any 'R' zoned property.

(2) Required Exterior Lighting Fixtures – Generally, all exterior lighting fixtures shall be full cut-offs. No portion of the lamp, lens, or diffuser shall be visible from the side or top of any shield, or otherwise protrude from the bottom of the shield. No exterior lighting fixture shall emit light at or above a horizontal plane that runs through the lowest point of the shield.

(3) Commercial and Industrial Architectural and Decorative Lighting.

a. Limited building-mounted lighting may be used to highlight specific architectural features or primary customer or building entrances. Floodlights are only permitted provided all light emitted is contained by the building or by an eave or protruding structure.

b. Lighting fixtures shall be located, aimed, and shielded to minimize the glare that is emitted on objects other than a building's façade or landscape walls.

c. Building-mounted neon lighting may only be used when the lighting is recessed, or contained inside a cap or architectural reveal.

d. An exterior lighting fixture that emits less than 1800 lumens shall not be required to be a full cut-off fixture, provided that the lamp itself creates no glare or has an opaque covering.

(4) Site and Parking Lot Lighting.

a. The mounting height for lighting fixtures shall not exceed twenty five feet (25') from grade to the top of the lighting fixture.

b. The maximum average maintained foot-candles for a parking lot lighting fixture shall be three (3) foot-candles. The maximum lighting level for a parking lot lighting fixture shall be ten (10) foot-candles.

c. The maximum horizontal foot-candle measurement at any property line shall be two (2) foot-candles. The maximum maintained vertical foot-candle at an adjoining property line shall be two (2) foot-candles, as measured at five feet (5') above grade. If the adjacent property is the same owner, the light trespass limits may be waived by Council.

(5) Canopy Lighting. The maximum maintained foot-candles under a canopy shall be thirty-five (35) foot-candles. Areas outside the canopy shall be regulated by the guidelines and standards outlined above. Permissible fixtures for canopy lighting include:

a. Recessed fixtures that incorporate a lens cover that is either recessed or flush with the bottom surface of the canopy.

b. Indirect lighting where light is emitted upward and then reflected down from the underside of the canopy. Such fixtures shall be shielded to ensure that no light is emitted at or above a horizontal plane that runs through the lowest point of the canopy.

(6) Street Lighting. All private street light fixtures shall measure no more than thirty feet (30') from grade to the top of the lighting fixture, and shall be cobra-style, unless the Commission and Council permit the installation of an alternative fixture. The Commission and Council may approve an alternative lighting fixture only after a determination has been made that the alternative fixture has been designed to avoid glare and trespass. The use of lighting fixtures that direct light upward into the air is strictly prohibited. Public lighting along University Avenue shall conform to the specifications of lighting already in place. All other lighting on public streets shall conform to any adopted Streetscape Plans.

(7) Pedestrian Walkway Lighting. All pedestrian walkways shall be lit by pedestrian-level, bollard-type lighting (4 ft. height max.), ground mounted lighting, pole lighting (12 ft. height max.), or other low, glare-controlled fixtures that are mounted on building or landscape walls. University Avenue lighting should be followed as above.

(8) Recreational Facilities. The lighting fixtures at all public or private outdoor recreational facilities shall be designed to minimize the amount of light that is directed upward into the air, glare, and light trespass. The illumination of any public or private outdoor recreational facility after 11:00 p.m. is prohibited, except in order to conclude a specific activity, previously scheduled, which is in progress under such illumination prior to 11:00 p.m.

(9) Exemptions. This Ordinance shall not apply to the following exterior lighting sources:

a. Airport lighting required by law.

b. Temporary emergency lighting.

c. Temporary lighting, other than security lighting, at construction projects.

d. Governmental facilities where a compelling need for safety and security has been demonstrated.

e. Lighting for flag poles, church steeples or other similar non-commercial items provided they do not cause distraction within public rights-of-way.

I. Signage.

(1) The location and type of all existing and proposed signage shall be indicated on the site plan.

(2) All signage shall meet the requirements identified within the Zoning Ordinance.

J. Landscaping.

(1) A landscaping plan shall be provided including the size and type of all proposed trees and plantings and any existing trees larger than six (6) inches in diameter proposed to be removed.

(2) All landscaping necessary for fulfillment of all City Ordinances shall be indicated on the ~~site plan~~ Site Plan and will conform to Section 170.20 of this Ordinance.

**PART 2**



## CHAPTER 166

### ZONING CODE – DEFINITIONS

#### 166.01 Purpose

#### 166.03 Definition of Terms

#### 166.02 General Construction of Language

**166.01 PURPOSE.** The purpose of this chapter is to promote consistency and precision in the interpretation of this Zoning Code. The meaning and construction of words as set forth shall apply throughout this Zoning Code, unless where modified in a specific section or where the context of such words or phrases clearly indicates a different meaning or construction.

**166.02 GENERAL CONSTRUCTION OF LANGUAGE.** The following general rules of construction apply to the text of the Zoning Code.

1. Headings. Section and subsection headings contained herein are provided for illustrative purposes only and shall not be deemed to limit, govern, modify, or otherwise affect the scope, meaning, or intent of any provision of the Zoning Code.
2. Illustration. In the case of any real or apparent conflict between the text of this Zoning Code and any illustration explaining the text, the text shall apply.
3. Conjunctions. Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:
  - A. “And” indicates that all connected items or provisions apply.
  - B. “Or” indicates that the connected items or provisions may apply singly or in any combination.
  - C. “Either ... or” indicates that the connected items or provisions shall apply singly but not in combination.
4. Referenced Agencies. Unless otherwise indicated, all public officials, bodies, and agencies referred to in this chapter are those of the City.

**166.03 DEFINITION OF TERMS.** For the purposes of this Zoning Code, certain terms and words are hereby defined. Certain sections contain definitions which are additional to those listed here. Where terms are not specifically defined, their ordinarily accepted meaning or meanings implied by their context shall apply.

1. “Abutting” means having lot lines or district boundaries in common, including property separated by a public street or alley. This term is used interchangeably with “adjacent.”
2. “Accessory structure” means a structure which is incidental to and customarily associated with a specific principal use or building on the same site.

3. "Accessory use" means a use which is incidental to and customarily associated with a specific principal use on the same site.
4. "Addition" means any construction which increases the size of a building or structure in terms of site coverage, height, length, width, or gross floor area.
5. "Agent of owner" means any person showing written verification that he/she is acting for – and with the knowledge and consent of – a property owner.
6. "Alley" means a public right-of-way which is used as a secondary means of access to abutting property.
7. "Alteration" means any construction or physical change in the internal arrangement of spaces, the supporting members, the positioning on a site, or the appearance of a building or structure.
8. "Apartment" means a housing unit within a building designed for and suitable for occupancy by only one family. Apartments are generally located within multi-family residential buildings.
9. "Attached" means having one or more walls in common with a principal building or connected to a principal building by an integral architectural element, such as a covered passageway, façade wall extension, or archway.
10. "Base Zoning District" means a district established by this Zoning Code which prescribes basic regulations governing land use and site development standards. For any actions taken after the effective date of this Code, no more than one Base Zoning District shall apply to any individually platted lot or parcel unless the lot or parcel is part of a Planned Unit Development.
11. "Basement" means a level of a building below street level that has at least one-half of its height below the surface of adjacent ground. A basement used for independent dwelling or business purposes shall be considered a story for the purposes of height measurement. Chapter 169 sets forth floodplain and floodway regulations governing building standards in flood-prone areas.
12. "Bedroom" means any space intended for sleeping purposes in the conditioned space of a dwelling unit which is 80 square feet and greater in size and which is located along an exterior wall, but not including the following: hall; bathroom; kitchen; laundry room.
13. "Beginning of construction" means the initial incorporation of labor and materials within the foundation of a building or structure.
14. "Block" means an area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundaries of the subdivision, or by a combination of the above with a watercourse or lake, and which has been designated as such on a plat for the purposes of legal description of a property.

15. "Blockface" means the property abutting one side of a street and lying between the two nearest intersection streets, or between the one nearest intersecting street and a major physical barrier, including (but not limited to) railroads, streams, lakes, or the corporate limits of the City.
16. "Board of Adjustment" means a body established by the City expressly for the purpose of granting relief from situations of hardship and to hear appeals as provided by this Zoning Code.
17. "Buffer yard" means a landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.
18. "Building" means a structure entirely separated from any other structure by space or by walls and having a roof and built to provide shelter, support, or enclosure for persons or property.
19. "Building coverage" means the area of a site covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features.
20. "Building envelope" means the three-dimensional space within which a structure is permitted to be built on a lot after all zoning and other applicable municipal requirements have been met.
21. "Building line" means the outer boundary of a building established by the location of its exterior walls.
22. "Building Official" means the designee of the City Council, responsible for the enforcement of Chapter 155 of this Code of Ordinances.
23. "Business" means activities that include the exchange or manufacture of goods or services on a site.
24. "Business center" means a building containing more than one commercial business, or any group of nonresidential buildings within a common development, characterized by shared parking and access.
25. "Certificate of Occupancy" means an official certificate issued by the Building Official, upon finding of conformance with the City's Building Code (Chapter 155), and upon receipt of a Certificate of Zoning Compliance.
26. "Certificate of Zoning Compliance" means an official certificate issued by the Building Official, which indicates that the proposed use of building or land complies with the provisions of this Zoning Code.
27. "Change of use" means the replacement of an existing use by a new use.
28. "Cluster" means a development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.

29. "Collector street" means a street connecting neighborhoods within the same communities, designed to carry traffic from local to arterial streets.

30. "Common area" means an area held, designed, and designated for common or cooperative use within a development.

31. "Common development" means a development proposed and planned as one unified project not separated by a public street or alley.

32. "Common open space" means land within or related to a development that is not individually owned or dedicated for public use, designed and generally intended for the common use of the residents of the development.

33. "Compatibility" means the degree to which two or more different land use types are able to exist together in close proximity, with no one use having significant negative effects on any other use.

34. "Comprehensive Plan" means the duly adopted Comprehensive Development Plan of the City.

~~34-35.~~ Conditional Use Permit (CUP) is intended to accommodate those types of uses that don't fit neatly into any particular zoning district, and which have the potential to impact surrounding properties. As part of the approval process, the Board of Adjustment can impose conditions on the proposed use to help minimize the potential impacts on surrounding property.

~~35-36.~~ "Conditioned space" means an area, room, or space normally occupied and being heated and/or cooled by any equipment for human habitation.

~~36-37.~~ "Condominium" means a real estate ownership arrangement that combines fee simple title to a specific unit and joint ownership in common elements shared with other unit owners. Types of units may include dwelling units, parking spaces, office spaces, or commercial spaces.

~~37-38.~~ "Conservation development" means a development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.

~~38-39.~~ "Conservation subdivision" means, wholly or in majority, a residential subdivision that permits a reduction in lot area, setback, or other site development regulations, provided: (i) there is no increase in the overall density permitted for a conventional subdivision in a given zoning district; and (ii) the remaining land area is used for common space.

~~39-40.~~ "Court" means an approved private right-of-way which provides access to residential properties and meets at least three of the following conditions:

- A. Serves 12 or fewer housing units or platted lots.
- B. Does not function as a local street because of its alignment, design, or location.
- C. Is completely internal to a development.

D. Does not exceed 600 feet in length.

~~40-41.~~ “Courtyard” means an open, unoccupied space, bounded on two or more sides by the walls of the building.

~~41-42.~~ “Deck” means an unroofed platform, unenclosed except by a railing, which is attached to the ground and/or another structure.

~~42-43.~~ “Density” means the amount of development per specific unit of a site.

~~43-44.~~ “Drive-in services” means uses which involve the sale of products or provision of services to occupants in vehicles.

~~44-45.~~ “Detached” means fully separated from any other building or jointed to another building in such a manner as not to constitute an enclosed or covered connection.

~~45-46.~~ “Driveway” means a permanent surface area providing vehicular access between a street and an off-street parking or loading area. A driveway surface area shall be asphaltic, Portland cement binder pavement, paver block, concrete block, or similar surface so as to provide a durable and dustless surface. Gravel or rock is not deemed to be a dustless surface.

~~46-47.~~ “Dwelling unit” means one or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

~~47-48.~~ “Easement” means a privilege or right of use granted on, above, under, or across a particular tract of land for a specific purpose by one owner to another owner, public or private agency, or utility.

~~48-49.~~ “Enclosed” means a roofed or covered space fully surrounded by walls.

~~49-50.~~ “Family” means one or more persons occupying a single dwelling unit, related by blood, marriage, domestic partnership, adoption, or other custodial arrangement.

~~50-51.~~ “Federal” means pertaining to the Government of the United States of America.

~~51-52.~~ “Floor area ratio” means the quotient of gross floor area divided by gross site area.

~~52-53.~~ “Frontage” means the length of a property line of any one premises abutting and parallel to a public street, private way, or court.

~~53-54.~~ “Grade” means the horizontal elevation of the finished surface of ground, paving, or sidewalk adjacent to any building line.

A. For buildings having walls facing one street only, the grade shall be the elevation of the sidewalk (or the boundary line between the property and the street right-of-way in the absence of sidewalks) perpendicular to the center of the wall facing the street.

B. For buildings having walls facing more than one street, the grade shall be the average elevation of the grades of all walls facing each street.

C. For buildings having no walls facing a street, the grade shall be the average level of the finished surface of the ground adjacent to the exterior walls of the building.

~~54-55.~~ “Gross floor area” means the total enclosed area of all floors of a building, measured to the inside surfaces of the exterior walls. This definition excludes the areas of basements, elevator shafts, airspaces above atriums, and enclosed off-street parking and loading areas serving a principal use.

~~55-56.~~ “Height” means the vertical distance from the established grade to the highest point of the coping of a flat roof, the deck line of a mansard roof, gable, hip, shed, or gambrel roofs. For other cases, height shall be measured as the vertical distance from the established grade to the highest point of a structure as herein defined. Where a building or structure is located on a slope, height shall be measured from the average grade level adjacent to the building or structure.

~~56-57.~~ “Home based business” or “home occupation” means an accessory occupational use conducted entirely within a dwelling unit by its inhabitants, which is clearly incidental to the residential use of the dwelling unit or residential structure and does not change the residential character of its site or have any external evidence of such use.

~~57-58.~~ “Housing unit” or “dwelling unit” means a building or portion of a building arranged for and intended for occupancy as an independent living facility for one family, including permanent provisions for cooking.

~~58-59.~~ “Impervious coverage” means the total horizontal area of all buildings, roofed or covered spaces, paved surface areas, walkways and driveways, and any other site improvements that decrease the ability of the surface of the site to absorb water, expressed as a percent of site area. The surface water area of pools is excluded from this definition.

~~59-60.~~ “Landscaped area” means the area within the boundaries of a given lot, site or common development consisting primarily of plant material, including but not limited to grass, trees, shrubs, vines, ground cover, and other organic plant materials; or grass paver masonry units installed such that the appearance of the area is primarily landscaped.

~~60-61.~~ “Perimeter landscaped area” means any required landscaped area that adjoins the exterior boundary of a lot, site, or common development.

~~61-62.~~ “Interior landscaped area” means any landscaped area within a site exclusive of required perimeter landscaping.

~~62-63.~~ “Loading area” means an off-street area used for the loading or unloading of goods from a vehicle in connection with the use of the site on which such area is located.

~~63-64.~~ “Lot” means a parcel of property with a separate and distinct number or other identifying designation which has been created, assigned, and recorded in the Office of the Polk County Recorder. Each individual lot is subject to the provisions of a particular Base Zoning District, and shall have a minimum frontage of 20 feet, except as provided in an approved Planned Unit Development and/or Conservation Subdivision.

A. “Corner lot” means a lot located at the junction of at least two streets, private ways or courts or at least two segments of a curved street, private way or court, at which the angle of intersection is no greater than 135 degrees.

B. “Double frontage lot” (also known as a “through lot”) means a lot, other than a corner lot, having frontage on two streets, private ways, or courts. Primary access shall be restricted on a double frontage lot to the minor of the two streets or to the front line as determined at time of platting or as defined by this Zoning Code.

C. “Interior lot” means a lot other than a corner lot.

D. “Common development lot” means a lot which is considered a single lot for the purposes of this Zoning Code, when two or more contiguous lots are developed as part of a Planned Unit Development.

~~64-65.~~ “Lot area” means the total horizontal area within the lot lines of a lot.

~~65-66.~~ “Lot depth” means the mean horizontal distance measured between the front and rear lot lines.

~~66-67.~~ “Lot line” means a property boundary line of record that divides one lot from another lot or a lot from the public or private street right-of-way or easement. Once established, lot lines may not be redefined due to a change of address which would result in a new definition of the prior defined lot lines.

A. “Front lot line” means the lot line separating a lot and a public or private street right-of-way or easement:

(1) For an interior lot, the lot line separating the lot from the right-of-way or easement;

(2) For a corner lot, the shorter lot line abutting a public or private street or easement; in instances of equal line dimension, the front lot line shall be determined by the Building Official, or as may be noted on the final plat;

(3) For a double frontage lot, the lot lines separating the lot from the right-of-way or easement of the more minor street. In cases where each street has the same classification, the front lot line shall be determined by the Building Official at the time of application for the original building permit for the lot, or as may be noted on the final plat.

B. “Rear lot line” means the lot line which is opposite and most distant from the front line.

C. "Side lot line" means any lot line that is neither a front or rear lot line. A side lot line separating a lot from a street, private way, or court is a street side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

~~67-68.~~ "Lot width" means the horizontal distance measured between the side lot lines of a lot, at right angles to its depth along a straight line parallel to the front lot line at the minimum required setback line.

~~68-69.~~ "Manufactured home dwelling" means a factory-built, single-family dwelling structure which is to be used as a place for human habitation, which is manufactured or constructed under the authority of 42 U.S.C. 5403, *Federal Manufactured Home Construction and Safety Standards*, and which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home constructed to the *National Manufactured Home Construction and Safety Standards* promulgated by the US Department of Housing and Urban Development is not a manufactured home unless it has been converted to real property and is taxed as a site-built dwelling as is provided in the *Code of Iowa*, Section 435.26. For the purpose of any of these regulations, manufactured homes shall be considered the same as a single-family detached dwelling.

~~69-70.~~ "Mixed use building" means a building or structure that incorporates two or more use types within a single building or structure, provided that each use type is permitted within the individual Base Zoning District in which the building or structure is to be located.

~~70-71.~~ "Mixed use development" means a single development which incorporates complementary land use types into a single development.

~~71-72.~~ "Mobile home" means a building type designed to be transportable in one or more sections, constructed on a permanent chassis or undercarriage, and designed to be used as a dwelling unit or other use with or without a permanent foundation when connected to the required utilities, but not bearing a seal attesting to the approval and issuance of the Iowa Department of Health or conformance to the *Manufactured Home Procedural and Enforcement Regulations*, as adopted by the US Department of Housing and Urban Development; or not otherwise satisfying the definition of "manufactured home dwelling."

~~72-73.~~ "Mobile home park" means a unified development under single ownership, developed, subdivided, planned, and improved for the placement of mobile home units for non-transient use. Mobile home parks include common areas and facilities for management, recreation, laundry, utility services, storage, storm shelter, and other services; but do not include mobile home sales lots on which unoccupied mobile homes are parked for the purposes of display, inspection, sale, or storage.

~~73-74.~~ "Nonconforming development" means a building, structure, or improvement which does not comply with the regulations for its zoning district set forth by this Zoning Code but which complied with applicable regulations at the time of construction. No action can be taken which would increase the nonconforming characteristics of the development.



~~74-75.~~ “Nonconforming lot” means a lot which was lawful prior to the adoption, revision, or amendment of this Zoning Code but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of this Zoning Code. No action can be taken which would increase the nonconforming characteristics of the lot.

~~75-76.~~ “Nonconforming sign” means a sign that was legally erected prior to the adoption, revision, or amendment of this Zoning Code but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of this Zoning Code. No action can be taken which would increase the nonconforming characteristics of the sign.

~~76-77.~~ “Nonconforming structure” means a structure which was lawful prior to the adoption, revision, or amendment of this Zoning Code but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of this Zoning Code. No action can be taken which would increase the nonconforming characteristics of the structure.

~~77-78.~~ “Nonconforming use” means a land use which was lawful prior to the adoption, revision, or amendment of this Zoning Code but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of this Zoning Code. No action can be taken which would increase the nonconforming characteristics of the land use.

~~78-79.~~ “Nuisance” means an unreasonable and continuous invasion of the use and enjoyment of a property right which a reasonable person would find annoying, unpleasant, obnoxious, or offensive.

~~79-80.~~ “Open space” means area included on any site or lot that is open and unobstructed to the sky, except for allowed projections of cornices, overhangs, porches, balconies, or plant materials.

~~80-81.~~ “Outdoor storage” means the storage of materials, parts, or products that are related to the primary use of a site for a period exceeding three days.

~~81-82.~~ “Overlay District” means a district established by this Zoning Code to prescribe special regulations to be applied to a site only in combination with a Base Zoning District.

~~82-83.~~ “Owner” means an individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

~~83-84.~~ “Parking facility” means an area on a lot and/or within a building, including one or more parking spaces, along with provision for access circulation, maneuvering, and landscaping, meeting the requirements of this Zoning Code. Parking facilities include parking lots, private garages, and parking structures. Vehicle storage is distinct from parking, and is regulated by provisions in Sections 167.07(2)(F), 167.09(10) and Table 168-2. Vehicle storage is also governed by provisions of Chapter 174 – Off-Street Parking Regulations.

~~84-85.~~ “Parking space” means an area on a lot and/or within a building, intended for the use of temporary parking of a personal vehicle. This term is used interchangeably with “parking stall.” Each parking space must have a means of access to a public street. Tandem parking stalls in single-family

detached, single-family attached, and townhouse residential uses shall be considered to have a means of access to a public street.

~~85-86.~~ 85-86. “Paved” means permanently surfaced with poured concrete, concrete pavers or masonry units, brick, or asphalt.

~~86-87.~~ 86-87. “Permitted use” means a land use type allowed as a matter of right in a zoning district, subject only to special requirements of this Zoning Code.

~~87-88.~~ 87-88. “Planning Commission” means the Planning and Zoning Commission of the City, as authorized pursuant to Chapter 414 of the *Code of Iowa*.

~~88-89.~~ 88-89. “Planned Unit Development” means a development of land which is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

~~89-90.~~ 89-90. “Porch, unenclosed” means a roofed or unroofed open structure projecting from an exterior wall of a building and having no enclosed features more than 30 inches above its floor other than wire screening and a roof with supporting structure.

~~90-91.~~ 90-91. “Premises” means a lot, parcel, tract, or plot of land, contiguous and under common ownership or control, together with the buildings and structure thereon.

~~91-92.~~ 91-92. “Private garage” means a building for the storage of motor vehicles where no repair service facilities are maintained and where no motor vehicles are kept for rental or sale.

~~92-93.~~ 92-93. “Property line” – see “lot line.”

~~93-94.~~ 93-94. “Recreational vehicle” means a vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational, or sporting purposes. Recreational vehicles include (but are not limited to) travel trailers; campers; motor coach homes; converted buses and trucks, snowmobiles, boats, and boat trailers.

~~94-95.~~ 94-95. “Regulation” means a specific requirement set forth by this Zoning Code which must be followed.

~~95-96.~~ 95-96. “Remote parking” means a supply of off-street parking at a location not on the site of a given development.

~~96-97.~~ 96-97. “Right-of-way” means an area dedicated for public use or contained in an easement or other conveyance or grant to the City, including (but not limited to) streets, alleys, boulevards, sidewalks, public greenways, and other public property between the lateral property lines in which a roadway lies.

~~97-98.~~ “Screening” means the method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features as may be permitted by the landscape provisions of this Code.

~~98-99.~~ “Setback” means the distance, as required by the minimum setback, which establishes the horizontal component of the building envelope.

~~99-100.~~ “Sign” means a symbolic, visual device fixed upon a building, vehicle, structure, or parcel of land, which is intended to convey information about a product, business, activity, place, person, institution, candidate, or political idea. Sign regulations are set forth in Chapter 175 of this Zoning Code.

~~100-101.~~ “Site” means the parcel of land to be developed or built upon. A site may encompass a single lot or a group of lots developed as a common development under the special and overlay districts provisions of this Zoning Code.

~~101-102.~~ “Site plan” means a plan, prepared to scale, showing accurately and with complete dimensioning the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land and which includes any other information that may reasonably be requested by the City in order that an informed decision can be made on the associated request.

~~102. — “Special permit use” means a use with operating and/or physical characteristics different from those of permitted uses in a given zoning district which may, nonetheless, be compatible with those uses under special conditions and with adequate public review. Special permit uses are allowed in a zoning district only at the discretion of and with the explicit permission of the City Council, upon the recommendation of the Planning Commission.~~

103. “Story” means the portion of a building included between the surface of any floor and the surface of the next floor above it or, if there is no floor above it, the space between such floor and the next ceiling above it. A half story is a story under a sloped roof, the wall heights of which on at least two opposite exterior walls are less than four feet.

104. “Street” means a right-of-way dedicated to public use, which affords a primary means of access to the abutting property. This definition is intended to be inclusive of the term as defined in Iowa statutes.

A. In regard to a site, the principal street shall be the street to which the majority of lots on a blockface are oriented;

B. The intersecting street shall be a street other than a principal street.

105. “Street, local” means a street which is used primarily for access to the abutting properties.

106. "Street, major" means a street carrying traffic between neighborhoods, connecting neighborhoods with major activity centers, or accommodating major through traffic. Major streets are designated as collectors, arterials, or expressways by the Comprehensive Plan.

107. "Structure" means any object constructed or built, the use of which requires location on the ground or attachment to something located on the ground.

108. "Townhouse" means a dwelling unit having a common wall with or abutting one or more adjacent dwelling units in a townhouse structure, with its own front and rear access to the outside, and neither above nor below any other dwelling unit.

109. "Townhouse structure" means a building formed by at least two and not more than twelve contiguous townhouses with common or abutting walls.

110. "Use" means the conduct of an activity or the performance of a function or operation on a site or in a building or facility.

111. "Utilities" means installations, either above or below ground, necessary for the production, generation, transmission, delivery, collection, treatment, or storage of water, solid or fluid wastes, storm water, energy media, gas, electronic or electromagnetic signals, or other services which are precedent to development and use of land.

112. "Yard, required" means that portion of a lot which lies between a lot line and the corresponding building setback line or the required landscape area. This area shall be unoccupied and unobstructed from the ground upward except as may be specifically provided for or required by this Zoning Code.

A. "Front yard" means the space extending the full width of a lot, lying between the front lot line and the front setback line. For a corner lot, the front yard shall normally be defined as that yard along a street which meets one of the following two criteria:

- (1) The yard along the blockface to which a greater number of structures are oriented; or
- (2) The yard along a street that has the smaller horizontal dimension.

B. "Rear yard" means the space extending the full width of a lot, lying between the rear lot line and the rear setback line.

C. "Side yard" means the space extending the depth of a lot from the front to rear lot lines, lying between the side yard setback line and the interior lot line.

D. "Street side yard" means, on a corner lot, the space extending from the front yard to the rear yard, between the street side yard setback line and the street side lot line.

113. "Zoned lot" means a parcel of land in single ownership that is large enough to meet the minimum zoning requirements of its zoning district and can provide such yards and other open spaces that are required by the site development regulations.

114. “Zoning district” means a designated specified land classification, within which all sites are subject to a unified group of use and site development regulations set forth in this Zoning Code.

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## CHAPTER 169

### ZONING CODE —~~SPECIAL AND~~ OVERLAY DISTRICTS

#### 169.01 General Purpose

#### 169.03 Planned Unit Development District

#### 169.02 Mixed Use District

#### 169.04 Floodplain and Floodway Overlay District

**169.01 GENERAL PURPOSE.**~~Special Overlay~~ Districts provide for base districts that allow multiple land uses and flexible development, with the requirement that a specific plan for the area be submitted by applicants. Overlay Districts are used in combination with base districts to modify or expand base district regulations. Overlay Districts are adapted to special needs of different parts of the City. The Overlay Districts are designed to achieve the following objectives:

1. To recognize special conditions in specific parts of the City which require specific regulation.
2. To provide flexibility in development and to encourage innovative design through comprehensively planned projects.

**169.02 MIXED USE DISTRICT.** The MU Mixed Use District is intended to accommodate projects which combine several compatible land uses into an integrated development. The MU District may also be used to pre-designate parts of the City which are appropriate for a mixture of residential, commercial, office, and accessory uses. The District permits mixing residential areas with workplaces and services. Development in the MU District must accommodate transportation systems, pedestrian and bicycle movement, and surrounding environments. All projects developed in an MU District are subject to ~~thea~~ Special Use Permit Site Review process as forth in Chapter 170.-

1. Permitted Uses. Each regulation establishing an MU District establishes the use types permitted within its boundaries.
2. Site Development Regulations.
  - A. The minimum area of any MU District is three acres.
  - B. Prior to the issuance of any building permits or other authorization, all projects in the MU District shall receive approval by the City Council, following a recommendation by the Planning Commission, according to the Special Use Permit Site Review procedure set forth in Chapter ~~170~~177 of this Zoning Code. This approval may be granted for a specific plan for the development of an MU District in lieu of a plan for individual projects, provided that any subsequent developments are consistent with the specific plan.

~~C. Applications for approval must contain, at a minimum, the following information:~~

~~(1) A detailed site map, including:~~

~~a. A boundary survey;~~

- b. ~~Site dimensions;~~
- c. ~~Contour lines at no greater than five foot intervals;~~
- d. ~~Adjacent public rights of way, transportation routes, and pedestrian or bicycle systems;~~
- e. ~~Description of adjacent land uses;~~
- f. ~~Utility service to the site and easements through the site;~~
- g. ~~Description of other site features, including drainage, soils, or other considerations that may affect development.~~

(2) ~~A development plan, including:~~

- a. ~~A site layout, including the location of proposed buildings, parking, open space, and other facilities;~~
- b. ~~Location, capacity, and conceptual design of parking facilities;~~
- c. ~~Description of the use of individual buildings;~~
- d. ~~Description of all use types to be included in the project or area, and maximum floor area devoted to each general use;~~
- e. ~~Maximum height of buildings;~~
- f. ~~Schematic location and design of open space on the site, including a landscaping plan;~~
- g. ~~Vehicular and pedestrian circulation plan, including relationship to external transportation systems;~~
- h. ~~Schematic building elevations and sections if required to describe the project;~~
- i. ~~Grading plans;~~
- j. ~~Proposed sewer and utility improvements;~~
- k. ~~Location, sizes, and types of all proposed signage.~~

(3) ~~Specific proposed development regulations for the project, including:~~

- a. ~~The specific use types permitted within the proposed district;~~
- b. ~~Maximum floor area ratios;~~
- c. ~~Front, side, and rear yard setbacks;~~
- d. ~~Maximum height;~~

~~e. Maximum building and impervious coverage;~~

~~f. Design standards applicable to the project.~~

~~(4) A traffic impact analysis, if required by the City.~~

3. Amendments. The Zoning Administrator is authorized at his/her discretion to approve amendments to an approved development plan, provided that:

A. A written request is filed with the Zoning Administrator, along with information specifying the exact nature of the proposed amendment.

B. The amendment is consistent with the provisions of this section.

C. The amendment does not alter the approved site regulations of the development plan and does not materially alter other aspects of the plan, including traffic circulation, mixture of use types, and physical design.

D. Any amendment not conforming to these provisions shall be submitted to the Planning Commission and City Council for action.

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**169.03 PLANNED UNIT DEVELOPMENT DISTRICT.** The PUD Planned Unit Development Overlay District is intended to provide flexibility in the design of planned projects, to permit innovation in project design that incorporates open space and other amenities, and to ensure compatibility of developments with the surrounding urban environment. The PUD District may be used in combination with any base district specified in this Zoning Code. The PUD District, which is adopted by the City Council with the recommendation of the Planning and Zoning Commission, assures specific development standards for each designated project. All projects in the PUD District shall follow the procedures set forth in Chapter 170 of this Zoning Code.

1. Permitted Uses. Uses permitted in a PUD Overlay District are those permitted in the underlying base district. A PUD also may be combined with an MU Mixed Use District to allow a combination of use types not anticipated by conventional base districts.

2. Site Development Regulations. Site development regulations are developed individually for each Planned Unit Development District but must comply with minimum or maximum standards established for the base district, with the following exceptions:

A. Lot area and lot width are not restricted, provided that the maximum density allowed for each base district is not exceeded.

B. Maximum building coverage shall be the smaller of the allowed building coverage in the base district, or 60 percent.



3. Access to Public Streets. Each PUD District must abut a public street for at least 50 feet and gain access from that street.

~~4. Application Process.~~

~~A. Development Plan. The application for a Planned Unit Development District shall include a Development Plan containing the following information:~~

~~(1) A tract map, showing site boundaries, street lines, lot lines, easements, and proposed dedications or vacations.~~

~~(2) A land use plan designating specific uses for the site and establishing site development regulations, including setbacks, height, building coverage, impervious coverage, density, and floor area ratios.~~

~~(3) A site development and landscaping plan, showing building locations, or building envelopes; site improvements; public or common open spaces; community facilities; significant visual features; and typical landscape plans.~~

~~(4) A circulation plan, including location of existing and proposed vehicular and pedestrian, facilities and location and general design of parking and loading facilities.~~

~~(5) Schematic architectural plans and elevations sufficient to indicate a building height, bulk, materials, and general architectural design.~~

~~(6) A statistical summary of the project, including gross site area, net site area, number of housing units by type, gross floor area of other uses, total amount of parking, and building and impervious surface percentages.~~

~~5.4. Adoption of District.~~

A. The Planning and Zoning Commission and City Council shall review and evaluate each Planned Unit Development application. The City may impose reasonable conditions, as deemed necessary to ensure that a PUD shall be compatible with adjacent land uses, will not overburden public services and facilities, and will not be detrimental to public health, safety, and welfare.

B. The Planning and Zoning Commission, after proper notice, shall hold a public hearing and act upon each application.

C. The Planning and Zoning Commission may recommend amendments to PUD district applications.

D. The recommendation of the Planning and Zoning Commission shall be transmitted to the City Council for final action.

E. The City Council, after proper notice, shall hold a public hearing and act upon any Ordinance establishing a PUD Planned Unit Development Overlay District. Proper notice shall mean the same notice established for any other zoning amendment.

F. An Ordinance adopting a Planned Unit Development Overlay Zoning District shall require a favorable simple majority of the City Council for approval.

G. Upon approval by the City Council, the Development Plan shall become a part of the Ordinance creating or amending the PUD District. All approved plans shall be filed with the City Clerk.

~~6.5.~~ Amendment Procedure. Major amendments to the Development Plan must be approved according to the same procedure set forth in subsection 5 of this section.

~~7.6.~~ Building Permits. The City shall not issue a building permit, certificate of occupancy, or other permit for a building, structure, or use within a PUD District unless it is in compliance with the approved Development Plan or any approved amendments.

~~8.7.~~ Termination of PUD District. If no substantial development has taken place in a Planned Unit Development District for ~~18~~~~three months~~~~years~~ following approval of the District, the Planning Commission shall reconsider the zoning of the property and may, on its own motion, initiate an application for rezoning the property.

**169.04 FLOODPLAIN AND FLOODWAY OVERLAY DISTRICT.** The Floodway and Floodplain Overlay District is intended to promote the public health, safety, and general welfare and to minimize those losses described in subsection 1 of this section by applying the provisions of this Code to: (i) restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities; (ii) require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction; (iii) protect individuals from buying lands which are unsuitable for intended purposes because of flood hazard; (iv) assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program when identified by the Federal Insurance Administration as a flood prone community.

1. Definitions. Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this section its most reasonable application.

A. "Actuarial rates" (or "risk premium rates") means those rates established by the Federal Insurance Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with 42 U.S.C. 4014 and the accepted actuarial principles. Actuarial rates include provisions for operating costs and allowances.

B. "Appeal" means a request for a review of the Building Official's interpretation of any provision of this section or a request for a variance.

C. "Area of shallow flooding" means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

D. "Area of special flood hazard" means the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

E. "Base flood elevation" means the elevation indicated in the official flood plain study as the elevation of the 100-year flood.

F. "Base flood protection elevation" means an elevation one foot higher than the water surface elevation of the base flood.

G. "Channel" means a natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow, thus, is that water which is flowing within the limits of a defined channel.

H. "Development" means any manmade change to improved or unimproved real estate, including (but not limited to) buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

- I. “Existing construction” means (for the purposes of determining rates) structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. “Existing construction” may also be referred to as “existing structures.”
- J. “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 or the unusual and rapid accumulation of runoff of surface waters from any source.
- K. “Flood Insurance Rate Map” (FIRM) means an official map of the City, on which the Flood Insurance Study has delineated the Flood Hazard Boundaries and the zones establishing insurance rates applicable to the City.
- L. “Flood Insurance Study” means the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.
- M. “Flood plain management” means the operation of an overall program of corrective and preventative measures for reducing flood damage, including (but not limited to) emergency preparedness plan, flood control works, and floodplain management regulations.
- N. “Flood protection system” means those physical structural works constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a “special flood hazard.” Such a system typically includes levees or dikes. These specialized modifying works are those constructed in conformance with sound engineering standards.
- O. “Flood proofing” means any combination of structural and non-structural additions, changes, or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy.
- P. “Floodplain” (FP) means that area of the floodplain, outside of the floodway, that on an average is likely to be flooded once every 100 years (i.e., that has a one percent chance of flood occurrence in any one year.)
- Q. “Floodway” (FW) means the channel of a river or other watercourse and the adjacent portion of the flood plain that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point assuming equal conveyance reduction outside the channel from the two sides of the floodplain.
- R. “Freeboard” means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the heights calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

S. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

T. "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this section.

U. "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. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

V. "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.

W. "New construction" means structures for which the "start of construction or substantial improvement" is commenced on or after the effective date of the FIRM.

X. "100-year flood" means the base flood having a one percent chance of annual occurrence.

Y. "Overlay district" means a district which acts in conjunction with the underlying zoning district or districts.

Z. "Start of construction," for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L97-348), includes substantial improvement, and means the date the building permit was issued, providing 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 street and/or walkways, nor does it include excavation for a basement, footings, or foundations or the erection of temporary forms, nor does it include the installation of the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

AA. "Structure" means a walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

BB. "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: (i) before the improvement or repair is started; or (ii) if the structure has been damaged and is being restored,

before the damage occurred. For the purpose 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: (i) 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 (ii) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

CC. “Variance” means a grant of relief to a person from the requirements of this section which permits construction in a manner otherwise prohibited by this section where specific enforcement would result in unnecessary hardship.

2. Flood Losses Resulting from Periodic Inundation. Flood hazard areas of the City are subject to inundation which results in loss of life or property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

A. General Causes of These Flood Losses. These flood losses are caused by: (i) the cumulative effect of obstruction in floodways causing increases in flood heights and velocities, and (ii) the occupancy of flood areas by uses vulnerable to floods or hazardous to other which are inadequately elevated or otherwise protected from flood damages.

B. Methods Used to Analyze Flood Hazards. This Zoning Code uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps.

(1) Selection of a base flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated and the depth of inundation. The base flood selected for this Zoning Code is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this Code. It is in the general order of a flood which could be expected to have a one percent chance of occurrence in any one year, as delineated in the Flood Insurance Study dated October 16, 1992, and the Federal Emergency Management Administration’s Flood Insurance Rate Maps and Flood Boundary and Floodway Map dated October 16, 1992, or any subsequent effective Flood Insurance Studies, Rate Maps, and Flood Boundary and Floodway Maps issued after the effective date of this Code and adopted by the City.

(2) Calculation of water surface profiles based upon a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.

(3) Computation of the floodway required to convey this flood without increasing flood heights more than one foot at any point.

(4) Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any increase in flood height.

(5) Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines but which still is subject to inundation by the base flood.

3. Land to Which Code Applies. This section applies to all lands within the jurisdiction of the City identified on the Flood Insurance Rate Map (FIRM) as numbered and unnumbered A zone and/or within the Overlay Districts FP and FW established in this Zoning Code. In all areas covered by this Zoning Code, no development shall be permitted except upon a permit to develop granted by the City Council or its duly designated representative under such safeguards and restrictions as the City Council may reasonably impose for the promotion and maintenance of the general welfare and health of the inhabitants of the community as contained in this Zoning Code.

4. Enforcement Officer. The Zoning Administrator of the City is hereby designated as the City Council's duly designated Enforcement Officer under this Zoning Code. Unless otherwise provided by the City Council, the Floodplain Management Agency shall assist the City on interpretation of floodplain/floodway rules and regulations. The Enforcement Officer shall obtain comments from the Agency as part of his/her review of all proposed activity in this Overlay District.

5. Rules for Interpretation of District Boundaries. The boundaries of the floodway and floodway fringe overlay districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Enforcement Officer shall make the necessary interpretation. In such cases where the interpretation is contested, the ~~Board of Adjustment-Planning and Zoning~~will Commission will resolve the dispute. The base flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his or her case to the Board and to submit his or her own technical evidence if said person so desires.

6. Compliance. No development located within known flood hazard areas of the City shall be located, extended, converted, or structurally altered without full compliance with the terms of this Zoning Code or other applicable regulations.

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

8. Interpretation. In their interpretation and application, the provisions of this Zoning Code shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other powers granted by State statute.

9. Warning and Disclaimer of Liability. The degree of flood protection required by this Zoning Code is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or

natural causes, such as ice jams and bridge openings restricted by debris. This Code does not imply that areas outside floodway and floodway fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damages. This Code shall not create liability on the part of the City or any officer or employee thereof for any flood damages that may result from reliance on this Code or any administrative decision lawfully made thereunder.

10. Application for Appeal. Where a request for a permit to develop is denied by the Zoning Administrator, the applicant may apply for such permit or variance directly to the Board of Adjustment. The Board of Adjustment may grant or deny such request by appropriate resolution adopted within 10 days after the date of such application to the Board of Adjustment.

11. Permit Required. No person shall initiate any development or substantial improvement or cause the same to be done in any floodplain or floodway area without first obtaining a separate permit.

12. Administration. The Zoning Administrator is hereby appointed to administer and implement the provisions of this section. Duties of the Zoning Administrator include, but are not limited to:

A. Review of all development permits to assure that sites are reasonable, safe from flooding and that the permit requirements of this Code have been satisfied.

B. Review permits for proposed development to assure that all necessary permits have been obtained from those federal, State or local governmental agencies from which prior approval is required.

C. Notify adjacent communities and the Iowa Natural Resources Commission Flood Plan Management Section prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Federal Insurance Administration when participating in the National Flood Insurance Program.

D. Notify the Floodplain Management Agency of any proposed construction and development activity in floodplain areas, and/or upon land situated within the Floodplain/Floodway Overlay Zoning District.

E. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

F. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.

G. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood proofed.

H. When flood proofing is utilized for a particular structure, the Zoning Administrator shall be presented certification from a registered professional engineer or architect.



13. Application for Permit. To obtain a permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:

- A. Identify and describe the work to be covered by the permit.
- B. Describe the land on which the proposed work is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work.
- C. Indicate the use or occupancy for which the proposed work is intended.
- D. Be accompanied by plans for the proposed construction.
- E. Be signed by the permittee or an authorized agent who may be required to submit evidence to indicate such authority.
- F. Give such other information as reasonably may be required by the Building Official.

14. Establishment of Zoning Districts. The mapped floodplain areas within the jurisdiction of this Zoning Code are hereby divided into the two following districts: A Floodway Overlay District (FW) and a Floodplain Overlay District (FP) as identified in the official Flood Plain Study. Within these districts, all uses not meeting the standards of this Code and those standards of the underlying zoning district shall be prohibited. These zones shall be consistent with the numbered and unnumbered A Zones as identified on the official FIRM when identified in the Flood Insurance Study provided by the Federal Insurance Administration.

15. Standards for Floodway Overlay District and Floodplain Overlay District.

A. No permit for development shall be granted for new construction, substantial improvement, or other improvements, including the placement of manufactured homes within the identified flood plain, unless the conditions of this section are satisfied.

B. All areas identified as unnumbered A Zones by the Federal Insurance Administration are subject to inundation of the 100-year flood; however, the water surface elevation was not provided. The unnumbered A Zones shall be subject to all development provisions of this Code. If Flood Insurance Study Data is not available, the community shall utilize any base flood elevation data currently available within its area of jurisdiction. Further, in cases of proposed development within unnumbered "A" zones, the developer's engineer shall be required to conduct the necessary studies to determine the 100-year flood elevation and its extent in relation to such development.

C. New construction, subdivision proposals, substantial improvement, prefabricated buildings, placement of manufactured homes, and other development shall require:

(1) Design or anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effect of buoyancy.

(2) New or replacement water supply systems and/or sanitary sewage systems designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems located so as to avoid impairment or contamination.

(3) Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(4) All utility and sanitary facilities elevated or flood proofed one foot above the regulatory flood elevation. Such flood proofing is permitted only for nonresidential properties.

(5) Until a floodway has been designated, no development including landfill may be permitted within the identified floodplain unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and reasonably anticipated uses, will not increase the water surface elevation of the 100-year flood more than one foot on the average cross-section of the reach in which the development or landfill is located as shown in the official floodplain study incorporated by reference herein.

(6) The storage of equipment and materials that are buoyant, flammable, explosive, or which could be injurious to human, animal, or plant life is prohibited.

(7) Storage of other materials or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

(8) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, are required to assure that:

a. All such proposals are consistent with the need to minimize flood damage.

b. All public utilities and facilities such as sewer, gas, electrical and water systems are located, elevated, and constructed to minimize or eliminate flood damage.

c. Adequate drainage is provided so as to reduce exposure to flood hazards.

d. Proposals for development (including proposals for manufactured home parks and subdivisions) of five acres or 50 lots, whichever is less, include within such proposals the regulatory flood elevation.

16. Floodplain Overlay District Regulations. Any use permitted in the underlying base district shall be permitted in the Floodplain Overlay District. No use shall be permitted in the district unless the standards of this subsection are met.

A. Any new construction or substantial improvements of residential structures shall have the lowest floor, including basement, elevated one foot above the base flood elevation.

B. Any new construction or substantial improvements of nonresidential structures shall have the lowest floor, including basement, elevated one foot above the base flood elevation, or, together with attendant utility and sanitary facilities, shall be flood proofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydro-dynamic loads and effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Zoning Administrator. Such flood proofing is permitted only for nonresidential properties.

C. All new construction and substantial improvements that are fully enclosed areas below the lowest floor that are subject to flooding shall be designated to automatically equalize hydrostatic flood forces or exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by the registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

D. Within AH zones, adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

E. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

(1) Over-the-top ties shall be provided at each of the four corners of the manufactured home with two additional ties per side at intermediate locations, and manufactured homes less than 50 feet long requiring one additional tie per side.

(2) Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, and manufactured homes less than 50 feet long requiring four additional ties per side.

(3) All components of the anchoring system shall be capable of carrying a force of 4,800 lbs.

(4) Any additions to manufactured homes shall be similarly anchored.

All manufactured homes to be placed within Zones AL-30, AH and AE on the community's FIRM shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of the Building Code.

F. Located within the areas of special flood hazard are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. Therefore, the following provisions apply with AO Zones:

(1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM.

(2) All new construction and substantial improvements of nonresidential structures shall:

a. Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM; or

b. Together with attendant utility and sanitary facilities be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy. Such certification shall be provided to the Zoning Administrator.

c. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

17. Floodway Overlay Districts. Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other code, ordinance, or regulation and provided that they do not require structures, fill, or storage of materials or equipment. No use shall increase the flood levels of the base flood elevation. These uses are subject to the standards of subsections 14 and 15 of this section.

A. Agricultural uses such as general farming, pasture, nurseries, forestry.

B. Accessory residential uses such as lawns, gardens, parking, and play areas.

C. Nonresidential areas such as loading areas, parking, and airport landing strips.

D. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves. New placement of residential structures including manufactured homes is prohibited with the identified floodway (FW) area.

E. In Zone A unnumbered, obtain, review and reasonably utilize any floodway data available through federal, State or local sources in meeting the standards of this section.

18. Request for Variances From District Requirements.

A. The Board of Adjustment, as established by the City, shall hear and decide appeals and requests for variances from the requirements of this Zoning Code.

B. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this Zoning Code.

C. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided in the *Code of Iowa*.

D. In passing upon such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this Zoning Code, and:

- (1) The danger that materials may be swept onto other lands to the injury of others.
- (2) The danger of life and property due to flooding or erosion damage.
- (3) The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (4) The importance of the services provided by the proposed facility to the community.
- (5) The necessity to the facility of a waterfront location, where applicable.
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
- (7) The compatibility of the proposed use with existing and anticipated development.
- (8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area.
- (9) The safety of access to the property in time of flood for ordinary and emergency vehicles.
- (10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effect of wave action, if applicable, expected at the site.
- (11) 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. Conditions for Variance.

- (1) 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 (2) through (6) below have been fully considered. As the lot size increases beyond the one-half acre, the technical jurisdiction required for issuing the variance increases.

(2) 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.

(3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

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

(5) Variances shall 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 the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(6) Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

#### 19. Nonconforming Uses.

A. Continuation of Nonconforming Uses. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Zoning Code but which is not in conformity with the provisions of this Code may be continued subject to the following conditions:

(1) No such use or substantial improvement of that use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

(2) If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this Zoning Code. The utility provider shall notify the Building Inspector in writing of instances of nonconforming uses where utility services have been discontinued for a period of six months.

(3) Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue a nonconforming uses.

B. Replacement of Residential Uses. If any residential nonconforming use of structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred within those areas identified as floodway (FW). This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

C. Replacement of Nonresidential Uses. If any nonresidential nonconforming use of structure is destroyed by any means, including flood, it should not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this Zoning Code. This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.