

CODE OF ORDINANCES
OF THE
CITY OF
BELMOND, IOWA

Prepared By: Local Government Professional Services, Inc.
DBA Iowa Codification
P. O. Box 244
114 E 5th Street
Storm Lake, Iowa 50588
(641) 355-4072
www.sc-ic.com

CHAPTER 165

ZONING REGULATIONS

165.01 Title and Jurisdiction	165.23 Agricultural District
165.02 Interpretation of Standards	165.24 Single Family Residential District
165.03 Definitions	165.25 Multi-family Residential District
165.04 Districts	165.26 Mobile Home District
165.05 Interpretation of District Boundaries	165.27 Commercial District
165.06 Road or Public Way Vacation	165.28 Light Industrial District
165.07 Annexed Territory	165.29 Heavy Industrial District
165.08 General Requirements	165.30 Flood Plain District
165.09 Lot Area and Width	165.31 Planned Unit Developments
165.10 Yards	165.32 Off-street Parking and Loading
165.11 Building Height	165.33 Nonconforming Uses
165.12 Minimum Dwelling Width	165.34 Administration
165.13 Hedges and Fences	165.35 Violation
165.14 Buildings to Have Access	165.36 Restraining Order
165.15 Use of Public Right-of-way	165.37 Board of Adjustment
165.16 Signs Permitted	165.38 Powers of the Board on Appeal
165.17 Temporary Buildings	165.39 Appeals From the Board
165.18 Accessory Buildings	165.40 Amendments
165.19 Exceptions to Prohibited Uses	165.41 Application for Change in District Boundaries
165.20 Utilities and Railroads	165.42 Special Exception Uses
165.21 Building Lines on Approved Plats	165.43 Open Space District
165.22 Required Yard Cannot be Reduced	

165.01 TITLE AND JURISDICTION. This chapter shall be known and may be cited and referred to as the “Zoning Ordinances of the City of Belmond, Iowa.” In accordance with the provisions of Chapter 414 of the *Code of Iowa*, this chapter shall govern the zoning of all lands within the corporate limits of the City.

165.02 INTERPRETATION OF STANDARDS. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other provisions of law or by other rules and regulations or ordinances, the provisions of this chapter shall control.

165.03 DEFINITIONS. For the purpose of this chapter, the following terms and words are defined. As used herein, the words “used” or “occupied” include the words “intended, assigned, or arranged to be used or occupied.”

1. “Accessory use or structure” means a use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use or structure.
2. “Alley” means a public or private thoroughfare which affords only a secondary means of access to abutting property.
3. “Apartment” means a single room or set of rooms occupied as a dwelling which is part of a multi-family structure.
4. “Basement” means a story having part but not more than one-half (½) its height below grade as measured at the front of the structure. A basement is counted as a story for the purpose of height regulations.

5. "Billboard" includes all structures, regardless of the material used in the construction of the same, that are erected, maintained or used for public display of posters, painted signs or wall signs, whether the structure is placed on the wall or painted itself, pictures or other pictorial reading material which advertise a business or attraction which is not carried on, manufactured, grown or sold on the premises where said signs or billboards are located.
6. "Block" means that property abutting on one side of a street and within the two nearest intercepting or intersecting streets or lying within the nearest intercepting or intersecting streets and unsubdivided acreage or railroad rights-of-way.
7. "Boarding or lodging house" means a building other than a hotel, where for compensation, and by arrangement, lodging is provided for three (3) or more persons.
8. "Building" means a structure that is completely enclosed by a roof and by a solid exterior wall along whose outside faces can be traced an unbroken line for the complete circumference of the structure, which is permanently affixed to a lot or lots and used or intended for the shelter, support or enclosure of persons, animals or property of any kind. The connection of two (2) buildings by means of an open porch, breezeway, passageway, carport or other such open structures, with or without a roof, shall make them one building. Such structures attached to the principal building shall be deemed a part of the principal building.
9. "Building, height of" means the perpendicular distance measured in a straight line from the curb level to the highest point of the roof beams in the case of flat roofs, and to the average of the height of the roof in the case of pitched roofs; the measurement in all cases is to be taken through the center of the front of the house. Where a dwelling is situated on ground above the curb level, such height shall be measured from the level of the adjoining ground. Where a dwelling is on a corner lot and there is more than one grade or level, the measurements shall be taken from the main entrance elevation.
10. "Building permit" means a permit issued by the Zoning Administrative Officer, authorizing the use of land in the manner and for the purpose specified in the application.
11. "Buildable area" means the portion of a lot remaining after required yards have been provided.
12. "Business" or "commercial" refers to the engaging in the purchase, sale or exchange of goods or services or the operation for profit of offices or recreational amusement enterprises.
13. "Carport" means an open or semi-enclosed space for the housing or storage of motor vehicles and which is attached to a principal building. A carport shall be considered a part of the principal building to which attached.
14. "Cellar" means a story having more than one-half (1/2) of the height of all walls below the highest level of the adjoining ground. A cellar is not considered a story for the purpose of this chapter.
15. "Commission" means the Planning and Zoning Commission of the City.
16. "Cottage" means a small single unit structure used for vacation or vacationer's occupancy.

17. "Critical area" means a natural feature in need of preservation from encroaching land uses. Such areas could, but would not have to, include prime agricultural land, areas of excessive slope, natural marshes, woodlands and flood plains.
18. "Day nursery" or "nursery school" means any private agency, institution, establishment or place which provides, for compensation, supplemental parental care and/or educational work, other than overnight lodging, for six (6) or more unrelated children.
19. "District" means any part of the City wherein regulations of this chapter are uniform.
20. "Dwelling" means any building or portion thereof designed or used exclusively for residential purposes, but not including a tent, cabin, trailer or mobile home, which is not located within a mobile home subdivision or mobile home park.
21. "Dwelling, multiple" means a residence designed for the occupancy by three (3) or more families, with separate housekeeping and cooking facilities for each.
22. "Dwelling, single family" means a detached residence designed for or occupied by one family only.
23. "Dwelling, two family" means a residence designed for or occupied by two (2) families, with separate entrances, housekeeping and cooking facilities for each.
24. "Dwelling unit" means a room or group of rooms which are arranged, designed or used as living quarters for the occupancy of one (1) family and containing independent cooking facilities for the family.
25. "Engineer, City" means a duly qualified individual or firm designated by the Council.
26. "Essential services" means the erection, construction, alteration or maintenance by developers, public utilities or governmental agencies of underground or overhead gas, telephone, television, electrical, wastewater, water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or governmental agencies or for public health or safety or general welfare, but not including buildings.
27. "Family" means one or more persons occupying premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding or lodging house, nursing or convalescent home, hotel or motel, as herein defined.
28. "Farm" means an area which is used for the growing of the usual farm products such as vegetables, fruits and grains and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term "farming" includes the operating of such area used for treating or storing the produce, provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activity and such accessory uses do not include the feeding of garbage or offal to swine or other animals, or commercial feeding of animals or poultry in confined lots or buildings.
29. "Floor area" means the square feet of floor space within the outside line of walls, including the total of all space on all floors of a building. Floor area does not include porches, garages or space in a basement.

30. "Frontage" means all the property on one (1) side of a street between two (2) intersecting streets (crossing or terminating) measured along the line of the street, or if the street is a dead-end street, then all of the property abutting one (1) side between an intersecting street and the dead end of the street. The front of a double fronted lot shall face the street upon which the lot will be addressed.
31. "Garage, commercial" means a building or portion thereof, other than a private or storage garage, designed, intended or used for the equipping, servicing, selling, hiring, storing, care or repair of motor vehicles, and which is operated for commercial purposes.
32. "Garage, private" means an accessory building and/or portion of a building used only for the shelter or storage of vehicles by the occupants of the premises or the leasing of space as provided therein, including covered parking space or carports.
33. "Gasoline service station" means any building or premises used for the retail sale of automotive fuels, oils and other items customarily associated with the sale of such products, but not for the purpose of making other than minor repairs. When the dispensing, retail sale or offering for retail sale is incidental to the conduct of a commercial garage, the premises shall be classified as a commercial garage.
34. "Grade" means the average level of the finished surface of the ground adjacent to the exterior walls of the building, except when any wall approximately parallels and is not more than five (5) feet from a street line, then the elevation of the centerline of the street at the center of the wall adjoining the street shall be grade.
35. "Home occupation" means an occupation conducted in a dwelling unit, which:
- A. Is carried on completely within a dwelling unit structure, and
 - B. Is carried on by a member of the family residing in the dwelling unit, and
 - C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and
 - D. Does not employ any person outside the immediate family residing in the dwelling unit, and
 - E. Has no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building, other than one (1) exterior sign of not more than one hundred forty-four (144) square inches in area mounted flush with the face of the building, and
 - F. Does not occupy more than thirty percent (30%) of the area of one (1) floor of the dwelling unit other than the basement, and
 - G. Produces no offensive noise, vibration, smoke, dust, odors, heat or glare rendering such building or premises objectionable or detrimental to the residential character of the neighborhood.
36. "Hotel" means a building in which lodging or boarding and lodging are provided and offered to the public for compensation and which is open to transient guests, in contradistinction to a boarding house or lodging house as defined in this chapter.

37. "Institution" means a building or premises occupied by a nonprofit corporation or establishment for public use.
38. "Junk yard or salvage yard" means any open area of any lot or parcel where discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled, kept, stored or handled, including scrap metals or scrap materials, or the abandonment or dismantling of machinery, motor vehicles or parts thereof. A solid waste transfer station is not considered a junk yard or salvage yard for the purposes of this chapter.
39. "Junk machinery" or "junk vehicle" means any vehicle or portion thereof not in running condition and/or not licensed for the current year as provided by law and not legally placed in storage with the County Treasurer, or any other vehicle or machinery which, because of its defective or obsolete condition, or because of rotted, rusted or loose parts, or in any other way, constitutes a threat to the public health or safety.
40. "Kennel" means a lot or building in which two (2) or more non-hoofed animals at least four (4) months of age are kept for pets, board, propagation or sale.
41. "Lot" means a parcel of land under one ownership on which a principal building and its accessories are or may be placed together with the required open spaces, having its frontage upon one or more dedicated streets.
42. "Lot area" means the area of a horizontal plane bounded by the front, side and rear lot lines.
43. "Lot, corner" means a lot fronting on two intersecting streets.
44. "Lot depth" means the mean horizontal distance between the front and rear lot lines.
45. "Lot, interior" means a lot other than a corner lot.
46. "Lot lines" means the lines bounding a lot.
47. "Lot line, front" means, in the case of an interior lot, abutting on only one street, the street line of such lot. In the case of any other lot, the front lot line is considered as the line adjacent to the street upon which the lot has its least dimension.
48. "Lot line, rear" means that boundary line which is opposite and most distant from the front lot line.
49. "Lot line, side" means any boundary line not a front lot line or a rear lot line.
50. "Lot of record" means a lot which is a part of a legal subdivision of the City, the plat of which has been recorded in the office of the County Recorder, or a lot or parcel of land, the deed or valid contract of sale of which was recorded in the office of the County Recorder prior to the effective date of the Zoning Ordinance, which is February 8, 1960.
51. "Lot, through" means an interior lot having frontage on two (2) parallel, or approximately parallel, streets, also known as a double fronted lot.
52. "Lot width" means the distance between the side lot lines. In the case of a lot of irregular shape, the mean width shall be the lot width.
53. "Manufactured home" is defined in Chapter 145 of this Code of Ordinances.
54. "Mobile home" is defined in Chapter 145 of this Code of Ordinances.

55. "Mobile home park" is defined in Chapter 145 of this Code of Ordinances.
56. "Mobile home subdivision" means a subdivision in conformity with the provisions of Chapter 145 of this Code of Ordinances.
57. "Motel, motor court, motor lodge or tourist court" means any building or group of buildings containing guest rooms, primarily for temporary occupancy, with space for parking vehicles used by the traveling public. Such building or group of buildings may include quarters for use by the operating personnel.
58. "Nursing or convalescent home" means a building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent or physically disabled or injured persons, in which three (3) or more persons not of the immediate family of the operators are received, kept and provided with food and shelter for compensation. This definition does not include insane, mental cases, inebriate or contagious cases.
59. "Parking lot" means a parcel of land devoted to unenclosed parking spaces.
60. "Parking space" means a surfaced area, enclosed or unenclosed, having an area of not less than two hundred (200) square feet plus necessary maneuvering space for the parking of a motor vehicle, and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles. Space for maneuvering, incidental to parking, shall not encroach upon any public right-of-way.
61. "Principal use" means the main use of land or structures as distinguished from an accessory use.
62. "Professional office" means any building or part thereof used by one or more persons engaged in the practice of law, accounting, architecture, medicine, engineering or other occupation customarily considered as a profession.
63. "Retail store" means an enterprise offering for sale to the ultimate consumer for direct consumption and not for resale.
64. "Road or street line" means the dividing line between a lot, tract or parcel of land and a contiguous road, street or alley.
65. "Roadside stand" means a temporary structure, unenclosed, and so designed and constructed so the structure is easily portable or can be readily moved, and which is adjacent to a road and used for the sale of goods or services.
66. "Sign" means an identification, description, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure or land and which directs attention to a product, place, activity, person, institution or business, provided, however, that the following are not included in the application of the regulations herein:
- A. Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, names of occupants of the premises or other identification of premises not having commercial connotation;
 - B. Flags and insignia of any government except displayed in connection with commercial promotion;
 - C. Legal notices; identification, informational or directional signs erected or required by government bodies;

D. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, moving lights;

E. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

67. “Sign area” means the surface area of a sign, computed as including the entire area within a regular geometric form or combination of such forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.

68. “Stable” means a detached accessory structure including, but not limited to, a corral or paddock for the keeping of one (1) or more hooved animals owned or controlled by the occupants of the premises and which are kept for pets, board, propagation, sale or lease.

69. “Story” means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

70. “Story, half” means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than four (4) feet above the top floor level.

71. “Street line” means the right-of-way line of a street, road or highway.

72. “Street, public” means a public thoroughfare more than twenty-four (24) feet in width.

73. “Structural alteration” means any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, beyond ordinary repairs and maintenance.

74. “Structure” means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, billboards, decks, poster panels and carports. Attached uncovered steps and planters are not considered structures.

75. “Trailer camp” or “tourist ground” means any area providing spaces for two (2) or more travel trailers, camping trailers or tent sites for temporary occupancy with necessary incidental services, sanitation and recreation facilities to serve the traveling public.

76. “Utility, public” means a utility owned and operated by the City or serving the City and its residents under authority of a franchise granted by the Council.

77. “Variance” means a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Zoning Ordinance would result in unnecessary and undue hardship. As used in this chapter, a variance is authorized only for height of structures, and/or area and size of lots, yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in adjoining zoning district.

78. “Yard” means an open space on the same lot with a building or structure unoccupied and unobstructed by any portion of a structure from forty-eight (48) inches above the general ground level of the graded lot upward. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the main building shall be used. In measuring a yard for the purpose of determining the width of a side yard, the least distance between the lot line and the nearest permitted building shall be used. A yard shall be measured exclusive of any public right-of-way.

79. “Yard, front” means a yard extending across the full width of the lot and measured between the front line and the building or any projection thereof, other than the projection of the usual steps and eaves. In the case of corner lots, the front yard shall be considered as the yard adjacent to the street upon which the lot has its least dimension.

80. “Yard, rear” means a yard extending across the full width of the lot and measured between the rear lot line and the structure or any projections other than uncovered steps, balconies or eaves. On both corner lots and interior lots the opposite end of the lot from the front yard shall be considered the rear yard.

81. “Yard, side” means a yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building.

82. “Zoning Administrative Officer” means the individual appointed by the Council to administer and enforce the provisions of this chapter.

165.04 DISTRICTS. For the purposes of this chapter, the City is divided into zoning districts, as follows:

- A-1 Agricultural District
- R-1 Single Family Residential District
- R-2 Multi-Family Residential District
- R-3 Mobile Home District
- C-1 Commercial District
- I-1 Light Industrial District
- I-2 Heavy Industrial District
- F-1 Flood Plain District
- OS Open Space District †

The boundaries of the zoning districts are indicated and established as shown upon a map designated as the Official Zoning Map of the City, which map, with all its notations, designations, references, and other matters shown thereon, attached thereto and otherwise a part thereof, shall be as much a part of this chapter as if the same were fully described and set forth herein. The Official Zoning Map shall be identified by the Mayor and attested by the Clerk with the following words:

The undersigned certify that this is the Official Zoning Map referred to in the Zoning Ordinance of the City of Belmond, Iowa, adopted on the ___ day of _____, _____.

† **EDITOR’S NOTE:** See Section 165.43

Amendments, supplements and changes of the boundaries of districts shown on the Official Zoning Map shall be made by an ordinance amending the Zoning Ordinance. The amending ordinance shall refer to the Official Zoning Map and shall set forth the identification of the area affected by legal description and identify the zoning district as the same exists and the new district designation applicable to the property being rezoned. A certified copy of said amending ordinance shall after adoption and publication be attached to the Official Zoning Map. Such amending ordinance shall, however, not repeal or reenact said map, but only amend it. The Official Zoning Map, together with all amending ordinances, shall be the final authority as to the current zoning status of all land and water areas, buildings and other structures within the City. In the event the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Council may by ordinance adopt a new Official Zoning Map, which shall supersede the prior Map. Such new Official Zoning Map may correct drafting or other errors or omissions in the prior map, but no such correction shall have the effect of amending the map being replaced.[†]

165.05 INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists as to boundaries of districts as shown on the Official Zoning Map, the following rules of interpretation shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, alleys or other public rights-of-way shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following section lines, quarter section lines or quarter-quarter section lines shall be construed as following such lines.
4. Boundaries indicated as approximately following City limit lines shall be construed as following the actual City limit lines.
5. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerline of streams, rivers and other bodies of water shall be construed as following such centerlines.
6. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or in other circumstances not covered by subsections 1 through 6 above the Zoning Administrative Officer shall interpret the district boundaries.

165.06 ROAD OR PUBLIC WAY VACATION. Whenever any road, street, or other public way is vacated by the official action of the Council, the zoning districts adjoining each side of such road or public way shall automatically extend to the center of such vacation and all area included in such vacation shall then and thereafter be subject to all appropriate regulations of the extended district.

[†] See EDITOR'S NOTE at the end of this chapter for ordinances amending the Zoning Map.

165.07 ANNEXED TERRITORY. All territory which may hereafter be annexed to the City shall be in the Agricultural District (A-1).

165.08 GENERAL REQUIREMENTS. Except as otherwise provided in this chapter:

1. No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used which does not comply with all of the district regulations established by this chapter for the district in which the building, structure or land is located.
2. No yard or lot existing at the time of passage of the zoning ordinance shall be reduced in dimension or area below the minimum required by this chapter. No part of a yard or other open space, or off-street parking or loading space provided about any building, structure or use for the purpose of complying with the provisions of this chapter shall be included as part of a yard, open space or off-street parking or loading space required under this chapter for another building, structure or use.
3. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building on one lot unless otherwise provided in this chapter.
4. No building shall be erected or structurally altered to the extent specifically provided hereinafter except in conformity with the off-street parking and loading regulations of this chapter.
5. No yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be considered as providing a yard or open space for any other building.

165.09 LOT AREA AND WIDTH. Any lot of record on February 8, 1960, having less area or width than permitted by this chapter may nonetheless be used for a single family dwelling where such use is permitted as provided in this chapter, subject to the provisions of subsections 165.10(5) and (6). In any district where neither public water supply nor public sanitary sewer is available, the lot area requirements shall be twenty thousand (20,000) square feet minimum, and lot widths at building lines one hundred (100) feet minimum. Where either public water supply or sanitary sewer is accessible these requirements shall be reduced to fifteen thousand (15,000) square feet and seventy-five (75) feet respectively.

165.10 YARDS.

1. Where an official line has been established for future widening or opening of a street upon which a lot abuts, the depth of a front or side yard shall be measured from such official line.
2. In any "R" District the minimum front yard requirement otherwise stated in this chapter shall not apply if other improved properties within two hundred (200) feet of either side lot line have a shallower front yard. In such case, the front yard requirement shall be the same as the average front yard depth of the improved properties within two hundred (200) feet of either side lot line.
3. Buildings on through lots shall provide the required front yard on both streets.
4. For corner lots, the side street yard shall be equal in width to the setback regulation of the lots to the rear having frontage on the intersecting street. If there are no lots to the rear having frontage on the intersecting street, the side yard shall be not less than fifty percent (50%) of the front yard requirement.

5. Any corner lot that has its side yard requirement increased because of the provisions of subsection 4 of this section shall have its rear yard requirement reduced by the same number of feet the side yard requirement was increased, however, no rear yard shall be less than ten (10) feet.
6. A lot of record existing on February 8, 1960, having a lot width of less than sixty (60) feet shall maintain the required side yard on each side of the dwelling, but such yard may be reduced to ten percent (10%) of the lot width, provided, however, that no side yard shall be less than five (5) feet.
7. A lot of record existing on February 8, 1960, having a lot depth of less than one hundred (100) feet may have the required rear yard reduced to twenty percent (20%) of the depth of the lot, provided, however, that no rear yard shall be less than ten (10) feet.
8. On a corner lot in any district, except the C-1 District, no fence, wall, hedge, tree or other planting or structure that will obstruct vision between a height of two (2) feet and ten (10) feet above the ground shall be erected, placed or maintained within seventeen and one half (17½) feet from the curb, or the traveled portion of the street where there is no curb, for the twenty-five (25) feet from the intersection of the perpendicular lines of each curb extended to the street.
9. The ordinary projections from buildings, including eaves, sills, cornices, or other similar architectural features (but not including uncovered patios, uncovered carports, or other concrete slab structures) may project or extend not more than three (3) feet into a required yard.

165.11 BUILDING HEIGHT. The height regulations shall not apply to non-commercial television and radio towers, church spires, belfries, monuments, farm buildings, water and fire towers, cooling towers, grain elevators, ornamental towers and spires, chimneys, elevator bulkheads, conveyors and flagpoles. Public, semi-public or public service buildings, hospitals or schools, when permitted in a district, may be erected to a height in excess of the height allowed in the district, provided that the building is set back from each property line at least one (1) foot for each foot of additional building height above the height limit in the district.

165.12 MINIMUM DWELLING WIDTH. The minimum width of a single family dwelling, except for mobile homes located within a mobile home park, shall be twenty-two (22) feet at the exterior dimension of three (3) or more exterior walls, exclusive of attached garages, porches or other accessory structures.

165.13 HEDGES AND FENCES. Fences or hedges in residential districts shall not exceed four (4) feet in height in any required front yard and shall not exceed seven (7) feet in height in any required side or rear yard, subject to the further restriction of subsection 165.10(7) above. Fences in excess of seven (7) feet will be allowed in the cases of tennis courts and swimming pools.

165.14 BUILDINGS TO HAVE ACCESS. Every principal use building hereafter erected or structurally altered shall be on a lot or parcel having frontage on a public street or road of not less than fifty (50) feet.

165.15 USE OF PUBLIC RIGHT-OF-WAY. No portion of the public road, street or alley right-of-way shall be used or occupied by an abutting use of land or structure for storage or display purposes or to provide any parking or loading space required by this chapter.

165.16 SIGNS PERMITTED. Signs not exceeding fifty (50) square feet in area pertaining to the construction, lease, hire or sale of a building or premises shall be allowed in all districts, but such signs shall be removed as soon as the building or premises is leased, hired or sold or the construction completed.

165.17 TEMPORARY BUILDINGS. Temporary buildings with construction work may be permitted in any district during the period that the construction work is in progress, but temporary buildings shall be removed within thirty (30) days after completion or abandonment of the construction work.

165.18 ACCESSORY BUILDINGS. Accessory buildings erected in any required court, or in any yard other than a rear yard, shall comply with all of the applicable following requirements:

1. Accessory buildings shall be at least two (2) feet from lot lines of adjoining lots which are in any "R" District; on a corner lot they shall conform to the setback regulations on the side street; they shall be at least five (5) feet from any other separate building or structure on the same lot, and at least five (5) feet from any alley line, except when any entrance to an accessory building faces the alley, the accessory building shall be at least twenty (20) feet from the alley line.
2. Accessory buildings may be erected as a part of the principal building, or may be connected thereto by a breezeway or similar structure, and such accessory building shall be considered as part of the principal building for all yard requirements.
3. A carport or garage for a residence may be in a side yard if a full required side yard is provided between the garage or carport and the side lot line.
4. An accessory building within sixty (60) feet of the front line shall have a full side yard between it and the side lot line.
5. Accessory buildings which are not a part of the main building shall not occupy more than thirty percent (30%) of the rear yard, and shall not exceed fifteen (15) feet in height; however, this regulation shall not be interpreted to prohibit the construction of a five hundred fifty (550) square foot garage on a minimum rear yard.
6. No accessory building shall be used for dwelling purposes.
7. Open, unenclosed, uncovered steps; ground level patios, uncovered decks projecting from and attached to a principal building and not more than four (4) feet higher than ground level; and concrete slab driveways may project into a required yard.
8. No accessory building shall be erected within a public utility easement.

165.19 EXCEPTIONS TO PROHIBITED USES. The Council may, by special permit after public hearing, authorize the location of any of the following buildings or uses in any district from which they are prohibited by this chapter:

1. Public buildings erected and used by any department or agency of the City, County, State or Federal government.
2. Airports or landing fields.
3. Community buildings or recreation fields.
4. Country clubs and golf courses.
5. Public and private cemeteries.

Before issuance of any special permit for any of the above buildings or uses, the Council shall refer the proposed application to the Planning and Zoning Commission, which shall make a report within forty-five (45) days regarding the effect of such proposed building or use upon the character of the neighborhood, traffic conditions, public utility facilities and other matters pertaining to the general welfare. No action shall be taken upon any application for a proposed building or use above referred to until and unless the report of the Commission has been filed; however, if no report is received within forty-five (45) days, it shall be assumed that the approval of the application has been given by the Commission.

165.20 UTILITIES AND RAILROADS. Existing utilities and railroads may continue to be operated and maintained in any "R" District or the C-1 District, but no new utility or railroad structure, other than the usual poles, wires, and underground utilities, shall be established in such districts, except when so authorized by the Council.

165.21 BUILDING LINES ON APPROVED PLATS. Whenever the plat of a land subdivision approved by the Council and recorded in the office of the County Recorder shows a setback building line along any frontage for the purpose of creating a front or side yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this chapter, unless specific yard requirements in this chapter require a greater setback.

165.22 REQUIRED YARD CANNOT BE REDUCED. No lot shall be reduced in size so as to make the width or total area of the lot, or any yard, or any other open space, less than the minimum required by this chapter. No part of a yard, or other open space provided about a building or structure for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space required under this chapter for another building or structure. Off-street parking and loading areas may occupy all or part of any required yard or open space, except as otherwise specified in this chapter.

o o o o o o o o o o

165.23 AGRICULTURAL DISTRICT. The intent of the Agricultural District is to preserve land best suited for agriculture (especially prime agricultural soils) from the encroachment of incompatible uses and to preserve in agricultural use land suited to eventual development in other uses until such time as streets, utilities and other community facilities may be provided or programmed as to ensure the orderly and beneficial conversion of these lands to nonagricultural use.

1. Principal Uses Permitted. Only the following uses and structures shall be permitted in the A-1 District:
 - A. Agriculture including the raising of crops, horticultural uses, animal husbandry, poultry, but excluding commercial auction yards and barns and commercial feedlots.
 - B. Plant nurseries, landscaping and gardening businesses.
 - C. Railroads.
 - D. Cemeteries.
 - E. Irrigation and flood control projects.
 - F. Publicly owned and operated buildings and facilities including substations, transfer stations, treatment facilities, pumping stations, storage facilities and regulator stations.
2. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted in the A-1 District:
 - A. One family residences.
 - B. Home occupations.
 - C. Roadside stands for the sale of agricultural produce grown on the premises.
 - D. Essential services.
 - E. Other uses and structures normally incidental and subordinate to permitted uses and structures.
3. Special Exception Uses and Structures. The following uses may be permitted in the A-1 District subject to approval by the Council as provided in Sections 165.33 and 165.40 of this chapter:
 - A. Churches, chapels, temples and similar places of worship.
 - B. Private parks, playgrounds, recreation areas, camping grounds, golf courses, country clubs, golf driving ranges, archery ranges and swimming pools.
 - C. Private airports and landing fields.
 - D. Stables and kennels.
4. Bulk Regulations. The following minimum requirements shall be observed in the A-1 District, subject to modifications contained in Sections 165.09 through 165.22:
 - A. Lot Area - The minimum lot area shall be 1 acre.
 - B. Lot Width - The minimum lot width shall be 300 feet.

- C. Front Yard - The minimum front yard shall be 50 feet.
- D. Side Yard - The minimum side yard shall be 25 feet.
- E. Rear Yard - The minimum rear yard shall be 50 feet.
- F. Maximum Height - No building shall exceed a height of 2½ stories or of 35 feet, unless otherwise permitted in this chapter.

165.24 SINGLE FAMILY RESIDENTIAL DISTRICT. The intent of the Single Family Residential District is to provide for low to medium density residential development with a limited number of institutional and recreational facilities permitted.

1. Principal Uses Permitted. Only the following principal uses and structures shall be permitted in the R-1 District:
 - A. Single family dwellings.
 - B. Churches, chapels, temples and similar places of worship.
 - C. Schools and colleges.
 - D. Publicly owned and operated buildings and facilities.
2. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted in the R-1 District:
 - A. Attached private garages and carports.
 - B. Private swimming pools and tennis courts.
 - C. Private greenhouses not operated for commercial purposes.
 - D. Church bulletin boards, not exceeding thirty (30) square feet in area nor five (5) feet in height.
 - E. Parks and park buildings
 - F. Home occupations.
 - G. Essential services.
 - H. Unattached garages and accessory building of 1,000 square feet or less.
 - I. Other uses and structures normally incidental and subordinate to permitted uses and structures.
3. Bulk Regulations. The following minimum requirements shall be observed in the R-1 District, subject to the provisions of Section 165.31:
 - A. Lot Area - The minimum lot area shall be:
 - (1) Single family residences - 7,500 sq. ft.
 - (2) Other permitted uses - 10,000 sq. ft.
 - B. Lot Width - The minimum lot width shall be 70 feet.
 - C. Front Yard - The minimum front yard shall be 30 feet.
 - D. Side Yard - The minimum side yard shall be 7 feet.
 - E. Rear Yard - The minimum rear yard shall be 25 feet.
 - F. Maximum Height - No building shall exceed a height of 2½ stories or of 35 feet, unless otherwise permitted in this chapter.
4. Special Exception Uses and Structures. The following uses and structures may be permitted in the R-1 District subject to the provisions of Section 165.42 of this chapter with the approval of the Board of Adjustment:
 - A. Unattached garages and accessory buildings of more than 1,000 square feet.

- B. Two family dwelling with a minimum of 10,000 square feet of lot area.

165.25 MULTI-FAMILY RESIDENTIAL DISTRICT. The intent of the Multi-Family Residential District is to provide for living areas within the City for development of multiple family dwellings and single family dwellings which are compatible in character and density with the multiple family residential environment.

1. Principal Uses Permitted. Only the following principal uses and structures shall be permitted in the R-2 District:
 - A. Single family dwellings.
 - B. Two family dwellings (duplexes).
 - C. Multi-family dwellings.
 - D. Churches, chapels, temples and similar places of worship.
 - E. Schools and colleges.
 - F. Publicly owned and operated buildings and facilities.
2. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted in the R-2 District:
 - A. Attached private garage or carport.
 - B. Private swimming pools and tennis courts.
 - C. Private greenhouses not operated for commercial purposes.
 - D. Mortuaries and funeral homes.
 - E. Home occupations.
 - F. Church bulletin boards, not exceeding 30 square feet in area or 5 feet in height.
 - G. Parks and park buildings.
 - H. Essential services.
 - I. Unattached garages and other accessory buildings containing 1,000 square feet or less.
 - J. Other uses and structures normally incidental and subordinate to permitted uses and structures.
 - K. Document storage and indexing, imaging and destruction of documents operations on property within a minimum of 100,000 square feet.
 - L. Indoor recreational facilities
3. Bulk Regulations. The following minimum requirements shall be observed in the R-2 District, subject to the provisions of Section 165.31:
 - A. Lot Area – The minimum lot area shall be:
 - (1) Single family dwelling – 7,000 sq. ft.
 - (2) Two family dwelling – 8,000 sq. ft.
 - (3) Multi-family dwelling – 2,000 sq. ft. for each of the first 4 family units and 1,000 sq. ft. for each additional family unit.
 - (4) Other uses – 8,000 sq. ft.

- B. Lot Width – The minimum lot width shall be 60 feet.
 - C. Front Yard – The minimum front yard shall be 30 feet.
 - D. Side Yard – For buildings not exceeding 2½ stories there shall be a side yard on each side of a building not less than 5 feet. For 3-story buildings there shall be a side yard on each side of the building having a width of not less than 10 feet.
 - E. Rear Yard – The minimum rear yard shall be 25 feet.
 - F. Maximum Height - No building shall exceed a height of 3 stories or of 35 feet, unless otherwise permitted in this chapter.
4. Special Exception Uses and Structures. The following uses and structures may be permitted in the R-2 District subject to provisions of Section 165.42 of this chapter with the approval of the Board of Adjustment.
- A. Boarding and lodging houses.
 - B. Day nursery or nursery schools.
 - C. Hospitals, sanitariums, rest homes and nursing homes.
 - D. Unattached garages and accessory buildings of more than 1,000 square feet.

165.26 MOBILE HOME DISTRICT. The Mobile Home District shall provide locations for mobile home subdivisions and for mobile home parks in areas of the community where such uses are compatible with existing and future development. This district shall be well served by arterial streets to provide adequate access and planned development that is compatible with the character of neighboring land uses.

1. Principal Uses Permitted. Only the following principal uses and structures shall be permitted in the R-3 District:

A. Single family mobile homes located within mobile home subdivisions, provided each mobile home meets the standards and requirements prescribed by *Standards for Mobile Homes, USAS A 119.1, 1963*, and applicable amendments thereto, and has been converted to real property pursuant to Section 435.26, *Code of Iowa*.

B. Single family mobile homes located within mobile home parks.

2. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted in the R-3 District:

A. Sales of mobile homes provided the same qualify as real property and have been entered on the tax rolls as real property and are connected to all utilities.

3. Bulk Regulations. The following minimum requirements shall be observed in the R-3 District, subject to modifications contained in Sections 165.09 and 165.22:

A. For Mobile Home Subdivisions:

(1) Lot Area - The minimum lot area shall be 5,000 square feet for use by mobile homes 18 feet or less in width and 6,000 square feet for use by all other mobile homes.

(2) Lot Width - The minimum lot width shall be 50 feet for use by mobile homes 18 feet or less in width and 60 feet for use by all other mobile homes.

(3) Front Yard - The minimum front yard setback shall be 30 feet.

(4) Side Yard - The minimum side yard shall be 5 feet.

(5) Rear Yard - The minimum rear yard shall be 15 feet.

(6) Maximum Height - No structure shall exceed a height of 20 feet.

(7) Foundation - Each mobile home shall be permanently affixed to a permanent foundation, which is a concrete or masonry structure extending below the frost depth with adequate bearing on soil to support the mobile home. If a foundation does not extend around the base perimeter of the mobile home, skirting constructed of some semi-permanent material shall be applied in a neat and attractive manner to cover all exposed area between the mobile home base and ground level. The foundation shall be constructed and skirting shall be applied in such a manner that all utility wires, pipes, cables, meters and other components located beneath the mobile home are easily accessible for reading, inspection, repair and replacement.

B. For Mobile Home Parks:

(1) Lot Area - As required in Chapter 145 of this Code of Ordinances.

(2) Individual Lot Requirements - As required by Chapter 145 of this Code of Ordinances.

C. Other Permitted Uses: Same as R-2 District. R-2 uses are allowed in R-3 Zoning designations with the exception of single family dwellings with the approval of the Board of Adjustment.

4. Chapter 145 of this Code of Ordinances. Nothing in this section shall in any way abrogate any standard, requirement or provision of Chapter 145, and this chapter and said Chapter 145 shall be read and construed together.

165.27 COMMERCIAL DISTRICT. The intent of the Commercial District is to provide a commercial area to serve the shopping needs of the trade area and to permit uses which will strengthen the central business area as the center of trade, service, governmental and cultural activities.

1. Principal Uses Permitted. The following principal uses and structures shall be permitted in the C-1 District:

- Academy riding, dancing, etc.
- Agricultural products, supplies, implements and equipment, sales and service, including open air display and storage.
- Antique shops.
- Art shops.
- Auditoriums and exhibition halls.
- Automobile body shops.
- Automobile accessories, retail and wholesale sales.
- Automobile laundries.
- Automobile service stations.
- Automobile, truck and recreational vehicle, sales and service.
- Bakeries, retail.
- Banks, including drive-in establishments, savings and loans.
- Barbershops and beauty parlors.
- Billiard and pool halls.
- Bookstores.
- Bowling alleys.
- Broadcasting and receiving stations.
- Camera and photography stores.
- Candy stores.
- Churches, chapels and temples.
- Cigar and tobacco stores.
- Clothing and apparel stores.
- Dairy stores.
- Day nursery or nursery schools.
- Department stores, including discount department stores.
- Drive-in establishments (except drive-in theaters).
- Drug stores and pharmacies.
- Dry cleaning establishments.
- Dry goods and notions stores.
- Eating and drinking establishments, including taverns.
- Electrical equipment and appliances, sales and repairs.
- Enameling and painting establishments.
- Florist shops, nurseries, greenhouses and garden supplies.
- Furniture stores.
- Gift and craft shops.
- Grocery stores.
- Gymnasiums, private and physical fitness facilities.
- Hardware stores.
- Heating and air conditioning supplies and appliances, sales and repairs.
- Hospitals, medical clinics and infirmaries.
- Hotels, motels and motor lodges.
- Jewelry stores.
- Launderettes.

Leather goods stores.
Lumber yards and building materials sales.
Music stores.
Office equipment and supply stores.
Optical goods stores.
Paint stores.
Parking lots, private.
Pet shops, (except kennels).
Plumbing, heating and sheet metal shops.
Printing and newspaper shops, commercial.
Private clubs.
Professional offices.
Publicly owned and operated buildings and facilities.
Recreation and amusement establishments.
Shoe stores and repair shops.
Sign painting and manufacture.
Sporting goods stores.
Theaters, moving picture and performing arts.
Upholstery shops.
Variety stores.
Veterinary and veterinary clinics.
Woodworking shops, small.

2. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted in the C-1 District:

- A. Essential services.
- B. Billboards and signs.
- C. Other uses and structures normally incidental and subordinate to permitted uses.
- D. Residential on the second story on the condition that overnight off-street private property parking for two vehicles per apartment and garbage collection are provided on private property and there are two exits out of the building in case of emergency.

3. Bulk Regulations For C-1 District:

- A. Lot Area – No minimum lot area shall be required.
- B. Lot Width – No minimum lot width shall be required.
- C. Front Yard – No minimum front yard shall be required.
- D. Side Yard – No minimum side yard shall be required.
- E. Rear Yard – No minimum rear yard shall be required unless there is no dedicated alley on the rear lot line, in which case a rear yard of 20 feet shall be required.
- F. Maximum Height – No building shall exceed a height of 2½ stories or 35 feet, unless otherwise permitted in this chapter.

165.28 LIGHT INDUSTRIAL DISTRICT. The intent of this District is to provide space for certain commercial and a wide range of industrial uses and structures which are able to meet certain performance standards to protect nearby non-industrial uses from undesirable environmental conditions.

1. Principal Uses Permitted. Only the following principal uses and structures shall be permitted in the I-1 District except those uses which by reason of emission of odor, dust, fumes, smoke, noise and other obnoxious characteristics would be injurious to the public health, safety and general welfare of the community.

Any permitted in the Commercial (C) District

Automobile assembly

Auto-truck repair, including body shop

Baggage, transfer, storage warehouses

Bakery, wholesale

Beverage, bottling manufacture

Blacksmiths

Boot and shoe manufacture

Broom manufacture

Cabinet makers

Candy manufacture

Canning and preserving manufacture

Cap and hat manufacture

Cement warehouses

Cigar-cigarette manufacture

Clock factories

Clothing manufacture

Coal yards

Cold storage warehouses

Contractors, service and storage (general, electrical, plumbing, etc.)

Cosmetic manufacture

Dental laboratories

Dry goods, wholesale or storage

Express storage and delivery stations

Farm implement and equipment, open air display, sales and storage

Feed manufacture

Flour and grain storage and elevators

Food products manufacture

Fruit and vegetable drying

Fuel storage

Grain elevators

Hatcheries

Ice cream manufacture

Jewelry manufacture

Mattress factories

Motor vehicle sales, display and storage

Moving companies

Office equipment manufacture

Optical goods manufacture

Paper products manufacture

Perfume manufacture

- Popcorn processing
- Printing and allied industries
- Private parking lots
- Produce warehouses
- Publicly owned and operated buildings and facilities
- Radio and television towers and transmitter or receiver facilities
- Seed corn processing and storage
- Sheet metal shops
- Shoe store wholesale
- Sporting goods, manufacture
- Transfer companies, storage warehouses
- Warehouses
- Welding shops
- Wood products, manufacture

2. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted in the I-1 District:

- A. Billboards and signs.
- B. Essential services.
- C. Other uses and structures normally incidental and subordinate to permitted uses and structures.

3. Bulk Regulations. The following minimum requirements shall be observed in the I-1 District, subject to the modifications contained in Sections 165.09 through 165.22:

- A. Lot Area - The minimum lot area shall be 10,000 sq. ft.
- B. Lot Width - The minimum lot width shall be 75 feet.
- C. Front Yard - The minimum front yard shall be 30 feet.
- D. Side Yard - The minimum side yard shall be 10 feet.
- E. Rear Yard - The minimum rear yard shall be 25 feet.
- F. Maximum Height - No structure shall exceed in height the distance measured to the right-of-way line of the nearest street, or one-half the distance of a line measured to the closest lot line of a more restrictive classification of property from any portion of the proposed building or structure except as otherwise provided in this chapter.

165.29 HEAVY INDUSTRIAL DISTRICT. The intent of the Heavy Industrial District is to provide space for those industrial uses which are most hazardous and undesirable for locations in other districts and adjacent residential land uses.

1. Principal Uses Permitted. Only the following principal uses and structures shall be permitted in the I-2 District, except those uses which by reason of the emission of odor, dust, fumes, smoke, noise and other obnoxious characteristics would be injurious to the public health, safety and general welfare of the community.

Any permitted in a Light Industrial (I-1) District.
 Agricultural farming, not including buildings.
 Assembly or fabrication of metal products.
 Automobiles and trucks, sales, open air display and storage.
 Automotive, truck and equipment parts manufacture.
 Bakery products manufacture.
 Billboards and signs.
 Bottling works.
 Building material storage and sales yards.
 Commercial or industrial storage buildings.
 Concrete and cement products manufacture.
 Dairy products manufacture.
 Farm implement and equipment, sales, open air display and storage.
 Fertilizer manufacture, storage or processing.
 Fuel storage.
 Grain mill products manufacture.
 Laboratory.
 Manufacture, fabrication or treatment of sheet or shaped metal products, including such industries as farm machinery, farm equipment, construction materials and machinery, heating, ventilating and plumbing equipment and household appliances.
 Manufacture, packing or treatment of articles or merchandise from previously prepared materials, such as bone, cloth, cork, fiber, leather, glass, plastic, paper, stones, rubber and aluminum.
 Meat products manufacture.
 Mobile home and recreational vehicles sales, display and service.
 Private parking lots.
 Publicly owned and operated buildings and facilities.
 Radio and television towers, transmitter and receiver facilities.
 Seed corn processing and storage.
 Solid waste transfer stations.
 Storage of farm and agricultural products of a non-hazardous nature.
 Truck and freight terminals.
 Warehouse and wholesale establishments.

2. Conditional Uses. The following uses shall be permitted in the I-2 District only after the use and location thereof have been approved by the Council after report thereon to the Council from the Commission, the Fire Chief and the City Engineer, and after a building permit has been issued:

Abattoirs, slaughterhouses or stockyards.
 Acid manufacture or wholesale storage of acid.
 Cement, lime, gypsum or plaster of paris manufacture.

Chemical manufacture.
Distillation of bones or fat rendering.
Explosive manufacture or storage.
Fertilizer manufacture.
Garbage, offal or dead animal reduction, processing or dumping, provided that all refuse is earth covered daily.
Gas manufacture and cylinder recharging.
Glue, size or gelatin manufacture.
Junkyards, where the premises upon which such activities are conducted are wholly enclosed within a building wall or fence not less than six (6) feet in height, which completely obscures the activity from sight from surrounding lots, streets or highways.
Petroleum or its products, refining or wholesale storage.
Rubber goods manufacture.
Sand or gravel pits.

3. Conditional Uses. The uses found in the Commercial District shall be permitted in the I-2 District only after the use and location thereof have been approved by the Council after report thereon to the Council from the Commission, the Fire Chief and the Zoning Administrator, and after a building permit has been issued.

4. Bulk Regulations. The following minimum requirements shall be observed in the I-2 District, subject to modifications contained in Sections 165.09 through 165.22:

- A. Lot Area – The minimum lot area shall be 20,000 sq. ft.
- B. Lot Width – The minimum lot width shall be 100 feet.
- C. Front Yard – The minimum front yard shall be 30 feet.
- D. Side Yard – The minimum side yard shall be 10 feet.
- E. Rear Yard – The minimum rear yard shall be 25 feet.
- F. Maximum Height – No structure shall exceed in height the distance measured to the right-of-way line of the nearest street, or one-half the distance of a line measured to the closest lot line of a more restrictive classification of property from any portion of the proposed building or structure except as otherwise provided in this chapter.

165.30 FLOOD PLAIN DISTRICT.

1. Special Definitions. For use in this section, the following terms are defined:
 - A. "Flood plain" means the area adjoining the river, stream or watercourse which has been covered by flood waters experienced in the record past or may be hereafter covered by flood waters, including estimated flood waters, which would result from occurrence of the probable maximum precipitation.
 - B. "Floodway" means the channel of a river, stream or watercourse and those portions of the flood plains adjoining the channel which are reasonably required to carry and discharge the flood water or flood flows of any river, stream or watercourse.
 - C. "Experienced flood crest elevation" means the highest flood crest elevation of record at any given point on the flood plain.
 - D. "Probable maximum precipitation" means the precipitation which would result under the most critical meteorological conditions that are considered probable of occurrence on the basis of current information provided by the U.S. Weather Bureau.
2. Boundaries and Elevations. Any point shall be deemed to be within the flood plain if the elevation thereof is below the probable maximum flood crest elevation at that point. In the absence of precise information concerning the probable maximum flood crest elevation, the elevation of the experienced flood crest shall be used to determine the minimum extent of the flood plain on the Iowa River, in the absence of precise information concerning the experienced flood crest elevation on the Iowa River, the delineation of the F-1 District on the Zoning District Map shall be used to scale and locate the physical flood plain district in the City. A record of experienced flood crest elevations at practical points on the flood plains within the City shall be established by a registered engineer and maintained in the office of the Zoning Administrative Officer and shall be placed upon suitable maps. In determining the experienced flood crest elevations, all known local records and information and pertinent records of any other governmental body, commission or agency that are deemed reliable by a registered engineer shall be utilized. Flood crest elevations may be referenced to relatively permanent features at practical points, but shall be referenced to mean sea level datum (1929 adjustment) as rapidly as possible.
3. Permitted Uses in Floodway. In the floodway portion of the F-1 District the following uses shall be permitted:
 - A. Public and private park and recreational areas, to include parks, playgrounds, picnic grounds, golf courses and fishing lakes and boat docks.
 - B. Farming, but not including dwellings or farm buildings and structures.
 - C. Private and public stables, provided that any buildings in which such animals are housed shall be at least 500 feet distant from any residence or any residence district.
4. Permitted Uses in Flood Plain. In the flood plain portion of the F-1 District the following uses shall be permitted:
 - A. All uses permitted in subsection 3 of this section.
 - B. All uses permitted in the closest adjoining zoning district, provided that no building or structure shall be erected where the elevation of existing natural

grade is below the elevation shown for that area on the Zoning District Map; no building or structure shall be erected unless the finished surface of the ground adjacent to the building or structure is equal to or higher than an elevation 1.0 foot above the elevation shown for that area on the Zoning District Map; no building or structure shall be erected unless the elevation of the first floor or basement floor or cellar floor is equal to or higher than an elevation 2.0 feet above the elevation shown for that area on the Zoning District Map; and all buildings, structures or uses permitted by this section shall comply fully to all district regulations of the closest adjoining district to the proposed building, structure or use.

5. Restrictions on Uses. No structure, dam, obstruction, deposit or excavation shall be erected, used, or maintained in the F-1 District, without prior written approval of the Department of Natural Resources when such approval is required by statute or Council policy. No building structure shall be erected, constructed, reconstructed, altered, moved or maintained for residential purposes.

6. Special Permit. Prior to the construction of any structure, dam, obstruction, deposit or excavation, or the use of land for the purposes as herein specified, an application for special permit therefor shall be filed with the Zoning Administrative Officer. Application shall be made on forms furnished by the Zoning Administrative Officer and shall include all information reasonably required to determine the flood hazards associated with the proposed use and the effects of such use upon the capacity and efficiency of the floodway of the Iowa River. No special permit shall be issued by the Zoning Administrative Officer prior to receipt of (1) written approval of the Department of Natural Resources, where such approval is required by statute or Council policy, which shall be obtained by the applicant and filed with the Zoning Administrative Officer; and (2) written approval of the Commission regarding the advisability of the project.

165.31 PLANNED UNIT DEVELOPMENTS.

1. Purpose. The purpose of Planned Unit Development (PUD) regulations is to encourage flexibility in the design and development of land in order to promote its most appropriate use; to facilitate the adequate and economical provision of streets, utilities and public spaces; and to preserve the natural and scenic qualities of open areas. The procedure is intended to permit diversification in the location of structures and improve circulation facilities and other site qualities while ensuring adequate standards relating to public health, safety and welfare and convenience both in the use and occupancy of buildings and facilities in planned groups. A planned unit development to be eligible under this chapter must be:

A. In accordance with the Comprehensive Plan of the City and with the regulations of this chapter;

B. An effective and unified means of treating possible development providing for preservation of scenic features and amenities of the site and the surrounding area;

C. So designed in its space allocation, orientation, landscaping, circulation system, materials and other features as to produce an environment of stable and desirable character, complementing the design and values of the neighborhood.

2. Tract and Land Use.

A. Minimum Area. A planned unit development shall include no less than two (2) acres.

B. Open Space. A minimum of twenty-five percent (25%) of planned unit site area shall be developed as open space. Parking areas and vehicle access facilities shall not be considered in calculating open space.

C. Land Use. All of the PUD site exclusive of open space shall be devoted to those uses permitted in the zone district in which the PUD is located. In the Agriculture or R-1 District, at least fifty percent (50%) of the dwelling units shall be single family detached units. Proposed land uses shall not adversely affect surrounding development, and shall be in accordance with the objectives and policies of the Comprehensive Plan.

D. Unity of Control. In order that the purpose of these regulations may be realized, the land and buildings and appurtenant facilities shall be in single ownership, or under management or supervision of a central authority, or otherwise subject to such supervisory lease or ownership control as may be necessary to carry out the provisions herein.

3. Application Procedures. Planned Unit Developments shall be subject to the approval of the Council based upon review and recommendations by the Commission.

A. General Development Plan. The applicant shall file a General Development Plan which shall include the following information:

(1) A statement describing the general character of other intended development;

(2) An accurate map of the project area including its relationship to surrounding properties, existing topography and key features;

- (3) A plan of the proposed project showing sufficient information to make possible the evaluation of the criteria for approval;
- (4) Appropriate statistical data on the size of the development, expected staging and any other plans or data pertinent to evaluation by the City; and
- (5) A general outline of intended organizational structure related to property owners association, deed restrictions and private provision of common services.

B. Specific Implementation Plan. A specific and detailed plan for implementation of all or a part of a proposed PUD after approval of the General Development Plan must be submitted within a reasonable period of time as determined by the Council. The specific implementation plan shall be submitted for review by the Commission and approval or disapproval by the Council and shall include such information and documentation as shall be required by the Commission or the Council to adequately and fully explain the plan.

4. Criteria for Approval. As a basis for determining the acceptability of a PUD application, the Council shall determine whether the General Development Plan is consistent with the spirit and intent of this chapter, has been prepared with competent professional advice and guidance and produces significant benefits in terms of environmental design. The Council may also consider the compatibility of land uses within and without the PUD; the compatibility of the General Development Plan with the City's Comprehensive Plan; the effects on traffic, schools and municipal services and the economic feasibility of the plan relative to the City's economy. The proponents of a PUD shall submit a reasonable schedule for the implementation of the development to the satisfaction of the Council including suitable provisions for assurance that each phase can be brought to completion in a manner which will not result of termination at that point.

5. Approval. Following a review of all of the proposed PUD plans as required herein, the Commission shall recommend to the Council that the PUD be approved as submitted, approved with modifications or disapproved. Upon receipt of the Commission recommendation, the Council may approve the plan and authorize the development to proceed accordingly or disapprove the plan. Any subsequent change or addition to the plans or use shall first be submitted for approval to the Council and if such change or addition constitutes a substantial alteration of the original plan, the procedures in the above shall be required. If construction of the PUD does not commence and continue in reasonable accordance with the development schedule, then the PUD shall be voided.

165.32 OFF-STREET PARKING AND LOADING. After the effective date of the Zoning Ordinance, there shall be provided, at the time any new building or structure is erected, off-street parking spaces in accordance with the requirements of this section.

1. General Provisions.
 - A. The provisions of this section do not apply to areas in the Commercial District (C-1) except as hereinafter stated.
 - B. All off-street parking spaces required by this regulation shall be located on the same lot of the use it serves or on some land adjacent to or within three hundred (300) feet of the principal use lot.
 - C. Owners of two (2) or more uses or parcels of land may agree to utilize the same parking spaces, provided that satisfactory legal evidence is presented in the form of deeds, leases or contracts to establish such joint use area.
 - D. All yard area, except the required front yard for residential districts, may be used for off-street parking, except that portion of the driveway lying within the front yard may be used to satisfy the requirements of this section.
 - E. A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be fulfilled, shall accompany an application for a building permit. The plan shall show all elements necessary to comply with the provisions of this section. Whenever a building or use existing prior to the effective date of the Zoning Ordinance is enlarged to the extent of forty percent (40%) or more in floor area or in the area used, said building or use shall then and thereafter comply with the provisions of this section.
 - F. Whenever a building or use constructed or established after the effective date of the Zoning Ordinance is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten percent (10%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of the Zoning Ordinance is enlarged to the extent of fifty percent (50%) or more in floor area or in the area used, said building or use shall then and thereafter comply with the parking requirements of this chapter.
2. Requirements. At the time of construction, alteration, moving in, enlargement of a structure or building, or change in the use of the land, off-street parking spaces and loading areas shall be provided, constructed and maintained for all uses, as follows:

Use	Minimum Number of Parking Spaces
Residential or multi-family	1 space per dwelling unit
Mobile home park	1 space per trailer unit
Hotel and motel	1 space per lodging unit
Hospitals, nursing homes, rest homes or similar use	1 space for every 4 patient beds
Places of public assembly, such as auditoriums, theaters, stadiums, churches, community halls and other public buildings	1 space for every 5 seats or 1 space per 500 square feet of gross floor area
Bowling alley	5 spaces for each alley
Retail sales and service uses, such as stores, restaurants, taverns, banks, professional offices and similar uses	1 space per 300 square feet of gross floor area
Schools, public and private	1 space per classroom and 1 space for every 6 seats in an auditorium
Manufacturing, warehouses and similar uses	1 space for every 2 employees on the largest working shift

3. Computation of Spaces.
 - A. In case of any building, structure or premises, the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned and to which said use is similar shall apply as determined by the Zoning Administrative Officer.
 - B. In the case of mixed or joint uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
4. Construction Requirements. Every parcel of land hereafter used as a public or private parking area, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements:
 - A. No part of any parking space shall be closer than five (5) feet to any established street right-of-way or alley line.
 - B. Any off-street parking area, including any commercial parking lot, for more than two (2) vehicles, shall be surfaced with a material approved by the City Manager so as to provide a durable surface; shall be graded and drained so as to dispose of all surface water accumulations within the area; and shall be so arranged and marked as to provide for orderly and safe loading, unloading, parking and storage of all user vehicles.
 - C. Any lighting used to illuminate any off-street parking area, including any commercial parking lot, shall be so arranged as to reflect the light away from adjoining premises in a residential district.
5. Off-street Loading. At the time of construction, alteration or enlargement of a structure or building having a gross floor area of five thousand (5,000) square feet or more, one 250-square foot off-street loading area shall be provided and maintained for all uses, for each 20,000 square feet of floor area, or fraction thereof. Such space may occupy all or any part of any required yard or court space.

165.33 NONCONFORMING USES. Structures and uses of land and structures existing within the various zoning districts of the Zoning Ordinance which were lawful prior to the adoption of said Ordinance, but which would be prohibited, regulated or restricted under provisions of this chapter, are nonconformities which will be allowed to continue to exist until they are discontinued, but are declared by this chapter to be incompatible with permitted use in the zoning district involved.

1. Nonconforming Uses in Districts Other than C-1, I-1 and I-2. Existing structures or uses in any District other than C-1, I-1 and I-2 which are not permitted by this chapter in the district in which such structure or use is located shall not be enlarged, extended, reconstructed, substituted or structurally altered, except when required by law, unless:
 - A. The use is changed to a use permitted in the district in which such structure or use is located.
 - B. The use of a structure is changed to another nonconforming use of the same or more restrictive classification, provided no structural alterations are made.
2. Nonconforming Uses in the C-1, I-1 and I-2 Districts. The regulations described in subsection 1 of this section shall apply to nonconforming uses in the C-1, I-1 and I-2 Districts, subject to the following exception: Nonconforming structures may be structurally altered or enlarged in conformity with the lot area, lot width, yard, and height requirements of the district in which such use is located. Such construction shall be limited to buildings on lots of record in the same ownership prior to the effective date of the Zoning Ordinance. The structural alteration or enlargement of structures shall not change the nature of the nonconforming use that existed prior to the effective date of the Zoning Ordinance.
3. Permitted Structures and Use of Land and Structures Made Nonconforming by the Requirements of the Bulk Regulations. A permitted structure or use that fails to meet the established bulk regulations of the district in which it is located may be structurally altered or extended provided that the alteration or extension is in compliance with the bulk regulations of the district in which it is located.
4. Replacing Damaged Buildings. Any nonconforming building or structure damaged by fire, flood, explosion, war, riot or act of God to more than fifty percent (50%) of its replacement value, exclusive of the foundation, at the time of such damage, shall not be restored or reconstructed and used as before such happening, but if less than fifty percent (50%) of the replacement value of the building above the foundation is damaged, it may be restored, reconstructed or used as before, provided that reconstruction is started within one (1) year after such happening.
5. Discontinued Nonconforming Use. If the nonconforming use of any structure or premises is discontinued for a period of eighteen (18) months, the use of the structure or premises shall thereafter conform in all ways to the uses and requirements of the district in which the same is located. This regulation shall take precedence over all other provisions of this section.

165.34 ADMINISTRATION.

1. Administrator. The Council shall appoint a Zoning Administrative Officer and it shall be the duty of said officer to enforce this chapter. Such officer may be a person holding other appointive office in the City or in another governmental agency.

2. **Building Permits.** No land shall be occupied or used, and no building hereafter erected or structurally altered shall be occupied or used in whole or in part for any purpose whatsoever, until a building permit is issued by the Zoning Administrative Officer stating that the building and use comply with the provisions of this chapter. No change of use shall be made in any building or part thereof, now or hereafter erected or structurally altered, without a permit being issued therefor by the Zoning Administrative Officer. No permit shall be issued to make a change unless the changes are in conformity with the provisions of this chapter. Nothing in this section shall prevent the continuation of a nonconforming use as herein authorized, unless a discontinuance is necessary for the safety of life or property.
3. **Application for Building Permit.** Building permits shall be obtained from the Zoning Administrative Officer before starting or proceeding with the erection, construction, moving in, or the structural alteration of a building or structure, including billboards. Permits shall be kept on file in the office of the Zoning Administrative Officer and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected. Building permits shall be issued to complying applicants within seven (7) days after application is made.
4. **Plats.** Each application for a building permit shall be accompanied by a plat in duplicate drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape and location of the building to be erected, the dimensions of the required yards, parking and open spaces, and such other information as thereafter may be necessary to provide for the enforcement of this chapter.
5. **Use to be As Stated in Application.** Building permits issued on the basis of plans and applications, approved by the Zoning Administrative Officer, authorize only that use, arrangement and construction. Use, arrangement and construction at variance with that authorized shall be deemed a violation of this chapter.
6. **Fees.** Before receiving a building permit the owner or agent shall pay to the City the permit fee as provided by resolution of the Council.

165.35 VIOLATION. Any person who violates , disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this chapter is in violation of this Code of Ordinances. Each day that a violation of this chapter is permitted to exist constitutes a separate offense.

165.36 RESTRAINING ORDER. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this chapter, the City Attorney, in addition to other remedies, may institute any proper action or proceed in the name of the City to prevent such unlawful action or use in or about said premises.

165.37 BOARD OF ADJUSTMENT.

1. **Appointment.** Members of the Board of Adjustment are appointed by the Council for five-year terms. Members of the Board may be removed from office by the Council for cause upon written charges and after a public hearing. Vacancies shall be filled by the Council for the unexpired term of the resigning member.
2. **Proceedings.** The Board shall adopt rules necessary to the conduct of its affairs. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. The presence of three (3) members shall constitute a quorum. The

Chairperson, or in the absence of the Chairperson, the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Zoning Administrative Officer shall act as Secretary for the Board. The Board shall keep minutes of its proceedings showing the vote of each member upon each question and shall keep records of its official actions, all of which shall be a public record and shall be immediately filed in the office of the Zoning Administrative Officer.

3. Appeals. The Board shall exist for the purpose of hearing appeals taken to it by any person aggrieved by any decision of the Zoning Administrative Officer. An appeal shall be taken not later than fourteen (14) days after the making of the decision or interpretation to be appealed by filing with the Zoning Administrative Officer a written notice of appeal stating in reasonable detail the action of the Zoning Administrative Officer appealed from and the action the appealing party wishes the Board to take. If a successful appeal would result in the granting of a variance by the Board to the appealing party, the notice of appeal shall also state the special conditions and circumstances relied upon and shall also state that the conditions set forth in Section 165.38(2)(B) (C) and (D) of this section will not be violated by the granting of the variance. The notice of appeal shall be signed by the appealing party. Upon the filing of a notice of appeal, the Zoning Administrative Officer shall transmit to the Chairperson of the Board the notice and all papers and documents constituting the record upon which the action appealed was taken.

4. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed, unless the Zoning Administrative Officer certifies to the Board that by reason of facts stated in the certificate a stay would, in the opinion of the Zoning Administrative Officer, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order issued by the Board or by a court of record upon application of the appealing party and after notice and hearing.

165.38 POWERS OF THE BOARD ON APPEAL. The Board shall have the following powers upon appeal taken to it:

1. To hear and decide appeals where error is alleged in any order, requirement, decision or determination made by the Zoning Administrative Officer in the enforcement of this chapter. The Board may, by concurring vote of three (3) members, so long as such action is in conformity with the provisions and intent of this chapter, affirm or reverse, wholly or in part, or modify the order, requirement, decision or determination made by the Zoning Administrative Officer.

2. To authorize upon appeal from any action of the Zoning Administrative Officer such variance from the requirements of this chapter as will not be contrary to the public interest where, owing to special conditions and circumstances, a literal enforcement of the requirements of this chapter would result in unnecessary hardship. A variance from the requirements of this chapter shall not be granted unless all of the following conditions are met:

A. Special conditions and circumstances are shown to exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

B. Literal interpretation of the requirements of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter.

C. The special conditions and circumstances relied upon do not result from the actions of the applicant.

D. Granting the variance requested will not confer upon the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same zoning district.

A nonconforming use of lands, structures or buildings in the same zoning district or a permitted use of land, structures or buildings in other zoning districts shall not be considered grounds for the issuance of a variance. In granting a variance, the Board may prescribe appropriate conditions and safeguards in conformity with the requirements and spirit of this chapter. Violations of any of such conditions, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter subject to the provisions of Sections 165.35 and 165.36. If a variance is granted by the concurring vote of three (3) members, the Board shall make a finding that the special conditions and circumstances set forth in the notice of appeal justify the granting thereof and that the variance is the minimum variance that will make possible the reasonable use of the land, structure or building involved and that the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

165.39 APPEALS FROM THE BOARD. Any person, including but not limited to the Zoning Administrative Officer, aggrieved by any decision or action of the Board of Adjustment may seek review thereof by a court of record in the manner provided by law, particularly Chapter 414, *Code of Iowa*.

165.40 AMENDMENTS. This chapter and the districts created thereby may be amended from time to time. No amendment shall become effective unless it shall have been proposed by, or shall have been first submitted to the Planning and Zoning Commission for review and recommendation. The Commission shall have twenty-five (25) days after Council action referring a proposed amendment to it in which to submit its report and recommendations to the Council. If the Commission fails to submit a report within the 25-day period, it shall be deemed to have approved the proposed amendment. A public hearing pursuant to law shall be held by the Council before adoption of any proposed amendment to this chapter. If the Commission does not approve the proposed amendment or if a protest is filed with the Council against a change in district boundaries, which protest is signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending the depth of one (1) lot or not to exceed two hundred (200) feet therefrom, or of those directly opposite thereto, extending the depth of one (1) lot or not to exceed two hundred (200) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of at least three-fourths (3/4) of all members of the Council.

165.41 APPLICATION FOR CHANGE IN DISTRICT BOUNDARIES. Any person may submit an application in writing to the Council requesting a change in the zoning district boundaries as shown on the Official Zoning Map. Such application shall be filed with the Zoning Administrative Officer accompanied by a fee of twenty-five dollars (\$25.00) (failure to approve the requested change shall not be deemed cause to refund such fee) and shall contain the following information:

1. The legal description and, if applicable, the local address of the property for which the district change is requested.

2. The present zoning classification and the zoning classification requested.
3. The existing use and the proposed use of the property.
4. The names and addresses of the owners of all property within two hundred (200) feet of the property for which the change is requested.
5. A statement of the reasons why the applicant feels the present zoning classification is no longer valid and why the requested classification would be a more proper classification.
6. A plat or reasonably accurate sketch showing existing and proposed locations, dimensions and use of all property within two hundred (200) feet of the proposed change, including streets, alleys, railroads and other physical features.

The Zoning Administrative Officer shall immediately forward a copy of the application to the Commission for study and recommendation. Prior to making a recommendation, the Commission shall determine the following: (a) whether the current district classification of the property sought to be changed is valid and consistent with current use, the Comprehensive Plan and reasonably ascertainable future needs of the City; (b) whether there is a need for additional land zoned for the purpose requested; and (c) whether the proposed change is consistent with the current land use plan, considering such factors as: (a) effect on population density or development which would in turn cause a demand for services and utilities in excess of the capacity planned for the area; (b) effect on traffic relative to existing and planned streets in the vicinity; and (c) the applicant's intent and capability for diligent and timely development of the property. The Commission shall within forty-five (45) days after receipt of the application report in detail its determinations and recommendation to the Council. If the Commission fails to submit a report within such time, the application will be deemed approved by the Commission.

165.42 SPECIAL EXCEPTION USES.

1. **Procedures and Requirements.** Allowable special exception uses may be permitted, enlarged, or altered upon application for a special exception use permit in accordance with the rules and procedures of the Board of Adjustment. The Board of Adjustment will grant or deny a special exception use permit in accordance with the standards set forth herein and with the intent and purpose of this chapter. In granting a special exception use permit, the Board of Adjustment may prescribe and impose appropriate conditions, safeguards and a specified time limit for the performance of the special exception use permit.
2. **Application for Special Exception Use Permit.** An application for a Special Use Permit may be initiated by a property owner or his or her authorized agent by filing an application with the Zoning Administrative Officer upon forms prescribed for that purpose. The application shall be accompanied by a site plan and such other plans or data showing the dimensions, arrangements, descriptive data and other materials constituting a record essential to an understanding of the proposed use and proposed modification in relation to the standards set forth herein. The application shall also be accompanied by a fee as may be determined by resolution of the City Council.
3. **Procedure.** A special exception permit shall not be granted by the Board of Adjustment unless and until the following procedures have been fulfilled:
 - A. The Board of Adjustment shall schedule a public hearing in relation to the special exception request. Notice of such public hearing shall be given as

required by law by the publication of such notice in a newspaper of general circulation in the City.

B. The Board of Adjustment shall determine if it is authorized and empowered under this section to grant the special exception as described in the application, and further determine if such special exception will adversely affect the public interest pursuant to testimony and other evidence presented at the public hearing.

C. In granting any special exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this Code of Ordinances and punished in accordance herewith.

D. The concurring vote of three (3) members of the Board of Adjustment grants a special exception use permit. If the Board of Adjustment shall issue a special exception use permit and the application contemplates the commencement of construction in order to exercise such special exception use, such order shall be effective only for a period of six (6) months after the issuance thereof and within such six (6) month period the applicant shall obtain a building permit from the City and shall substantially commence construction under the terms of such permit, unless a specific extension of time beyond the six (6) month period is granted by the Board of Adjustment.

E. The Council may, after a decision of the Board of Adjustment is made, vote to delay the implementation of such decision for a period of thirty (30) days. The Council has no right to overturn a decision of the Board of Adjustment but may delay the implementation thereof by resolution of the Council. During such thirty (30) day period the Board of Adjustment may reconsider its decision.

4. Standards. No special exception use permit shall be granted by the Board of Adjustment unless such Board shall find:

A. That the establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community;

B. That the special exception use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already committed, nor substantially diminish or impair property values within the neighborhood;

C. That the establishment of the special exception use will not impede the normal and orderly development or improvement of the surrounding property for the use as permitted in the district;

D. That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;

E. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;

F. The use shall not include any activity involving the use or storage of flammable or explosive material unless protected by adequate fire fighting and

fire suppression equipment and by such safety devices as are normally used in handling of any such material;

G. The use shall not include noise which is objectionable due to volume, frequency or beat unless muffled or otherwise controlled;

H. The use shall not include vibration which is discernable without instruments on an adjoining lot or property;

I. The use shall not involve any malodorous gas or matter which is discernable on any adjoining property;

J. The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort or irritation;

K. The use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road or highway;

L. The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are initiated to limit traffic hazards and congestion.

165.43 OPEN SPACE DISTRICT. The intent of Open Space District is to provide for areas that will be dominated by non-farm wooded or prairie areas and very large lot estates. The District designations should encourage the preservation of areas designated as open space in a largely undeveloped state. Further, this designation shall: (i) retain land with significant topographical or other physical constraints as open space; (ii) provide a buffer between incompatible land uses; (iii) provide for the controlled development of natural resources; (iv) provide for the preservation of areas with unique environmental resources; and (v) hold some land from urban development until such time development of the property has a significant beneficial effect for the City and furtherance of the policies of the comprehensive plan.

1. Principal Uses Permitted. Only the following uses and structures shall be permitted in the OS District:

- A. Non-farm wooded or prairie fields
- B. Plant nurseries, landscaping and gardening businesses
- C. Cemeteries
- D. Irrigation and flood control projects
- E. Publicly owned and operated buildings and facilities including substations, transfer stations, treatment facilities, pumping stations, storage facilities and regulator stations.

2. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted in the OS District:

- A. One family residence for every 15 acres
- B. Essential services
- C. Other uses and structures normally incidental and subordinate to permitted uses and structures.

3. Bulk Regulations. The following minimum requirements shall be observed in the OS District, subject to modifications contained in Sections 165.09 through 165.22:

- A. Lot Area - The minimum lot area shall be 15 acres.
- B. Lot Width - The minimum lot width shall be 300 feet.
- C. Front Yard - The minimum front yard shall be 100 feet.
- D. Side yard - The minimum side yard shall be 50 feet.
- E. Rear yard - The minimum rear yard shall be 100 feet.
- F. Maximum Height - No building shall exceed a height of 2½ stories or of 35 feet, unless otherwise permitted in this chapter.

EDITOR'S NOTE			
The following ordinances have been adopted amending the Official Zoning Map described in Section 165.04 of this chapter and have not been included as a part of this Code of Ordinances but have been specifically saved from repeal and are in full force and effect.			
ORDINANCE NO.	DATE ADOPTED	ORDINANCE NO.	DATE ADOPTED
337 (New Map)	1-4-99		
338	6-21-99		
348	3-18-02		
354	9-3-02		
355	10-7-02		
382	3-19-07		
386	2-4-08		
406	10-18-10		

[The next page is 721]

CHAPTER 166

SUBDIVISION REGULATIONS

166.01 Definitions
166.02 Platting Required
166.03 General Requirements
166.04 Improvements Required
166.05 Requirements of Plat
166.06 Plat Attachments
166.07 Filing Plat

166.08 Referral of Plat
166.09 Action by the City Manager
166.10 Action by the Commission
166.11 Action by the Council
166.12 Completion of Improvements
166.13 Performance Bond
166.14 Variances

166.01 DEFINITIONS. For use in this chapter, the following terms or words are defined.

1. "Alley" means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. "Block" means an area of land within a subdivision that is entirely bounded by streets or highways, and/or the exterior boundaries of the subdivision.
3. "Building line" means a line on a plat between which line and public right-of-way no buildings or structures may be erected.
4. "Commission" means the Planning and Zoning Commission of the City.
5. "Cul-de-sac" means a vehicular turnaround at the end of a dead-end street.
6. "Easement" means a grant of the right to use a strip of land for specific purposes by the general public, a corporation or certain persons.
7. "Lot" means a portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, of transfer of ownership or for building development.
8. "Major street" means a street of considerable continuity connecting various sections of the City.
9. "Minor street" means a street which is used primarily for access to the abutting properties.
10. "Performance bond" means a surety bond or cash deposit made out to the City, in an amount equal to the full cost of the improvements which are required by this chapter, said cost estimated by the City, and such bond being legally sufficient to secure to the City that the said improvements will be constructed in accordance with this chapter.
11. "Plat" means a map, drawing or chart on which the subdivider's plan of the subdivision of land is shown, together with all attachments thereto.
12. "Subdivider" means the person undertaking the subdivision or resubdivision of a tract or parcel of land.
13. "Subdivision" means the division of land into three (3) or more lots or parcels or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development. The term, when appropriate to the context, relates to the process of subdividing or to the land subdivided, or the resubdivision of land

heretofore divided or platted into lots or other divisions of land, or, if a new street is involved, any division of land.

166.02 PLATTING REQUIRED. Every owner of any tract or parcel of land who has subdivided or shall hereafter subdivide or plat the same for the purpose of laying out an addition, subdivision, building lot or lots, acreages or suburban lots within the City or, pursuant to Section 354.9 of the *Code of Iowa*, within two (2) miles from the corporate limits shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots or parcels therein contained or placing the plat on record.

166.03 GENERAL REQUIREMENTS. The following general requirements shall be followed by all subdividers:

1. Relation to Existing Streets.
 - A. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
 - B. The arrangement of streets in a subdivision shall either provide for the continuation or appropriate projection of existing principal streets in surrounding areas or conform to a plat for the neighborhood approved by the Commission to meet a particular situation where topographical or other conditions made continuance or conformance to existing streets impracticable.
2. Acreage Subdivisions.
 - A. Where the plat submitted covers only a part of the subdivider's plat, a sketch of the prospective future system of the unsubmitted part shall be furnished and the street system of the part submitted shall be considered in the light of adjustments in connection with the street system of the part not submitted.
 - B. Where the parcel is subdivided into larger tracts than for building lots such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.
 - C. Subdivisions showing unplatted strips or private streets controlling access to public ways will not receive approval.
3. Minor Streets.
 - A. Minor streets shall be so planned as to discourage through traffic.
 - B. Dead-end streets are discouraged, but may be permitted where topography and other conditions justify their use. Such streets shall not be longer than five hundred (500) feet and shall terminate with a cul-de-sac having an outside roadway diameter of at least eighty (80) feet and a street property line diameter of at least one hundred (100) feet. The right-of-way width of the straight portion of such streets shall be a minimum of sixty (60) feet. The property line at the intersection of the turnaround and the straight portion of the street shall be rounded at a radius of not less than twenty (20) feet.

4. Frontage Streets.
 - A. Where a subdivision abuts or contains an existing or proposed arterial street, the Commission may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
 - B. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Commission may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
5. Half streets. Half streets are prohibited.
6. Street Geometrics.
 - A. All street right-of-way widths shall be sixty (60) feet minimum.
 - B. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.
 - C. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.
 - D. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than two hundred (200) feet and of such greater radii as the Commission shall determine for special cases.
7. Intersections.
 - A. Insofar as is practical, acute angles between streets at their intersection are to be avoided.
 - B. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than sixty (60) degrees.
 - C. Property lines at street intersections shall be rounded with a radius of ten (10) feet, or of a greater radius where the Commission may deem it necessary. The Commission may permit comparable cutoffs or chords in place of rounded corners.
8. Street Names. Streets that are in alignment with others already existing and named shall bear the name of the existing streets. The proposed names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the Commission.
9. Street Grades.
 - A. Street grades, wherever feasible, shall not exceed five percent (5%), with due allowance for reasonable vertical curves.
 - B. No street grade shall be less than one-half (1/2) of one percent.

10. Alleys.
 - A. Alleys shall be provided in commercial and industrial districts, except that the Commission may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.
 - B. The width of an alley shall be twenty (20) feet minimum.
 - C. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.
 - D. Dead-end alleys shall be avoided, but if unavoidable, shall be provided with adequate turnaround facilities at the dead end, as determined by the Commission.
11. Blocks.
 - A. No block may be more than one thousand three hundred twenty (1,320) feet or less than five hundred (500) feet in length between the centerlines of intersecting streets, except where, in the opinion of the Commission, extraordinary conditions unquestionably justify a departure from these limits.
 - B. In blocks over seven hundred (700) feet in length, the Commission may require at or near the middle of the block a public way of not less than ten (10) feet in width for use by pedestrians and/or as an easement of not less than twelve (12) feet in width for use by public utilities.
12. Lots.
 - A. The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision, for the type of development and use contemplated.
 - B. Minimum lot dimensions and sizes shall conform to the requirements of the Zoning Ordinance.
 - C. The subdividing of the land shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street.
 - D. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.
 - E. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.
13. Sidewalks. Sidewalks shall be planned as required by the Commission or the Council in the interests of pedestrian safety and convenience.
14. Building Lines. Building lines conforming with zoning standards shall be shown on all lots within the platted area. Where the subdivided area is not under zoning control, the Commission may require building lines in accordance with the needs of each subdivision.

15. Easements.
 - A. Easements across lots or centered on rear or side lines shall be provided for utilities where necessary and shall be at least twelve (12) feet wide.
 - B. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and further width for construction, or both, as will be adequate for the purpose.
16. Plat Markers. Markers shall be placed at all block corners, angle points, points of curves in streets, and all such intermediate points as shall be required by the City. The markers shall be of such material, size and length as may be approved by the City.

166.04 IMPROVEMENTS REQUIRED. The subdivider shall install and construct all improvements required by this chapter. All required improvements shall be installed and constructed in accordance with the specifications set by the Council, to the satisfaction of the Council and under the supervision of the City.

1. Streets and Alleys. All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the Council.
2. Roadways. All roadways shall be surfaced with Portland cement concrete to a depth of six (6) inches over a crushed stone base, unless a greater depth is required by the Council.
3. Curb and Gutter. Curb and gutter shall generally be required on all streets. All curb and gutter shall be constructed to the grade established by the Council.
4. Sidewalks. Sidewalks shall be constructed of Portland cement concrete to the grade, width and depth established by the Council.
5. Water Lines. The subdivider shall provide water main connected to the City water supply and shall provide a water connection for each lot with service pipe installed to the property line in accordance with City and State regulations.
6. Sewers.
 - A. The subdivider shall provide sanitary sewer connected to the City sanitary sewer system. The sanitary sewer shall be stubbed into each lot. The subdivision's sanitary sewer system shall be approved by the Council and the State and the construction shall be subject to the supervision of the City.
 - B. Adequate provisions shall be made for the disposal of storm waters, subject to the approval of the Council, the construction of which shall be subject to the supervision of the City.

166.05 REQUIREMENTS OF PLAT. The subdivider shall prepare a plat clearly and legibly drawn in permanent ink to a scale of not more than one hundred feet to one inch (100' = 1") on reproducible tracing linen, Mylar or similar material, showing the following:

1. Proposed name of the subdivision, which name shall not duplicate or resemble existing subdivision names in the Belmont community. The subdivision name shall be subject to the approval of the Commission.
2. Exact and complete linear dimensions (including all distances, radii, arcs, chords, points of tangency and central angles) of the subdivision boundaries, lot lines, streets, alleys and other improvements and the location, type, materials and size of all

U.S. , State, local or other official bench marks and reference points. The square foot area of lots that are not rectangular shall be shown.

3. Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten percent (10%) and at vertical intervals of not more than five (5) feet if the general slope is ten percent (10%) or greater, unless the Council waives this requirement.
4. Present and proposed streets, alleys and sidewalks, with their respective rights-of-way, in or adjoining the subdivision, including widths, gradients, types, widths and depths of surfaces, curbs, planting strips and location of street lights.
5. Streets that are continuations of present streets should bear the same name. New street names should be distinctive.
6. Building setback or front yard lines.
7. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.
8. Present and proposed easements, showing locations, widths, purposes and limitations.
9. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other utilities and services and the size, capacity, invert elevation and location of each.
10. Names and addresses of the owner and subdivider.
11. Existing and proposed zoning of the proposed subdivision and adjoining property.
12. A sealed certification of the accuracy of the plat by the professional engineer or land surveyor who drew the plat.

The Commission or the Council may also require the plat to show exact elevations and grades of proposed improvements, including but not limited to streets, alleys and curbs and gutters.

166.06 PLAT ATTACHMENTS. The plat shall have the following attached to it:

1. A correct legal description of the subdivision land.
2. Profiles, typical cross sections, and specifications of street improvements and utility systems to show the location, size and grade. These are to be shown on a fifty (50) foot horizontal scale and a five (5) foot vertical scale with west or south at the left.
3. A statement of restrictions of all types that are to run with the land and are to become covenants in the deeds of lots.
4. 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.
5. 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.

6. 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.

7. 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*.

8. A certificate from the County Recorder that the title in fee is in the owner and that it is free from encumbrances other than those secured by an encumbrance bond.

9. A certificate of dedication of streets and other public property.

10. Resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

11. The encumbrance bond, if any.

The attachments required by subsections 4 through 11 need not be attached to the plat at the time of its original filing with the Clerk, but may be filed with the Clerk after the Commission issues its report and before the report and plat are presented to the Council.

166.07 FILING PLAT. Five (5) copies of the plat referred to in Section 166.05 shall be filed with the Clerk.

166.08 REFERRAL OF PLAT. The Clerk shall present the plat to the Council at its next regular meeting or at a special meeting called for that purpose. The Council shall refer the plat to the City Manager and the Commission for appropriate action and report as required by this chapter.

166.09 ACTION BY THE CITY MANAGER. The City Manager shall carefully examine the plat as to its compliance with the laws and regulations of the City, the existing street and utility systems and good engineering practices and shall submit findings and recommendations thereon in writing to the Commission not more than ten (10) days after referral of the plat to the City Manager.

166.10 ACTION BY THE COMMISSION. The Commission shall meet within ten (10) days after receiving the report of the City Manager and shall carefully examine the plat as to its compliance with the laws and regulations of the City, the existing street and utility systems and good engineering practices and shall consider the report and recommendations of the City Manager. The Commission may from time to time meet with the subdivider and its representatives and the City Manager to discuss changes, additions and deletions in the plan deemed by the Commission as required, necessary or advisable. Before the commencement of the third regular Council meeting after the referral of the plat by the Council to the Commission, the Commission shall return the plat to the Clerk together with a written report thereon stating the Commission's recommendation of approval, modification or disapproval of the plat and the

Clerk shall present such report to the Council at such third regular meeting. Said period may be extended to a future date certain upon agreement by the Commission and the subdivider.

1. In the event the Commission recommends substantial changes or modifications or in the event the Commission recommends disapproval of the plat, the Commission shall give its reasons therefor in the report to the Council.
2. In the event the Commission approves the plat, either as originally filed or as thereafter changed by agreement between the Commission and the subdivider, the Commission shall express its approval and shall state the conditions of such approval, if any. Neither a recommendation of approval or approval with conditions shall constitute approval or acceptance of the addition or subdivision by the Council or the City.

166.11 ACTION BY THE COUNCIL. Upon receipt of the plat and report back from the Commission, the Council shall, within a reasonable time, either approve or disapprove the plat. The Council may before taking action on the plat and from time to time meet with the subdivider and its representatives and the City Manager to discuss changes, additions and deletions in the plan deemed by the Council as required, necessary or advisable and to establish standards required by this chapter to be set by the Council.

1. In the event that said plat is disapproved by the Council, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.
2. In the event that said plat is found to be acceptable and in accordance with this chapter, the Council shall tentatively approve and accept the same, subject to the provisions of Sections 166.12 and 166.13.

166.12 COMPLETION OF IMPROVEMENTS. Before any approval and acceptance by the Council under the provisions of Section 166.11(2) shall be final and before the subdivider shall file the plat for record, all of the improvements shown on the plat shall be constructed by the subdivider and accepted by formal resolution of the Council after verification that the constructed improvements meet all City and other specifications and ordinances and other City requirements and that all agreements between the subdivider and the City have been fully performed.

166.13 PERFORMANCE BOND. The completion requirements of Section 166.12 may be waived by the Council in whole or in part if the subdivider will post a performance bond with sureties acceptable to the Council guaranteeing that uncompleted improvements will be constructed within a period of one (1) year from the date of the approval and acceptance of the plat by the Council, but approval and acceptance of the plat will not constitute acceptance by the City of any improvements to be constructed. Improvements will be accepted only after their construction in strict conformity with the requirements of the Council has been completed. No public funds shall be expended in the subdivision until such improvements have been completed and accepted by the City.

166.14 VARIANCES. Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirement of this chapter would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the Council may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured. Provided, however, such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this chapter. In no case shall any variance or modification be more than minimum easing of the requirements and in no instance shall it be in conflict with

the Zoning Ordinance and such variance and waivers may be granted only by the affirmative vote of three-fourths (3/4) of the members of the Council.

[The next page is 739]

CHAPTER 167

FLOOD PLAIN MANAGEMENT

167.01 Definitions

167.02 Statutory Authority, Findings of Fact and Purpose

167.03 General Provisions

167.04 Administration

167.05 Flood Plain Management Standards

167.06 Establishment of Variance Procedures

167.07 Nonconforming Uses

167.08 Penalties for Violation

167.09 Amendments

167.01 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. “Appurtenant structure” means a structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
2. “Base flood” means the flood having one percent chance of being equaled or exceeded in any given year (also commonly referred to as the “100-year flood”).
3. “Base flood elevation” (BFE) means the elevation floodwaters would reach at a particular site during the occurrence of a base flood event.
4. “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.”
5. “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, drilling operations or storage of equipment or materials. “Development” does not include minor projects or routine maintenance of existing buildings and facilities, as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.
6. “Enclosed area below lowest floor” means the floor of the lowest enclosed area in a building when all the following criteria are met:
 - A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of 167.05(4)(A) of this chapter; and
 - B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and
 - 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 base flood elevation; and
 - D. The enclosed area is not a basement, as defined in this section.
7. “Existing construction” means any structure for which the start of construction commenced before the effective date of the first floodplain management regulations adopted by the community.

8. “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) is completed before the effective date of the first floodplain management regulations adopted by the community.
9. “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).
10. “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.
11. “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.
12. “500-year flood” means a flood, the magnitude of which has a two-tenths percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every 500 years.
13. “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.
14. “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.
15. “Flood insurance study” (FIS) means a report published by FEMA for a community issued along with the community’s Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.
16. “Flood plain” means any land area susceptible to being inundated by water as a result of a flood.
17. “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.
18. “Flood proofing” 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.
19. “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.

20. "Floodway fringe" means those portions of the special flood hazard area outside the floodway.
21. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
22. "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 of 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 either: (i) by 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.
23. "Lowest floor" means the floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of "enclosed area below lowest floor" are met.
24. "Maximum damage potential uses" means hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.
25. "Minor projects" means small development activities (except for filling, grading and excavating) valued at less than \$500.00.
26. "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 first flood plain management regulations adopted by the community.
27. "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 the first flood plain management regulations adopted by the community.
28. "Recreational vehicle" means a vehicle which is:
 - A. Built on a single chassis;

- B. Four hundred (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.
29. “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, counter tops and similar finish work;
 - C. Basement sealing;
 - D. Repairing or replacing damaged or broken window panes;
 - E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.
30. “Special flood hazard area” (SFHA) means the land within a community subject to the base flood. This land is identified on the community’s Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.
31. “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.
32. “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, grain storage facilities and/or other similar uses.
33. “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 percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.
34. “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 correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

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 first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

35. "Variance" means a grant of relief by a community from the terms of the flood plain management regulations.

36. "Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

167.02 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.

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

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 Purpose. 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 those flood losses described in paragraph 2(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.

167.03 GENERAL PROVISIONS.

1. The provisions of this chapter shall apply to all areas having special flood hazards within the jurisdiction of the City of Belmond. For the purpose of this chapter, the special flood hazard areas are those areas designated as Zone A on the Flood Insurance Rate Map (FIRM) for Wright County and Incorporated Areas, City of Belmond, Panels 19197C0160C, 0180C, dated February 20, 2013, which is hereby adopted and made a part of this chapter.
2. 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 City Manager or Zoning Administrator shall make the necessary interpretation. The Zoning 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 City Manager or Zoning Administrator in the enforcement or administration of this chapter.
3. 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.
4. Abrogation and Greater Restrictions. It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.
5. Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.
6. 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.
7. Severability. If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

167.04 ADMINISTRATION.

1. Appointment, Duties and Responsibilities of Administrator.
 - A. The City Manager or Zoning Administrator is hereby appointed to implement and administer the provisions of this chapter and will herein be referred to as the Administrator.
 - B. 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 flood plain development 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 (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures or (ii) the elevation to which new or substantially improved structures have been floodproofed.
 - (4) Notify adjacent communities/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.
 - (5) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.
 - (6) Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.
 - (7) Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.
 - (8) Maintain the accuracy of the community's Flood Insurance Rate Maps when;
 - a. Development placed within the Floodway results in any of the following: (i) an increase in the Base Flood Elevations; or (ii) alteration to the floodway boundary.
 - b. Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base flood elevation; or
 - c. Development relocates or alters the channel.

Within 6 months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

(9) Perform site inspections to ensure compliance with the standards of this Ordinance.

2. Flood Plain Development Permit.

A. 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.

B. Application for Permit. Application shall be made on forms furnished by the Administrator and shall include the following:

(1) Description of the work to be covered by the permit for which application is to be made.

(2) Description of the land on which the proposed work is to be done (e.g., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.

(3) Location and dimensions of all buildings and building additions.

(4) Indication of the use or occupancy for which the proposed work is intended.

(5) Elevation of the base flood.

(6) Elevation (in relation to North American Vertical Datum 1988 of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.

(7) For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.

(8) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

C. Action on Permit 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 Zoning Board of Adjustment.

D. Construction and Use to Be as Provided in Application and Plans. Flood Plain Development Permits based 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 of Iowa, that the finished fill, building floor elevations, flood proofing, or other flood protection measures were

accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

167.05 FLOOD PLAIN MANAGEMENT STANDARDS. All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations have not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to determine: (i) whether the land involved is either wholly or partly within the floodway or floodway fringe; and (ii) the 100 year flood level. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where: (i) the bridge or culvert is located on a stream that drains less than 100 square miles; and (ii) the bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567-71.2(1)b, Iowa Administrative Code.

1. All Development. 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 Structures. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevations. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the base flood elevations and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) 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 located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), Iowa Administrative Code.
3. Nonresidential Structures. All new or substantially improved nonresidential structures shall have the lowest floor (including basement) elevated a minimum of one foot above the base flood elevation, or together with attendant utility and sanitary systems, be flood proofed to such a level. When flood proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure,

below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed 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, with positioning on at least two walls, 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 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 elevated or flood proofed to a minimum of one foot above the base flood elevation.
5. Factory-Built Homes:
 - A. All new and substantially improved 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 new and substantially improved 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. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the State Building Code.
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.** Storage of equipment and materials that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one foot above the base flood elevation. Other material and equipment must either be similarly elevated or: (i) not subject to major flood damage and be anchored to prevent movement due to flood waters; or (ii) readily removable from the area within the time available after flood warning.
8. **Flood Control Structures.** Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of three 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.** 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.** 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 to Residential Uses.** Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.
- A. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 square feet in size. Those portions of the structure located less than one foot above the BFE must be constructed of flood-resistant materials.

- B. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.
- C. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
- D. The structure shall be firmly anchored to resist flotation, collapse and lateral movement.
- E. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.
- F. The structure's walls shall include openings that satisfy the provisions of subsection 4(A) of this section.

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 subsection 5 of this section 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 subsection 5 of this section regarding anchoring and elevation of factory-built homes.

13. Pipeline Crossings. 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.

14. Maximum Damage Potential Uses. All new or substantially improved maximum damage potential uses shall have the lowest floor (including basement) elevated a minimum of one foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When flood proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are flood proofed shall be maintained by the Administrator. Where 0.2% chance flood elevation data has not been provided in the Flood Insurance

Study, the Iowa 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 determinations.

167.06 ESTABLISHMENT OF VARIANCE PROCEDURES.

1. The Zoning Board of Adjustment 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.

A. 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.

B. Variances shall not be issued within any designated floodway if any increase in flood levels during the 100-year flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

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

D. 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 \$25.00 for \$100.00 of insurance coverage; and (ii) such construction increases risks to life and property.

E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

2. Factors upon Which the Decision of the Zoning Board of Adjustment Shall Be Based. In passing upon applications for variances, the Board of Adjustment shall consider all relevant factors specified in other sections of this chapter and:

A. The danger to life and property due to increased flood heights or velocities caused by encroachments.

B. The danger that materials may be swept on to other land or downstream to the injury of others.

C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

E. The importance of the services provided by the proposed facility to the City.

- F. The requirements of the facility for a flood plain location.
 - G. The availability of alternative locations not subject to flooding for the proposed use.
 - H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - I. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
 - J. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - K. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
 - L. 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.
 - M. Such other factors which are relevant to the purpose of this chapter.
3. Conditions Attached to Variances. Upon consideration of the factors listed above, the Board of Adjustment 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:
- A. Modification of waste disposal and water supply facilities.
 - B. Limitation of periods of use and operation.
 - C. Imposition of operational controls, sureties, and deed restrictions.
 - D. 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 purpose of this chapter.
 - E. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Council shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

167.07 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance codified in 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.

167.08 PENALTIES FOR VIOLATION. Violations of the provisions of this chapter or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$(500.00 (five hundred dollars) or imprisoned for not more than (thirty (30) days. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy violation.

167.09 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 of the Department of Natural