

CHAPTER 167

ZONING REGULATIONS – FLOOD PLAIN MANAGEMENT

167.01 Statutory Authority, Findings of Fact and Purpose	167.13 Application for Permit
167.02 Definitions	167.14 Action on Application
167.03 Lands to Which Chapter Applies	167.15 Construction and Use to Be as Provided in Application and Plans
167.04 Rules for Interpretation of Flood Hazard Boundaries	167.16 Variances
167.05 Compliance	167.17 Factors Upon Which the Decision to Grant Variances Shall be Based
167.06 Abrogation and Greater Restrictions	167.18 Conditions Attached to Variances
167.07 Interpretation	167.19 Nonconforming Uses
167.08 Warning and Disclaimer of Liability	167.20 Amendments
167.09 Flood Plain Management Standards	167.21 Penalties for Violation
167.10 Special Floodway Provisions	
167.11 Administration	
167.12 Flood Plain Development Permit Required	

167.01 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.

1. Statutory Authority. The Legislature of the State of Iowa has in *Code of Iowa* Chapter 364, as amended, delegated the power to cities to exercise any power and to perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the City or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents.

2. Findings of Fact.

A. The Flood Hazard Areas of the City are subject to periodic inundation which can result in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare of the community.

B. These flood losses, hazards, and related adverse effects are caused by: (i) the occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding, and (ii) the cumulative effect of obstructions on the flood plain causing increases in flood heights and velocities.

3. Statement of Purposes. It is the purpose of this chapter to protect and preserve the rights, privileges, and property of the City and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing these flood losses described in subsection 2, paragraph A of this section with provisions designed to:

A. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.

- B. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
- C. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
- D. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

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

1. “Base flood” means the flood having 1% chance of being equaled or exceeded in any given year. (See 100-year flood.)
2. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”
3. “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
4. “Existing construction” means any structure for which the “start of construction” commenced before the effective date of the community’s Flood Insurance Rate Map. May also be referred to as “existing structure.”
5. “Existing factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the effective date of these flood plain management regulations.
6. “Expansion of existing factory-built home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
7. “Factory-built home” means any structure designed for residential use which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site. For the purpose of this chapter, factory-built homes include mobile homes, manufactured homes and modular homes and also includes “recreational vehicles” which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
8. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
9. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

10. “Flood elevation” means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of floodwaters related to the occurrence of the 100-year flood.
11. “Flood Insurance Rate Map (FIRM)” means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.
12. “Flood plain” means any land area susceptible to being inundated by water as a result of a flood.
13. “Flood plain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.
14. “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities which will reduce or eliminate flood damage to such structures.
15. “Floodway” means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one foot.
16. “Floodway fringe” means those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.
17. “Historic structure” means any structure that is:
 - A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing in the National Register;
 - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
 - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.
18. “Lowest floor” means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

- A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 167.09(4)(A) of this Code of Ordinances;
- B. The enclosed area is unfinished (not carpeted, dry-walled, etc.) and used solely for low damage potential uses such as building access, parking or storage;
- C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot above the 100-year flood level;
- D. The enclosed area is not a “basement” as defined in this section.

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

- 19. “Minor projects” means small development activities (except for filling, grading, and excavating) valued at less than \$500,000.
- 20. “New construction” (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.
- 21. “New factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of these flood plain management regulations.
- 22. “100-Year Flood” means a flood, the magnitude of which has a 1% chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every 100 years.
- 23. “Recreational vehicle” means a vehicle which is:
 - A. Built on a single chassis;
 - B. 400 square feet or less when measured at the largest horizontal projection;
 - C. Designed to be self-propelled or permanently towable by a light duty truck; and
 - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
- 24. “Routine maintenance of existing buildings and facilities” means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:
 - A. Normal maintenance of structures such as re-roofing, replacing roofing tiles, and replacing siding;
 - B. Exterior and interior painting, papering, tiling, carpeting, cabinets, countertops, and similar finish work;

- C. Basement ceiling;
 - D. Repairing or replacing damaged or broken window panes;
 - E. Repairing plumbing systems, electrical systems, heating or air conditioning systems, and repairing wells or septic systems.
25. “Special flood hazard area” means the land within a community subject to the “100-year flood.” This land is identified as Zone A on the Flood Insurance Rate Map.
26. “Start of construction” includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
27. “Structure” means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks and other similar uses.
28. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50% of the market value of the structure before the damage occurred.
29. “Substantial improvement” means any improvement to a structure which satisfies either of the following criteria:
- A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% percent of the market value of the structure either (i) before the “start of construction” of the improvement, or (ii) if the structure has been “substantially damaged” and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use. The term also does not include any alteration of an “historic structure,” provided the alteration will not preclude the structure’s designation as an “historic structure.”
 - B. Any addition which increases the original floor area of a building by 25% percent or more. All additions constructed after the effective date of the Flood Insurance Rate Map shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty-five percent.
30. “Variance” means a grant of relief by a community from the terms of the flood plain management regulations.

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

167.03 LANDS TO WHICH CHAPTER APPLIES. The provisions of this chapter shall apply to all lands and uses which have significant flood hazards. The Flood Insurance Rate Map (FIRM) for Franklin County and Incorporated Areas, City of Hampton, Panels 19069C0163C, 0164C, 0168C, 0251C, 0252D, 0256C, 0275C, dated December 18, 2012, which were prepared as part of the Franklin County Flood Insurance Study, shall be used to identify such Flood Hazard Areas and all areas shown thereon to be within the boundaries of the 100-Year Flood shall be considered as having significant flood hazards. Where uncertainty exists with respect to the precise location of the 100-Year Flood Boundary, the location shall be determined on the basis of the 100-Year Flood Elevation at the particular site in question. The Flood Insurance Study for Franklin County is hereby adopted by reference and is made a part of this Ordinance for the purpose of administering Flood Plain Management Regulations.

167.04 RULES FOR INTERPRETATION OF FLOOD HAZARD BOUNDARIES. The boundaries of the Special Flood Hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Zoning Administrator shall make the necessary interpretation. The Council shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this chapter.

167.05 COMPLIANCE. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

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

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

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

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

applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. All development within the special flood hazard areas shall:
 - A. Be consistent with the need to minimize flood damage.
 - B. Use construction methods and practices that will minimize flood damage.
 - C. Use construction materials and utility equipment that are resistant to flood damage.
 - D. Obtain all other necessary permits from Federal, State and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. Residential buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.
3. Nonresidential buildings. All new or substantially improved nonresidential buildings shall have the lowest floor (including basement) elevated a minimum of one foot above the 100-year flood level, or together with attendant utility and sanitary systems, be flood-proofed to such a level. When floodproofing is utilized, a professional engineer registered in the State shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to National Geodetic Vertical Datum) to which any structures are flood-proofed shall be maintained by the Administrator.
4. All new and substantially improved structures:
 - A. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
 - (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (2) The bottom of all openings shall be no higher than one foot above grade.

- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

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

5. Factory-built Homes.

A. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one foot above the 100-year flood level.

B. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

6. Utility and Sanitary Systems.

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

B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one foot above the 100-year flood elevation.

C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities other than on-site systems shall be provided with a level of protection equal to or greater than one foot above the 100-year flood elevation.

D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent

movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

8. Flood control structural works such as levees, flood-walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

9. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five acres or 50 lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Special Flood Hazard Area.

11. Accessory Structures.

A. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied:

- (1) The structure shall not be used for human habitation.
- (2) The structure shall be designed to have low flood damage potential.
- (3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
- (4) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
- (5) The structure's service facilities such as electrical and heating equipment shall be elevated or flood-proofed to at least one foot above the 100-year flood level.

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

12. Recreational Vehicles.

A. Recreational vehicles are exempt from the requirements of Section 167.09(5) of this Code of Ordinances regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

- (1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and
- (2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by

quick disconnect type utilities and security devices and has no permanently attached additions.

B. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section 167.09(5) of this Code of Ordinances regarding anchoring and elevation of factory-built homes.

13. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

167.10 SPECIAL FLOODWAY PROVISIONS. In addition to the general Flood Plain Standards, uses within the floodway must meet the following applicable standards. The floodway is that portion of the Flood plain which must be protected from developmental encroachment to allow the free flow of flood waters. Where floodway data has been provided in the Flood Insurance Study, such data shall be used to define the floodway. Where no floodway data has been provided, the Department of Natural Resources shall be contacted to provide a floodway delineation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. No use shall be permitted in the floodway that would result in any increase in the 100-Year Flood level. Consideration of the effects of any development on flood level shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
2. All uses within the floodway shall:
 - A. Be consistent with the need to minimize flood damage;
 - B. Use construction methods and practices that will minimize flood damage;
 - C. Use construction materials and utility equipment that are resistant to flood damage.
3. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch, or any other drainage facility or system.
4. Structures, buildings, and sanitary and utility systems, if permitted, shall meet the applicable General Flood Plain Standards and shall be constructed or aligned to present the minimum possible resistance to flood flows.
5. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.
6. Storage of materials or equipment that are buoyant, flammable, explosive, or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the floodway within the time available after flood warning.
7. Water course alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

8. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.
9. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

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

1. Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.
2. Review all flood plain development permit applications to assure that all necessary permits have been obtained from Federal, State and local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.
3. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.
4. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) to which all new or substantially improved structures have been flood-proofed.
5. Notify adjacent communities and/or counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
6. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

167.12 FLOOD PLAIN DEVELOPMENT PERMIT REQUIRED. A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations) including the placement of factory-built homes.

167.13 APPLICATION FOR PERMIT. Application for a Flood Plain Development Permit shall be made on forms supplied by the Administrator and shall include the following information:

1. Work To Be Done. Description of the work to be covered by the permit for which application is to be made.
2. Location. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
3. Use or Occupancy. Indication of the use or occupancy for which the proposed work is intended.
4. Flood Elevation. Elevation of the 100-year flood.

5. Floor Elevation. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood-proofed.
6. Cost of Improvement. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
7. Other. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

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

167.15 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PLANS. Flood Plain Development Permits, issued on the basis of approved plans and applications, authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

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

1. Cause. Variances shall only be granted upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
2. Required To Afford Relief. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. Notice To Applicant. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

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

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept on to other land or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The importance of the services provided by the proposed facility to the City.
6. The requirements of the facility for a flood plain location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
12. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical, and water systems), facilities, streets, and bridges.
13. Such other factors which are relevant to the purpose of this chapter.

167.18 CONDITIONS ATTACHED TO VARIANCES. Upon consideration of the factors listed in Section 167.17 of this Code of Ordinances, the Council may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

1. Modification of waste disposal and water supply facilities.
2. Limitation of periods of use and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purposes of this chapter.
5. Floodproofing measures.

167.19 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

A. If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this chapter.

B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

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

167.21 PENALTIES FOR VIOLATION. Violations of the provisions of this chapter or failure to comply with any of the requirements shall constitute a simple misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined no more than \$625.00 or imprisoned for not more than 30 days. Nothing herein contained prevents the City from taking such other lawful action as is necessary to prevent or remedy violations.

[The next page is 885]

CHAPTER 169

AIRPORT HEIGHT REQUIREMENTS

169.01 Definitions	169.08 Board of Adjustment Procedures
169.02 Airport Zones and Airspace Height Limitations	169.09 Powers of Board of Adjustment
169.03 Use Restrictions	169.10 Vote on Variations or Orders
169.04 Lighting	169.11 Judicial Review
169.05 Variances	169.12 Administrative Agency
169.06 Board of Adjustment Established	169.13 Conflicting Regulations
169.07 Board of Adjustment	169.14 Penalties

169.01 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Airport" means the Hampton Municipal Airport.
2. "Airport elevation" means the highest point of an airport's usable landing area measured in feet above mean sea level, which elevation is established to be 1,175 feet.
3. "Airport hazard" means any structure or tree or use of land which would exceed the Federal obstruction standards as contained in fourteen (14) Code of Federal Regulations Sections 77.21, 77.23 and 77.25 and which obstructs the airspace required for the flight of aircraft and landing or takeoff at an airport or is otherwise hazardous to such landing or taking off of aircraft.
4. "Airport primary surface" means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
5. "Airspace height" means for the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
6. "Control zone" means airspace extending upward from the surface of the earth which may include one or more airports and is normally a circular area of five (5) statute miles in radius, with extensions where necessary to include instrument approach and departure paths.
7. "Decision height" means the height at which a decision must be made, during an ILS instrument approach, to either continue the approach or to execute a missed approach.
8. "Instrument runway" means a runway having an existing instrument approach procedure utilizing air navigation facilities or area type navigation equipment, for which an instrument approach procedure has been approved or planned.
9. "Minimum descent altitude" means the lowest altitude expressed in feet above mean sea level, to which descent is authorized on final approach or during circle-to-land maneuvering in execution of a standard instrument approach procedure, where no electronic glide slope is provided.

10. "Minimum en route altitude" means the altitude in effect between radio fixes which assures acceptable navigational signal coverage and meets obstruction clearance requirements between those fixes.
11. "Minimum obstruction clearance altitude" means the specified altitude in effect between radio fixes on VOR airways, off-airways routes, or route segments which meets obstruction clearance requirements for the entire route segment and which assures acceptable navigational signal coverage only within twenty-two (22) miles of a VOR.
12. "Runway" means a defined area on an airport prepared for landing and takeoff of aircraft along its length.
13. "Visual runway" means a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a FAA approved airport layout plan, military services approved airport layout plan, or by any planning document submitted to the FAA by competent authority.

169.02 AIRPORT ZONES AND AIRSPACE HEIGHT LIMITATIONS. In order to carry out the provisions of this section, there are hereby created and established certain zones which are depicted on the Municipal Airport Height Zoning Map. A structure located in more than one (1) zone of the following zones is considered to be only in the zone with the more restrictive height limitations. The various zones are hereby established and defined as follows:

1. **Horizontal Zone.** The land lying under a horizontal plane one hundred fifty (150) feet above the established elevations, the perimeter of which is constructed by swinging arcs of five thousand (5,000) feet radii from the center of each end of the primary surface of runways 17 and 35 and connecting the adjacent arcs by lines tangent to those arcs. No structure shall exceed one hundred and fifty (150) feet above the established airport elevation in the horizontal zone, as depicted on the Municipal Airport Height Zoning Map.
2. **Conical Zone.** The land lying under a surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet to one (1) for a horizontal distance of four thousand (4,000) feet. No structure shall penetrate the conical surface in the conical zone, as depicted on the Municipal Airport Height Zoning Map.
3. **Approach Zone.** The land lying under the surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.

(Note: An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.)

- A. The inner edge of the approach surface is five hundred (500) feet for runways 17 and 28.
- B. The outer edge of the approach zone is two thousand (2,000) feet for runway 17 and one thousand five hundred (1,500) feet for runway 35.
- C. The approach zone extends for a horizontal distance of five thousand (5,000) feet at a slope of twenty (20) to one (1) for runways 17 and 35.

No structure shall exceed the approach surface to any runway, as depicted on the Municipal Airport Height Zoning Map.

4. **Transitional Zone.** The land lying under those surfaces extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of seven (7) to one (1) from the sides of the primary surface and from the sides of the approach surfaces. No structures shall exceed the transitional surface, as depicted on the Municipal Airport Height Zoning Map.

5. **Increase in Elevation of Structures.** No structure shall be erected in the County that raises the published minimum descent altitude or decision height for an instrument approach to any runway, nor shall any structure be erected that causes the minimum obstruction clearance altitude or minimum en route altitude to be increased on any Federal airway in the County.

169.03 USE RESTRICTIONS. Notwithstanding any other provisions of 169.02, no use may be made of land or water within the City or County in such a manner as to interfere with the operation of any airborne aircraft. The following special requirements shall apply to each permitted use:

1. **Lighting.** All lights or illumination used in conjunction with streets, parking, signs or use of land and structures shall be arranged and operated in such a manner that it is not misleading or dangerous to aircraft operating from the Municipal Airport or in the vicinity thereof.

2. **Visual Hazards.** No operation from any use shall produce smoke, glare or other visual hazards within three (3) statute miles of any usable runway of the Municipal Airport.

3. **Electronic Interference.** No operation from any use in the City or County shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.

169.04 LIGHTING. Notwithstanding the provisions of 169.03, the owner of any structure over two hundred (200) feet above ground level must install on the structure lighting in accordance with Federal Aviation Administration (FAA), Advisory Circular 70-7460-1D and amendments. Additionally, any structure constructed after the effective date of this chapter and exceeding nine hundred forty-nine (949) feet above ground level, must install on that structure high intensity white obstruction lights in accordance with Chapter 6 of FAA Advisory Circular 7460-1D and amendments. Any permit or variance granted may be so conditioned as to require the owner of the structure or growth in question to permit the City or County at its own expense to install, operate and maintain thereto such markers or lights as may be necessary to indicate to pilots the presence of an airspace hazard.

169.05 VARIANCES. Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use property in violation of any section of this chapter, may apply to the Board of Adjustment for variance from such regulations. No application for variance to the requirements of this chapter may be considered by the Board of Adjustment unless a copy of the application has been submitted to Hampton Airport Manager for an opinion as to the aeronautical effects of such a variance. If the Airport Manager does not respond to the Board of Adjustment within fifteen (15) days from receipt of the copy of the application, the Board may make its decision to grant or deny the variance.

169.06 BOARD OF ADJUSTMENT ESTABLISHED. There is hereby created a Board of Adjustment to have and exercise the following powers:

1. Appeals. To hear and decide appeals from any order, requirement, decision, or determination made by the administrative agency in the enforcement of this chapter.
2. Special Exemptions. To hear and decide special exemptions to the terms of this chapter upon which such Board of Adjustment under such regulations may be required to pass.
3. Variances. To hear and decide specific variances.

169.07 BOARD OF ADJUSTMENT. The Board of Adjustment shall consist of two (2) members selected by the Council, two (2) members selected by the County Board of Supervisors; and one (1) additional member to act as Chairperson and to be selected by a majority vote of the members selected by the Council and the County Board of Supervisors. Members are removable for cause by the appointing authority upon written charges, after a public hearing. Vacancies are filled for the unexpired term of any member whose office becomes vacant in the same manner in which the member was selected. The terms of the members are for five (5) years, and are staggered.

169.08 BOARD OF ADJUSTMENT PROCEDURES. The Board of Adjustment shall adopt rules for its governance and in harmony with the provisions of this chapter. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board of Adjustment may determine. The Chairperson or, in his or her absence, the acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations, and other official actions, all of which shall immediately be filed in the offices of the Clerk and County Auditor, and on due cause shown.

169.09 POWERS OF BOARD OF ADJUSTMENT. The Board of Adjustment shall have the powers established in the Code of Iowa, Section 414.12.

169.10 VOTE ON VARIATIONS OR ORDERS. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant, on any matter upon which it is required to pass under this chapter, or to effect variations of this chapter.

169.11 JUDICIAL REVIEW. Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the court of record as provided in the Code of Iowa, Section 414.15.

169.12 ADMINISTRATIVE AGENCY. It is the duty of the City's Zoning Administrator or the County Zoning Administrator, herein referred to as the administrative agency, to administer the regulations prescribed herein. Applications for permits and variances shall be made to the appropriate authority upon a furnished form. Applications required by this chapter to be submitted to the administrative agency shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the administrative agency.

169.13 CONFLICTING REGULATIONS. Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and any other regulations applicable to the same area, whether the conflict be with respect to height of structures, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

169.14 PENALTIES. Each violation of this chapter or of any regulation, order, or ruling promulgated hereunder shall constitute a simple misdemeanor, and each day a violation continues to exist shall constitute a separate offense.

[The next page is 921]

CHAPTER 170

SUBDIVISION REGULATIONS

170.01 Purpose
170.02 Application and Jurisdiction
170.03 Improvements Required
170.04 Definitions
170.05 Plat Approval and Acceptance
170.06 Information Required in Plats
170.07 Attachments to Plat
170.08 Design Standards Are Minimum

170.09 Minimum Standards of Design and Development
170.10 Inspection of Improvements
170.11 Maintenance of Improvements
170.12 Utilities
170.13 Monumentation
170.14 Resubdivision of Land
170.15 Variations
170.16 Enforcement, Violations and Penalties

170.01 PURPOSE. The purpose of this chapter is to establish minimum standards for the design, development and improvement of all new subdivisions and resubdivisions so that existing developments will be protected and so that adequate provisions are made for public services and to promote the health, safety, and general welfare.

170.02 APPLICATION AND JURISDICTION. A subdivision plat shall be made when a tract of land within the City limits or within two miles of the corporate limits of the City, pursuant to Section 354.9, Code of Iowa, is subdivided by repeated divisions or simultaneous division into three or more parcels, any of which are described by metes and bounds description for which no plat of survey is recorded. A subdivision plat is not required when land is divided by conveyance to a governmental agency for public improvements.

170.03 IMPROVEMENTS REQUIRED. The subdivider shall install and construct all improvements required by these regulations in accordance with the specifications and under the supervision of the Council and to its satisfaction.

170.04 DEFINITIONS. For use in this chapter certain terms or words used herein shall be interpreted or defined as follows:

1. "Alley" means a public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.
2. "Block" means a tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or corporate boundaries.
3. "Bond" means any form of security including a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the Council.
4. "Building" means any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels, or property of any kind.
5. "City Engineer" means the person designated by the Council to furnish engineering assistance for the administration of these regulations.
6. "Commission" means the Planning and Zoning Commission of Hampton, Iowa.

7. "Cul-de-sac" means a municipal service street with only one outlet and having an appropriate terminal for safe and convenient reversal of traffic movement.
8. "Developer" means the owner of land proposed to be subdivided or the owner's agent.
9. "Easement" means a grant of one (1) or more of the property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.
10. "Frontage" means that side of a lot abutting on a street; the front lot line.
11. "Lot" means a tract of land represented and identified by number or letter designation on an official plat.
12. "Plat" means the graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.
13. "Proprietor" means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding a mortgage, easement, or lien interest.
14. "Public improvement" means any drainage ditch, roadway, parkway, sidewalk, pedestrian crosswalk, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.
15. "Right-of-way" means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. The usage of the term "right-of-way" for land platting purposes means that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.
16. "Roadway" means that portion of the street available for vehicular traffic, and where curbs are laid, the portion from back to back of curbs.
17. "Street" means a general term used to describe a public right-of-way which provides a channel for vehicular and pedestrian movement, and may provide for vehicular and pedestrian access to properties adjacent to it, and which may also provide space for the location of utilities (both above and below ground).
18. "Subdivider" means any person, firm, corporation, or legal entity undertaking the subdivision or resubdivision of a tract or parcel of land.
19. "Subdivision" means a tract of land divided into three or more lots.
20. "Subdivision plat" means the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for the County where the land is located.

21. "Surveyor" means a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 542B.

170.05 PLAT APPROVAL AND ACCEPTANCE. Procedures for plat approval and acceptance are as follows:

1. Preliminary Approval by Commission. Whenever the owner of any tract or parcel of land is required by law to secure the approval of the Commission or of the Council to any plat or subdivision, said owner shall file said preliminary plat in triplicate, together with any other required information, with the Clerk. Two (2) copies of said plat and other information shall be referred by the Clerk to the Commission for its preliminary study and approval. Such preliminary plat shall contain such information and data as outlined in Section 170.06(1).

2. Study of Preliminary Plat by the Commission. The Commission shall study such preliminary plat and other information submitted to see if it conforms with the requirements of this chapter and shall approve or reject such plat and plan within thirty (30) days after the date of the submission thereof to the Commission. The approval of the preliminary plat and plan constitutes authorization to proceed with the preparation of the final plat, but the final plat must be submitted to the Commission and the Council for approval as provided in the following subsection.

3. Final Plat of Subdivision. The subdivider shall also file with the Clerk for submission to the Commission, for its approval or rejection, the final plat and plan of the subdivision which shall contain the data and information outlined in Section 170.06(2) of this chapter. If the Commission approves the final plat and plan, such approval and the date thereof shall be noted on the plat and plan over the signatures of both the Chairperson and the Secretary of the Commission.

4. Approval by the Council. After the approval of the final plat and plan by the Commission, it shall be submitted to the Council for final approval and for acceptance of all streets, alleys, easements, parks, or other areas preserved for or dedicated to the public.

5. Approval by the Council after the Disapproval of the Commission. If the Commission does not approve the final plat and plan of the subdivision, the Council may approve said plat and plan and accept the streets, alleys, easements, parks, or other areas preserved for or dedicated to the public by said plat or plan, only by a four-fifths (4/5) vote of the entire membership of the Council.

6. Filing in Office of Clerk. After approval of the final plat and plan by the Council, two (2) copies of such final plat and plan shall be filed in the office of the Clerk.

170.06 INFORMATION REQUIRED IN PLATS. Plat information requirements are as follows:

1. Preliminary Plan. The preliminary plan shall be drawn to scale and shall show the proposed location and width of streets, lot lines, building lines, and areas of each proposed lot. The plan shall also show surrounding streets, lots, water courses, sewers and water mains. The scale of such preliminary plans shall not be less than one (1) inch to one hundred (100) feet. Wherever the land is so rolling or rugged that the preliminary location and grades of streets and sewers cannot be properly considered without the aid of a topographical map, the Commission may require the developer to provide a topographical map of the property showing contour intervals of

not less than five (5) feet. Any plan not containing all information specified above shall not be considered by the Commission. A filing fee of one hundred dollars (\$100.00) shall be required to cover processing costs.

2. Final Plan. The final map on a reproducible original (mylar) and two (2) prints thereof shall be submitted to the Commission. It shall show:

- A. The boundaries of the property.
- B. The lines of all proposed streets and alleys, with their widths and names, and any other areas intended to be dedicated to public use; the names of the streets shall be a continuation of the existing method of naming streets in the City.
- C. The lines of adjoining streets and alleys, with their widths and names.
- D. All lot lines, building lines, and easements, with figures showing their dimensions.
- E. All dimensions, both linear and angular, necessary for locating boundaries of the subdivided area or of the lots, streets, alleys, easements, and building line setbacks, and any other similar public or private uses. The linear dimensions shall be expressed in feet and decimals of a foot.
- F. Radii, arcs, and chords, points of tangency, central angles for all circilinear streets, and radii for all rounded corners.
- G. All monuments, together with their description. (See Section 170.13 for details).
- H. Title and description of property subdivided, showing its location and extent, points of compass, scale of plan, classification of property under zoning law, and name of subdivider and of registered land surveyor staking the lots.
- I. Profiles may be required of any streets.
- J. Any private restrictions shall be shown on the plat or reference made to them thereon; and plats shall contain proper acknowledgments of owners and mortgagees accepting said platting and restrictions.

170.07 ATTACHMENTS TO PLAT. Final plats shall be accompanied by the following documents:

- 1. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council.
- 2. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the Code of Iowa may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.

3. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.
4. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the Code of Iowa.
5. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.
6. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots.
7. The performance bond and maintenance bond, if any.

170.08 DESIGN STANDARDS ARE MINIMUM. The standards and details herein contained are intended only as minimum requirements so that the general arrangement and layout of a subdivision may be adjusted to a wide variety of circumstances. In the design and development of the subdivision, however, the subdivider shall use standards consistent with the site conditions so as to assure an economical, pleasant and durable neighborhood.

170.09 MINIMUM STANDARDS OF DESIGN AND DEVELOPMENT. No preliminary or final plat or plan of a subdivision shall be approved by either the Commission or by the Council unless it conforms to the minimum standards and requirements contained in this chapter.

1. **Acre Subdivision.** Whenever the area is divided into lots containing one (1) or more acres and there are indications that such lots will eventually be subdivided into small building plots, consideration must be given to the street and lot arrangement of the original subdivision so that additional streets can be opened which will permit a logical arrangement of smaller lots.
2. **Relation to Adjoining Street System.** The arrangement of streets in new subdivisions shall make provisions for the continuation of the principal existing streets in adjoining additions (or their proper projection where adjoining property is not subdivided) insofar as they may be necessary for public requirements. The width of such streets in new subdivisions shall not be less than the minimum street widths established herein. The street and alley arrangement must also be such as to cause no hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. Whenever there exists a dedicated or platted half-street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted.
3. **Streets in Relation to Railroads.** When the area to be subdivided adjoins a railroad right-of-way, no street shall be dedicated which is parallel or approximately parallel to the railroad, unless it is one hundred (100) feet or more from the line of the railroad right-of-way.
4. **Street Right-of-way Width.** The minimum width of street right-of-ways shall be sixty-six (66) feet.

5. Street Width. The minimum width of streets shall be thirty-one (31) feet, except in those cases where topographical conditions, existing streets, or special conditions make a street of less width more suitable. Under these conditions the Commission may waive the minimum requirements.
6. Street Jogs at Intersections. At street intersections, street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be prohibited, except where topographic or other physical conditions make such jogs unavoidable.
7. Street Angles at Intersections. Streets shall intersect as nearly at right angles as possible, and no street shall intersect any other street at an angle less than sixty (60) degrees.
8. Dead-end Streets. Dead-end streets are prohibited except where a street is planned to continue past the subdivider's property. A dead-end street shall terminate in a temporary circular right-of-way with a minimum diameter of ninety (90) feet, unless the Commission approves an equally safe and convenient space. No dead-end street shall be longer than six hundred (600) feet in length and shall be provided with a turn-around with a minimum right-of-way diameter of one hundred twenty (120) feet. The length of the cul-de-sac shall be measured along its centerline from the turn-around to the intersecting point.
9. Alleys. The minimum width of an alley in a residential block shall be sixteen and one-half (16.5) feet (alleys are not recommended for residential districts except under unusual conditions). Alleys will be required in the rear of all business lots and shall be at least twenty (20) feet wide.
10. Easements Where There Are No Alleys. Where alleys are not provided, easements of not less than five (5) feet in width shall be provided on each side of all rear lot lines and on those side lines where necessary for poles, wires, conduits, storm and sanitary sewers, gas, water, and heat mains. Easements of greater width may be required along lines or across lots where necessary for the extension of main sewers and similar utilities.
11. Length of Blocks. No blocks shall be longer than one thousand (1,000) feet between street lines. Blocks over seven hundred fifty (750) feet in length shall provide a cross walk near the center of the block. The right-of-way through such blocks shall not be less than ten (10) feet in width.
12. Width of Blocks. The width of blocks shall not be less than two hundred (200) feet and not more than three hundred (300) feet, except that when such requirement would entail unusual and substantial difficulties or hardship or when it is desired to provide a development containing large residential lots, the Commission and the Council may modify such requirements and allow the subdivider to plat blocks of other widths.
13. Lot Lines. All side lines of lots shall be at right angles to straight street lines or radial to curved street lines, unless a variation of this rule will give a better street and lot plan. Lots with double frontage shall be avoided.
14. Size and Shape of Lots. The minimum dimensions for lots shall be sixty-six (66) feet for width and one hundred (100) feet for depth, and in no case shall a lot that is to be used for residential purposes contain less area than is required by the lot area regulation of the zoning district in which the property is located. In laying out an

arrangement of lots, the subdivider should, whenever possible, arrange for wide, shallow lots and avoid long, narrow lots.

15. Corner Lots. All corner lots shall have extra width sufficient to permit the maintenance of building lines on both the front end and side streets as required by any applicable zoning regulations.

16. Building Lines. Building lines shall be shown on all lots intended for residential use of any character, and on commercial lots immediately adjoining residential areas. Such building lines shall not be less than required by any applicable zoning regulations.

17. Character of Development. The Commission shall confer with the subdivider regarding the type and character of development that will be permitted in the subdivision, and may require that certain minimum deed restrictions be placed upon the property, which restrictions would prevent such construction which would clearly depreciate the character and value of adjoining property. The Commission may also require that the deed restrictions provide for the creation of a property owners' association which would be responsible for the enforcement of the restrictions and for the protection and improvement of the general welfare of the subdivision.

18. Improvements. Before any portion of the final plat of any subdivision is finally approved for recording, the subdivider shall make and install improvements as required in paragraphs A – H of this subsection, in that portion of the plat which is to be finally recorded. In lieu of final completion of the minimum improvements before the plat is finally approved, the subdivider may post a bond, approved by the City Attorney, with the City, which bond will insure to the City that the improvements (with the exception of the concrete surfacing of streets) will be completed by the subdivider within one (1) year after final approval of the plan. The amount of the bond shall be not less than the estimated cost of the improvements, and the amount of the estimate must be approved by a registered engineer. If the improvements are not completed within the specified time, the Council may use the bond or any necessary portion thereof to complete the same.

A. Grading and Improving Streets. The subdivider shall grade and improve all streets and alleys (if any) within the subdivision. The surfacing of such streets and alleys shall be of such character as is suitable for the expected traffic and in harmony with similar improvements in the surrounding areas, but in no case shall it consist of less than a minimum granular base of six (6) inches of crushed rock. The street design shall be certified by a registered professional engineer. When fifty percent (50%) of the lots within the subdivision have sold, but not sooner than two (2) years from the installation of utilities within the right-of-way, the subdivider shall surface or cause to be surfaced roadways to the widths prescribed in these regulations. Said surfacing shall be of Portland concrete with integrated curb. Adequate provision shall be made for culverts, drains, and bridges. The design and specifications for all road pavement, shoulders, drainage improvements and structures, curbs, turnarounds, and sidewalks shall be approved by the City.

B. Grading and Improving Lots. The subdivider shall, whenever necessary, grade any portion of the property subdivided into lots so that each lot that is to be offered for sale will be usable and suitable for the erection of residential or any structure thereon.

C. Sanitary Sewers. The subdivider shall install sanitary sewers and provide a connection for each lot. Such installations shall be in accordance with good engineering practices, shall be shown on plans drawn by a registered engineer and shall meet the sanitation provisions of the City, County, State Health Department and the State Department of Natural Resources.

D. Storm Sewers. Were deemed necessary by the Commission, the developer shall install a storm sewer adequate to serve the platted area. The design of the storm sewer system shall be certified by a registered professional engineer.

E. Water Mains. The subdivider shall install water mains and fire hydrants in the subdivided area. Such installations shall be in accordance with the standards and specifications of the City Water Department and the State Department of Natural Resources, and fire hydrant locations should meet the approval of the City Water Department. The design of the water mains shall be certified by a registered professional engineer.

F. Other Improvements. It is also desirable to install other improvements such as sidewalks, electric lines, street lights, gas mains and similar facilities in any subdivision. Whenever the Commission deems it necessary, they may require that such improvements shall be installed before the plat is approved.

G. Trees. The subdivider may plant trees in subdivisions whenever there are no existing woodlands. In order to protect sidewalks, sewers and water mains, the Commission may prevent the planting of trees on the parking area and certain species that are subject to disease or pests or which may eventually become nuisances because of the growth of their roots in the service utilities.

H. Sump Pumps. Where storm sewers are required, all lots adjacent thereto shall be provided with connections for sump pumps to the main prior to approval of any plat, the inlet for which connections shall be installed on each lot and not in the right-of-way. The location of such connections shall be shown on either the preliminary or final plat.

The subdivider may request the Council to provide the materials necessary for the water, sanitary sewer, and storm sewer systems within the subdivision to be developed.

170.10 INSPECTION OF IMPROVEMENTS. The Council shall provide for inspection of required improvements during construction and insure their satisfactory completion. The subdivider shall pay to the City an inspection fee equal to the actual cost of inspection. These fees shall be due and payable upon demand of the City and no building permits or certificates of occupancy shall be issued until all fees are paid. The subdivider shall furnish the Council with a construction schedule prior to the commencement of any and all construction, and notify the City not less than twenty-four (24) hours in advance of readiness for required inspections.

170.11 MAINTENANCE OF IMPROVEMENTS. Improvements shall be maintained and a maintenance bond provided as follows:

1. Maintenance of Improvements Before Acceptance. The subdivider shall be required to maintain all improvements on the individual subdivided lots and provide

for snow removal on streets and sidewalks, if required, until acceptance of said improvements by the Council. If there are any residents of the subdivision residing on a street not dedicated to the City, the City may on twelve (12) hours' notice plow the street or effect emergency repairs and charge same to subdivider.

2. **Maintenance Bond.** The subdivider shall be required to file a maintenance bond with the governing body, prior to dedication, in an amount considered adequate by the Council and in a form satisfactory to the City Attorney, in order to assure the satisfactory condition of the required improvements for a period of two (2) years after the date of their acceptance by the governing body and dedication of same to the City.

170.12 UTILITIES. The following shall apply to the provision of utilities:

1. **Location.** The Council may require that all utility facilities, including, but not limited to gas, electric power, telephone, and CATV cables, be located underground throughout the subdivision. All utility facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the Council, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

2. **Easements.** Easements shall be provided as follows:

A. Easements centered on rear lot lines shall be provided for utilities. Such easements shall be at least ten (10) feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements established in adjoining properties.

B. Where topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least ten (10) feet in width shall be provided along side lot lines with satisfactory access to the street or rear lot lines. Easements shall be indicated on the plat.

170.13 MONUMENTATION. Monuments shall be in conformance with the following requirements:

1. The surveyor shall confirm the prior establishment of control monuments at each controlling corner on the boundaries of the parcel or tract of land being surveyed. If no control monuments exist, the surveyor shall place the monuments. Control monuments shall be constructed of reasonably permanent material solidly embedded in the ground and capable of being detected by commonly used magnetic or electronic equipment. The surveyor shall affix a cap of reasonably inert material bearing an embossed or stencil cut marking of the Iowa registration number of the surveyor to the top of each monument which the surveyor places.

2. Control monuments shall be placed at the following locations:

A. Each corner and angle point of each lot, block, or parcel of land surveyed.

B. Each point of intersection of the outer boundary of the survey with an existing or created right-of-way line of a street, railroad, or other way.

- C. Each point of curve, tangency, reversed curve, or compounded curve on each right-of-way line established.
3. If the placement of a monument required by this section at the prescribed location is impractical, a reference monument shall be established near the prescribed location. If a point requiring monumentation has been previously monumented, the existence of the monument shall be confirmed by the surveyor.
4. At least a minimum number of two survey control monuments are required to be placed before the recording of a subdivision provided the surveyor includes in the surveyor's statement a declaration that additional monuments shall be placed before a date specified in the statement or within one year from the date the subdivision is recorded, whichever is earlier.

170.14 RESUBDIVISION OF LAND. The following requirements shall govern the resubdividing of land.

1. Procedure for Resubdividing. For any change in a map of an approved or recorded subdivision plat, if such change affects any street layout shown on such map, or area reserved for public use indicated on the map, or any lot line, or if it affects any map or plan legally established prior to the adoption of any regulations controlling subdivisions, such parcel shall be approved by the same procedure, rules, and regulations as for a subdivision.
2. Acreage Lots. Whenever a parcel of land is subdivided and the subdivision plat shows one or more lots containing more than one acre of land and there are indications that such lots will eventually be resubdivided into smaller building sites, the Commission and Council may require that such parcel of land allow for future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of such streets may be made a requirement of the plat.

170.15 VARIATIONS. Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of this chapter would result in real difficulties and substantial hardships, the Commission may vary or modify such requirements so that the subdivider is allowed to develop the property in a reasonable manner, but at the same time the public welfare and interests of the City are protected and the general intent and spirit of this chapter are preserved.

170.16 ENFORCEMENT, VIOLATIONS AND PENALTIES. No plat or subdivision within the City or within two (2) miles thereof shall be filed or recorded with the County, nor shall any plat or subdivision have any validity until it complies with the provision of these regulations, has been approved by the Council as herein set forth, and further:

1. Building Permits. The City shall not issue building or repair permits for any structure located on a lot in any subdivision, the plat of which has been prepared after the date of the adoption of this Code of Ordinances but which has not been approved in accordance with the provisions contained herein. An original tract may be divided into two (2) lots or tracts and not be subject to the provisions of this section. If an original tract shall be divided into more than two (2) lots or tracts after the date of the adoption of this Code of Ordinances, no building or repair permits shall be issued for any structure located or proposed to be located on any of such tracts or lots, unless or until a plat as required by this chapter has been fully approved by the Council.

2. Public Improvements. The Council shall not permit any public improvement over which it has any control to be made or any money expended for improvements in any area that has been subdivided or upon any street that has been platted after the date of the adoption of this Code of Ordinances unless such subdivision or street has been approved in accordance with the provisions contained therein.

3. Any person or entity who violates any provision of this chapter may, in addition to other sanctions or remedies available, be cited for a municipal infraction.

o o o o o o o o o o