

**TITLE IV      PROPERTY**

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**CHAPTER 1      BUILDING CODE**

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- 4.101      CODE ADOPTED
- 4.102      PENALTIES
- 4.103      SUBMITTAL DOCUMENTS

4.101      CODE ADOPTED.    CODES ADOPTED. The International Building Code, 2003 edition, (including Appendix Chapters B, C, E, H, I, & J), as published by the International Code Council, be hereby established and adopted by reference as the Building Code of the City of Winterset, Iowa.

The International Residential Code for One and Two Family Dwellings, 2003 edition, as published by the International Code Council, be hereby established and adopted by reference as the Residential Building Code of the City of Winterset, Iowa

4.102      PENALTIES. In addition to any other penalties provided by this City Code, any person violating any provision of this Chapter shall be guilty of a municipal infraction with remedies to the City as provided by this Code.

4.103      SUBMITTAL DOCUMENTS. The construction documents shall be prepared by a Registered Design Professional as required under the Building Code Section 106 for all construction other than one and two family dwelling units.

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CHAPTER 2            ELECTRICAL CODE

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4.201	CODE ADOPTED
4.202	ENFORCEMENT
4.203	DEFINITION
4.204	MODIFICATION
4.205	APPEALS
4.206	PENALTIES

4.201 CODE ADOPTED. The National Electrical Code, 2002 edition, as published by the National Fire Protection Association, be hereby established and adopted by reference as the Electrical Code of the City of Winterset, Iowa

4.202 ENFORCEMENT. The Code shall be enforced by the Building Inspector, the Superintendent of the Electric Light and Power Plant, and other designated City officials.

4.203 DEFINITION. Wherever the word "municipality" is used in the Code, it shall be held to mean the City of Winterset, Iowa.

4.204 MODIFICATIONS. The Building Inspector shall have the power to modify any of the provisions of the Code upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the Code, provided that the spirit of the Code shall be observed, public safety secured, and substantial justice done. The particulars of such modifications when granted or allowed and the decision of the Building Inspector thereon shall be entered upon the records of the department and a signed copy shall be furnished to the applicant.

4.205 APPEALS. Wherever the Building Inspector shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of this Code do not apply or that the true intent and meaning of the Code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Building Inspector to the Board of Appeals within 14 days from the date of the decision appealed.

4.206 PENALTIES. In addition to any other penalties provided by this Code, any person violating any provision of this Chapter shall be guilty of a municipal infraction with remedies to the City as provided by this Code.

CHAPTER 3            PLUMBING CODE

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- 4.301            CODE ADOPTED
- 4.302            PENALTIES

4.301    CODE ADOPTED. The Uniform Plumbing Code, 2003 edition, as published by the International Association of Plumbing and Mechanical Officials, be hereby established and adopted by reference as the Plumbing Code of the City of Winterset, Iowa.

4.302    PENALTIES. In addition to any other penalties provided by this Code, any person violating any provision of this Chapter shall be guilty of a municipal infraction with remedies to the City as provided by this Code.

**CHAPTER 4      INTERNATIONAL FIRE CODE**

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- 4.401            CODE ADOPTED
- 4.402            PENALTIES

4.401 CODE ADOPTED. The International Fire Code, 2003 edition, as published by the International Code Council, be hereby established and adopted by reference as the Fire Code of the City of Winterset, Iowa.

4.402 PENALTIES. In addition to any other penalties provided by this Code, any person violating any provisions of this Chapter shall be guilty of a municipal infraction with remedies to the to the City as provided by this Code.

CHAPTER 5           MECHANICAL CODE

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- 4.501           CODE ADOPTED
- 4.502           PENALTIES

4.501   CODE ADOPTED. The Uniform Mechanical Code, 2003 edition, as published by the International Association of Plumbing and Mechanical Officials, be hereby established and adopted by reference as the Mechanical Code of the City of Winterset, Iowa.

4.502   PENALTIES. In addition to any other penalties provided by this Code, any person violating any provision of this Chapter shall be guilty of a municipal infraction with remedies to the City as provided by this Code.

CHAPTER 6 ABATEMENT OF DANGEROUS BUILDING CODE

- 4.601 CODE ADOPTED
- 4.602 PENALTIES

4.601 CODE ADOPTED. The Uniform Code for the Abatement of Dangerous Buildings, 1997 edition, as published by the International Conference of Building Officials is adopted by this reference as the City code for the abatement of dangerous buildings.

4.602 PENALTIES. In addition to any other penalties provided by this Code, any person violating any provision of this Chapter shall be guilty of a municipal infraction with remedies to the City as provided by this Code.



**CHAPTER 7            PERMIT FEES**

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- 4.701            BUILDING PERMIT FEES
- 4.702            WRECKING, DEMOLITION AND MOVING OF BUILDINGS
- 4.703            MECHANICAL CODE PERMIT FEES
- 4.704            PLUMBING CODE PERMIT FEES
- 4.705            ELECTRICAL CODE PERMIT FEES
- 4.706            EXPIRATION OF PERMITS

4.701    BUILDING PERMIT FEES. Before receiving a building permit to build or move a structure, the owner or his agent shall pay the building permit fees specified herein; provided, however, that the city, county, state or the U. S. Federal Government shall be exempt from paying said fees. Said building permit fees shall be based on valuation and shall be paid as provided in the schedule of building permit fees as follows:

TOTAL VALUATION	FEE
Up to and including \$1,000	\$25.00
Each additional \$1,000 up to and including \$50,000	\$6.00 per \$1,000
Each additional \$1,000 from \$50,001 up to and including \$100,000	\$4.00 per \$1,000
Each additional \$1,000 over \$100,000	\$2.00 per \$1,000

4.702    WRECKING, DEMOLITION AND MOVING OF BUILDINGS. A \$20.00 fee shall be paid for wrecking or demolishing buildings within the City or removal from the City.

4.703    MECHANICAL CODE PERMIT FEES. A \$20.00 permit fee shall be paid for the issuance of a permit for the installation of mechanical heating, ventilation and cooling appliances.

4.704    PLUMBING CODE PERMIT FEES. A \$20.00 permit fee shall be paid for the issuance of a permit for all plumbing work, except a permit fee of \$5.00 shall be paid for the issuance of a permit to replace a water heater that requires no other plumbing changes.

4.705    ELECTRICAL CODE PERMIT FEES. A \$20.00 permit fee shall be paid for the issuance of permit for all electric work.

4.706    EXPIRATION OF PERMITS. All permits, except demolition permits shall expire 18 months from date of issuance. Demolition permits shall expire 6 months from date of issuance.

4.801 ENERGY CODE

4.801 ENERGY CODE. Pursuant to Iowa Code Section 380.10, the City of Winterset, Iowa does hereby establish, declare and adopt by reference the International Energy Conservation Code, 2000 Edition, as published by the International Code Council to be the Energy Code of the City for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of the building envelope, mechanical, lighting and power systems in the City of Winterset and providing for the issuance of permits and collection of fees therefore; and, each and all of the regulations, provisions, conditions and terms of such International Energy Conservation Code, 2000 Edition, published by the International Code Council, on file in triplicate in the office of the City Administrator.

**CHAPTER 9 PLANNING & ZONING COMMISSION**

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4.901	PLANNING AND ZONING COMMISSION CREATED
4.902	TERM OF OFFICE AND COMPENSATION
4.903	POWERS

4.901 THE PLANNING AND ZONING COMMISSION shall be seven (7) persons at least five (5) of whom shall reside within the City corporate limits and two (2) of whom may reside within two (2) miles of such corporate limits. The members shall be qualified by knowledge and experience to act in matters pertaining to the development of City planning and zoning, none of whom shall hold any elective position in the City. All members shall be appointed by the City Council.

4.902. TERM OF OFFICE AND COMPENSATION. The term of office of the members shall be four (4) years with the terms staggered so that no more than four (4) members will be appointed in any one calendar year. Any vacancy occurring on the Commission caused by resignation or otherwise shall be filled by the Council for the unexpired term. Each Commission member shall be compensated for meeting attendance at a rate to be fixed by Resolution of the City Council from time to time and shall not need to be fixed by City Ordinance.

4.903 POWERS. The Commission shall have and possess the following powers, and such other powers as may be incidental to the successful carrying out of the powers vested in it herein or such as may be expressly conferred upon it by law:

1. To make such surveys, studies, maps, plans or plats of the whole or any portion of the city and of any land outside thereof, which in the opinion of such Commission bears relation to a comprehensive plan, and shall submit such plan to the council with its studies and recommendation and it may publish the same.

2. To prepare a comprehensive zoning ordinance regarding the height, number of stories and size of buildings and other structures; the percentage of ground that may be occupied; the size of yards, courts, and other open spaces; the density of population; and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes and to this end shall prepare a preliminary report and hold public meetings thereon and after such hearings have been held, to submit its final report and recommendations to the City Council.

3. To recommend to the City Council, from time to time, as conditions require, amendments, supplements, changes or modifications in the comprehensive zoning ordinance prepared by it.

4. To study future conditions.

5. To survey street and traffic problems.

6. To survey and study new subdivision.

CHAPTER 10      SUBDIVISION

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4.1001	TITLE
4.1002	JURISDICTION AND PURPOSE
4.1003	DEFINITIONS
4.1004	PROCEDURE
4.1005	SUBDIVISION DESIGN STANDARDS
4.1006	LAND SUITABILITY
4.1007	IMPROVEMENTS
4.1008	MINOR SUBDIVISIONS
4.1009	PRELIMINARY PLAT REQUIREMENTS FOR MAJOR SUBDDIVISIONS
4.1010	FINAL PLAT REQUIREMENTS FOR MAJOR SUBDIVISIONS
4.1011	VARIANCES
4.1012	FEES
4.1013	ENFORCEMENT
4.1014	COMMISSION REGULATIONS

4.1001 TITLE. These regulations shall be known as the Subdivision Ordinance of Winterset, Iowa, and shall also be known as Title IV, Chapter 10 of the Winterset Municipal Code of 1992.

4.1002 JURISDICTION AND PURPOSE. This Chapter governs the subdivision of all lands within the corporate limits of the City and in an area within two miles outside the corporate limits to the full extent provided by Chapter 354 of the Code of Iowa.

A. Exclusions: The provisions of this chapter shall not apply to:

1. Mortgages, easements or leases for a term not to exceed ten years
2. The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the abutting lots are not reduced below the minimum sizes required by this ordinance or the zoning ordinance.

B. Purpose: To provide for the health, safety and general welfare of the city; to provide efficiency in the provision of municipal infrastructure and to provide for the overall quality of life.

4.1003 DEFINITIONS. For the purpose of this Chapter, certain terms and words are hereby defined. Words used in the present tense shall include the future, the singular number shall include the plural, and the plural the singular; the word "shall" is mandatory, and the word "may" is permissive.

Architect:

An architect is a registered architect authorized to practice architecture as defined by the laws of the State of Iowa.

Block:

An area of land within a subdivision that is entirely bounded by streets, highways, parks, railroad or similar fixed land division and/or exterior boundaries of the subdivision.

Collector Streets:

Those streets which carry traffic from minor streets to the major system of arterial streets and highways including the principal entrance streets of a residential development and streets for circulation within such a development.

Commission:

The Planning and Zoning Commission of Winterset, Iowa.

Council:

The City Council of Winterset, Iowa.

Cul-de-sac:

A short, minor street having one end open to motor traffic; the other end being permanently terminated by a vehicular turnaround.

District:

A section or sections of land area depicted on the Official Zoning Map as provided by the zoning regulations governing the use of buildings and land within the City.

Easement:

A grant by the property owner of the use, for a specific purpose, of an area of land by the general public, a corporation, or a certain person or persons, and within the limits of which the land owner shall not erect any permanent structures but shall have the right to make any other use of the land subject to the terms of such easement which is not inconsistent with the rights of the grantee. Public utilities shall have the right to trim or remove vegetation that interferes with the use of such easements.

Engineer:

An Engineer is a Registered Engineer authorized to practice engineering as defined by the laws of the State of Iowa.

Frontage Street:

A street that is parallel to and adjacent to a major thoroughfare or highway; and which provides access to abutting properties and protection from through traffic, with limited access to the major thoroughfare.

Loop Lane Street:

A short, minor one-way directional street within a residential subdivision having one traffic lane and one parking lane for vehicles which connects to a Collection Street and which is dedicated to the City.

Lot:

A tract of land represented and identified by number or letter designation on an official plat.

Maintenance Bond:

A surety bond or cash deposit (including Irrevocable bank letter of credit) made payable to and held by the City in an amount equal to the full cost of the improvements as determined by the City sufficient to guarantee to the City that the improvements have been constructed to the approved plans and specifications of the City and are free from inferior and/or defective workmanship or materials and to maintain or keep these improvements in good repair and condition for the term provided in this Chapter.

Performance Bond:

A surety bond, cash deposit or irrevocable bank letter of credit made out to the City of Winterset in an amount equal to the full cost of the improvements which are required by this Chapter, said cost being estimated by the City Engineer, and said surety bond or cash deposit being legally sufficient to secure to the City that said improvements will be constructed in accordance with this Chapter and any attached conditions.

Plat:

A subdivision plat that meets the requirements of Chapter 409A of the Code of Iowa and this Chapter and has been filed for record in the offices of the Recorder, Auditor, and Assessor.

Recreational Trail:

Any road, path, or way specifically designed to accommodate recreational non-motorized travel, regardless of whether such facilities are designated for the exclusive use of recreational trails or are to be shared with other transportation modes.

Roadway:

That portion of the street available for vehicular traffic, and where curbs are laid, the portion from back to back of curbs.

Street:

A public thoroughfare which affords the principal means of access to the abutting property.

Subdivider:

The term "subdivider" means any person, individual, firm, partnership, association, corporation, estate, trust, or any other group or combination acting as a unit, dividing or proposing to divide land so as to constitute a subdivision as defined herein and includes any agent of the subdivider.

Subdivision:

A tract of land divided into two or more lots each of twenty acres or less in size.

Minor Subdivision:

A tract of land divided into four lots or less within a five year period, and which division does not include or require any new public streets or municipal infrastructure.

Major Subdivision:

The dividing of any tract which is not a Minor Subdivision and which is prepared and reviewed according to the preliminary and final plat procedures of this chapter.

Surveyor:

A registered land surveyor who engages in the practice of land surveying pursuant to Chapter 114 of the Code of Iowa.

4.1004 PROCEDURE. In obtaining the final approval of a proposed subdivision by the Commission and the Council, the subdivider shall submit a preliminary plat and a final plat in accordance with the following order and procedure:

A. The subdivider shall first arrange a meeting with the Zoning Administrator for pre-application coordination as provided for in 4.1009,A.

B. The subdivider shall prepare and file with the Zoning Administrator eight copies of a preliminary plat conforming in detail to the requirements set forth in this Chapter. Eight copies of the preliminary plat shall be submitted for subdivisions outside the corporate limits of the City.

C. The Zoning Administrator shall forthwith refer two copies to the Commission. In the case of a subdivision outside the corporate limits of the City, the County Zoning Administrator shall refer two copies of the preliminary plat to the City Planning and Zoning Commission.

D. The Zoning Administrator shall carefully examine said plat as to its compliance with the laws and ordinances of the City, the existing street system, good engineering practices, and shall as soon as possible, submit his findings in duplicate to the Commission. If deemed necessary, the Zoning Administrator may refer the preliminary plat to a registered engineer and others as necessary to the case for findings and recommendations.

E. After receiving the Zoning Administrator's report, the Commission shall study the preliminary plat and other material for conformity thereof to these regulations. The Commission may confer with the subdivider on changes deemed advisable and the kind and extent of such improvements to be made. The Commission shall approve, approve conditionally or reject the preliminary plat.

F. Before approving a preliminary plat, the Commission may, at its discretion, hold a public hearing on the proposed plat, with notification to those parties as determined by the Planning and Zoning Commission.

G. After the Commission approves a preliminary plat, the subdivider shall complete the final plat and of any detailed construction drawings and specifications for the improvements required under this Chapter.

H. Before submitting the final plat to the Commission for approval, the subdivider shall furnish the Zoning Administrator all plans and specifications required by Section 4.1008 of this Chapter necessary for the construction of the improvements required under this Chapter. These plans and specifications shall be endorsed by a engineer certifying them to be in compliance with all state and city regulations.

I. The final plat shall be filed in duplicate with the Zoning Administrator. The final plat shall be accompanied by the documents required by Chapter 354 of the Code of Iowa and this Chapter. In addition, the subdivider shall include either the engineer's certificate that all improvements required by this Chapter have been installed in accordance with the approved plans and specifications or the bond required by Section 4.1006 of this Chapter.

J. The Commission shall then consider the final plat and accompanying documents. If the final plat is approved by the Commission, the Commission shall submit their recommendations to the Council together with a certified copy of a resolution showing the action of the Commission.

K. The Council shall then consider the final plat and all matters related thereto. In considering the final plat, the Council shall assure that the proposed development conforms to the standards and conditions of state and city law and to the city's Comprehensive Plan. The council shall approve, approve conditionally or reject the final plat within ninety days after receipt of the Plan commission's resolution on the plat. If approved, the Council shall cause the resolution approving the plat to be certified as provided by law.

L. If the plat is approved by the Council, the subdivider shall cause such plat to be recorded in the Office of the County Recorder as provided in Chapter 354 of the Code of Iowa and shall file written evidence with the City Administrator's office before the city shall recognize the plat as being in full force and effect.

M. Plats In Unincorporated Areas. The provisions of this chapter shall apply to all proposed plats within two miles of Winterset's city limits, as they existed at the time such plat is proposed. In reviewing all such plats the city shall consider the plat's compliance with the city's Comprehensive Plan and shall not approve any such plat which is in substantial conflict with said Comprehensive Plan. The city Planning Commission, with council approval, may waive its right to review such plat if it determines by specific written report that the nature of such plat is such that city planning, growth or other city development interests are clearly not affected by the proposed plat. If the review of such plat under this chapter is waived by the Council, the city shall notify the County Zoning Administrator in writing of this action. No plat as defined by this chapter shall be considered final and eligible for recording in the county recorder's Office unless it is accompanied by a resolution from the City Council indicating city approval or conditional approval or evidence of the city's waiver of review.



**Chapter 10      SUBDIVISION**

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4.1005 SUBDIVISION DESIGN STANDARDS. The standards and details of design herein contained are intended only as minimum requirements so that the general arrangement and layout of a subdivision may be adjusted to a wide variety of circumstances; however, in the design and development of a plat, the subdivider should use standards consistent with the site conditions to assure an economical, pleasant and durable neighborhood.

A. BLOCKS

No block shall be longer than 1,320 feet.

B. EASEMENTS

Ten (10) feet on each side of a lot line or twenty (20) total feet shall be provided for along the rear or side of lot lines for easements for utilities.

Whenever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall whenever possible not disturb the natural watercourse. In the event it is deemed necessary by the subdivider to disturb or change the water course in any way, then the subdivider shall comply with all federal, state and local laws and regulations and shall at their expense submit to the Commission for its approval a plan showing compliance therewith. The subdivider shall dedicate to the City an easement along each side of the stream or other drainage course. Such easements shall be for the purpose of widening, improving, maintaining or protecting the function of the stream or watercourse. The width of such easement shall be consistent with the Comprehensive Plan or County Drainage District Plan if applicable. The minimum width of such easements shall include the stream course and be not less than forty feet back from the top of each stream bank, or forty feet each way from the center line of a drainage way identified as such by the Plan commission.

C. LOTS

1. Corner lots shall be not less than twenty feet greater in width than the minimum required interior lot width so as to permit adequate building setbacks on both front and side streets. All lots adjoining any public or private street shall have a minimum thirty-foot setback line from the right of way.

2. Double frontage lots other than corner lots shall be avoided.

3. Each lot shall be provided with access to a public street.

4. Each lot shall be provided with not less than forty feet (40') of access frontage to a public street, except for lots fronting on a cul-de-sac radius.

5. No lot shall be less in size or shape than that required to provide an adequate building site in compliance with the Chapter 12 of this Title.

6. For the purpose of complying with minimum health standards, the following minimum lot sizes shall be observed:

Lots which cannot be reasonably served by an existing public sanitary sewer system shall have a minimum width of 120 feet, measured at the setback line, and an area of not less than 20,000 square feet or the minimum permitted by the Chapter 12 of this Title, whichever is the larger. However, in such cases the subdivider shall submit with the preliminary plat soil percolation test results for each lot showing each lot to be of sufficient size and otherwise suitable for a septic tank system meeting state and county sanitary codes.

7. Side lot lines where possible shall be at right angles or radial to the street lines.

D. SURVEY MONUMENTS

Survey Monuments shall be placed at block corners, point of curves, and change in direction along lot lines and at each lot corner in accordance with city specifications.

E. STREETS AND RIGHTS-OF-WAY

1. Alleys

Alleys may be required in business areas and industrial districts for adequate access to block interiors and for off-street loading and parking purposes. A special exception may be granted for alleys in residential areas. Dead end alleys shall be provided with a means of turning around at the dead end.

2. Circulation

The street pattern shall provide ease of circulation within the subdivision as well as convenient access to adjoining streets, thoroughfares or un-subdivided land as may be required by the Commission. In a case where a street will eventually be extended beyond the plat, but is temporarily dead-ended, an interim turnaround shall be required by the City.

3. Comprehensive Plan

All proposed plats and subdivisions shall conform to the Comprehensive Plan.

4. Continuation of Existing Streets

Proposed streets shall provide for continuation or completion of any existing streets (constructed or recorded) to adjoining property at equal or greater width, but not less than sixty-six (66) feet in width, and in similar alignment, unless variations are recommended by the Commission.

5. Cul-de-sac

Whenever a cul-de-sac is permitted, such street shall comply with sound engineering design and planning standards and be approved by the City. Cul-de-sac length shall be in accord with the conditions of the topography, and the permitted length shall be determined based on the relationship to the location of planned future streets shown in the Comprehensive Plan.

6. Dedication

Streets shall be dedicated to the city, and other land incident to the subdivision shall be dedicated in the manner prescribed by Chapters 409A and 354 of the Code of Iowa.

7. Half Streets

Dedication of half streets is hereby prohibited.

8. Major Streets

When a new subdivision, except where justified by limiting conditions, involves frontage on an arterial street or state highway with an annual average daily traffic (AADT) count of 10,000 or more recorded by the Iowa Dept of Transportation, the street layout shall provide vehicle access to such street or highway by means of a frontage or other collector street system.

9. Physical and Cultural Features

In general, streets shall be platted with appropriate regard for topography, watercourses, wooded areas, public and institutional areas and other natural features which would lend themselves to attractive treatment and avoidance of disruptive effects of streets and traffic.

10. Street Grades

Streets and alleys shall be completed to grades which have been officially determined or approved by the City. All streets shall be graded to the full width of the right-of-way and adjacent side slopes graded to blend with the natural ground level. The maximum grade shall not exceed six per cent for primary and secondary streets, or ten per cent for collector or minor streets. All changes in grades on major roads or highways shall be connected by vertical curves of a minimum length equivalent to twenty times the algebraic difference between the rates of grades, expressed in feet per hundred, or greater, if deemed necessary by the City; for secondary and minor streets, fifteen times. The grade alignment and resultant visibility especially at intersections shall be worked out in detail to meet the approval of the City.

11. Street Intersections

Street intersections shall be as nearly at right angles as possible.

12. Street Names

All newly platted streets shall be named and in a manner conforming to the prevailing street naming system. A proposed street that is obviously in alignment with other existing streets, or with a street that may logically be extended although the various portions be at a considerable distance from each other, shall be subject to the approval of the City in order to avoid duplication or close similarity of names; and proposed street names shall also be reviewed by the county 9-1-1 authorities for the same purpose.

13. Street Widths

The normal standard for right-of-way width shall be 66 feet wide. Cul-de-sac streets may qualify for a variance in right-of-way width of not less than 50 feet, depending upon the circumstances of topography, housing density, parcel configuration and any other planning and development factor as judged by the Planning Commission and City Council. Any street, other than a collector or arterial street in the R-1 Low Density Residential Zoning District having twelve (12) or fewer platted lots fronting on such street may have a minimum right-of-way width of fifty (50) feet. Streets that are a part of an industrial park shall have a right-of-way width of at least 80 feet. The City may require any other right-of-way to be wider than 66 feet based on known plans or other land use or traffic factors requiring a right-of-way wider than the normal standard. The right-of-way width for the Loop Lane Street shall be at least thirty-five (35) feet.

14. Loop Lane Street

A loop lane within a residential subdivision shall access no more than twelve (12) lots with a total length not to exceed three hundred (300) linear feet measured along the median center from the Collector Street. The loop lane shall have an inside radius of not less than thirty-five (35) feet from the median center. The median shall be either owned by a Homeowner's Association created under the Iowa Horizontal Property Regime Act or shall be dedicated to the City subject to the City's approval thereof. The median under a Homeowner's Association ownership may be subject to a dedicated public easement over, along, or under the median area for utilities.

15. Recreational Trail

A recreation trail shall be designed to comply with the current standards of the Urban Design Standards Manual as published by the Urban Standards and Specifications Committee of the Des Moines Metropolitan area as the manual now and hereafter provides.

F. Plats Adjacent To Streams

For any proposed plat which includes the shoreline of Cedar Creek, Cedar Lake or the Middle River and any land within 400 feet of the ordinary high water shoreline of these water bodies, the following standards for the preservation of open space and protection of environmental resources shall apply:

1. Natural shorelines and stream courses shall not be changed.
2. The natural ground surface shall not be hard surfaced or altered in any other way that would cause erosion or accelerate the runoff of surface water.
3. Healthy trees over four inches in diameter at a point four feet above the ground and within 400 feet of the above shorelines shall not be removed or killed as a part of subdivision development.
4. Flood Prone lands or wetlands shall have a permanent easement placed upon them prohibiting the placement of any structures, fill, drainage, or permanent storage of any material.
5. Any development or land disturbance in excess of 1000 square feet on slopes of seven percent or greater shall install a silt fence or other soil retention device to contain soil washing from the disturbance site.
6. No regulation in this section is intended to prohibit land and water management practices which are a part of a Drainage District Plan approved by the County Soil and Water Board and by the City Council.
7. If proposed land development requirements are such that variances from the terms of this chapter are granted, then reasonable measures shall be implemented to mitigate any adverse effects of such variance, with such mitigation measures determined by the city in cooperation with the land owner.

4.1006 LAND SUITABILITY. No land that falls under the jurisdiction of this ordinance shall be approved as a major or minor subdivision which is determined to be unsuitable for the proposed use by the zoning administrator and the Planning and Zoning Commission because of substantial conflict with the Comprehensive Plan, and specifically, for reasons of flooding, inadequate drainage and wetland conditions, severe erosion potential, excessively steep topography, inadequate drinking water supply, inadequate waste water disposal capabilities, significant potential for contamination of surface waters and drinking water supplies, conflicts with existing or planned parks, airports, agricultural activities, or other planned improvements or features likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or of the community.

In applying the provisions of this section, the Zoning Administrator and the Planning and Zoning Commission shall base its decision upon a written finding of fact upon which it bases its conclusion that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence regarding such suitability. Thereafter, the Planning and Zoning Commission may affirm, modify or withdraw its determination of unsuitability.

4.1007. IMPROVEMENTS. The Subdivider shall install and construct all

improvements required by this Chapter as provided by this Chapter. All required improvements should be installed and constructed in accordance with the specifications and under the supervision of the City and to its satisfaction. The Subdivider shall warrant, by way of a maintenance bond, the design, material and workmanship of such improvements and their installation and/or construction for a period of four (4) years from and after acceptance by the City. The subdivider's engineer shall certify, in writing, to the city that all required improvements meet engineering standards and that all such improvements were constructed and installed in compliance with all standards of this ordinance and any other conditions imposed by the city. The city Zoning Administrator shall conduct an inspection of the final improvements with the subdivider's engineer prior to the engineer's certification to confirm said compliance.

The City Council shall approve by resolution either the installed improvements after certification by the subdivider's engineer or approve a performance bond at the time of acceptance of the final plat. The Zoning Administrator, with the assistance of an engineer if necessary, shall report to the City Council that all the required improvements have been installed to the City's specifications and requirements. Alternatively, the subdivider shall submit to the City the performance bond in an amount not less than one hundred twenty-five per cent (125%) of the cost of the required improvements not then installed all as determined by the City Engineer. The performance bond may be secured and guaranteed by a corporate surety authorized to issue such bonds by and in the State of Iowa or by an irrevocable bank letter of credit issued by a state or federally chartered bank authorized to issue such letters in the State of Iowa with the bank serving as the surety and the performance bond signed both by the Principal and the Surety.

Upon the recommendation of the Commission, the Council may postpone the installation of any of the improvements if the subdivider will post a performance bond with the City prior to final acceptance of the plat guaranteeing that improvements not completed will be constructed within an approved period of time from final acceptance of the Plat; but final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Such postponement shall be based upon good cause and special circumstances. Improvements will be accepted only after their construction has been completed, and no city funds or services will be expended in the subdivision for these deferred improvements until such improvements have been completed and accepted by the City. Any postponed improvements shall be completed within eighteen months of posting the performance bond with the City Clerk.

The subdivider may divide the preliminary plat for an entire tract to be subdivided into numbered preliminary segments. Thereafter, the subdivider shall file final plats for each such segment. The plan for the entire tract encompassed by the preliminary plat shall meet the approval of the Commission in the manner provided by this Chapter prior to acceptance of any final plat. A numbered segment shall include all adjoining right-of-way areas to be dedicated according to the preliminary plat. The numbered final plats will be filed in the order provided by the approved preliminary plat in accordance with this Chapter.

Changes in said preliminary plat may be made from time to time by the subdivider

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upon the approval of the Commission. The provisions of this Chapter regarding construction and/or installation of improvements shall apply to each numbered final plat and the subdivider shall comply with said provisions as to each numbered final plat prior to final acceptance thereof.

The Council may waive the requirements of this Chapter for the construction and installation of some or all of the improvements in cases of re-subdivisions where only the size, shape and arrangement of the lots is being changed; provided however, such waiver shall be limited to existing improvements in good repair as determined by the City. Improvements not existing or in poor repair shall meet the City's specifications prior to acceptance.

A. All Improvements

All plans, specifications, installation and construction required by this Chapter shall be subject to the review, approval and inspection by the City. The city shall have the right to stop the construction of any improvement which is not being constructed in accordance with approved specifications and conditions approved by the city. The subdivider shall furnish the City with a construction schedule prior to commencement of any and/or all construction.

B. Drainage

All subdivisions shall include storm drainage plans for the removal of storm waters by way of a storm sewer system and necessary appurtenances. Such plans shall be prepared by the subdivider's Engineer and subject to city review and approval. The following criteria shall be considered minimum standards:

1. Runoff for street and limited area drainage shall be determined by the rational method.
2. Storm frequency chart for determination of rainfall intensity shall be not less than ten years.
3. The system shall be designed with the use of materials, flow velocities and sizes so as to assure long life, low maintenance and self-cleaning of the drainage facilities.
4. The subdivider's Engineer shall upon the completion of construction certify to the City that the drainage facilities have been constructed and installed in accordance with the plans and specifications which have been designed to comply with the intent of this Chapter.
5. In addition to the storm drainage to handle surface water runoff, storm drains shall be made available to each lot for drainage of sump pump discharge or footing drains. These storm drains shall be for subsurface clean water and shall connect to the storm sewer system, if available.
6. For subdivisions in the R-1 Low Density Residential Zoning District,

storm sewer system requirements in subparagraphs 1 through 5 above may be subject to variance by the City and, in such event, replaced by on-site storm water retention and detention measures and erosion and sedimentation control measures as recommended by the Subdivider's Engineer and approved by the City. All such measures will be shown on the preliminary plat and will be made conditions of final plat approval. Natural drainage channels and courses shall not be developed or encroached upon so as to allow for natural drainage. The minimum non-disturbance distances shall be fifty(50) feet from the center line of a drainage swale and one hundred (100) feet back from the ordinary high water line of any flowing stream, except that all subdivision development is prohibited within the 100 year flood limits of any stream. The roadways crossing such draining channels shall have adequate sized culverts as specified by the Subdivider's Engineer. Adequate on-site drainage measures shall be planned and constructed so as to minimize the amount of new drainage waters in excess of previous natural conditions that would flow beyond the boundary of a proposed subdivision.

C. Gas

Gas Mains shall be installed underground by the franchisee gas utility. Natural gas will be required in all subdivisions where available.

D. Paving

D. Portland Cement Concrete pavement shall be designed by the Subdivider's Engineer in accordance with the standard specifications established by the City. These standards are to comply with the Iowa Statewide Urban Design Standards for Public Improvements (SUDAS), current edition.

The minimum roadway paving width shall be twenty-nine (29) feet wide unless the City requires a greater width. The minimum roadway paving width for alleys shall be sixteen (16) feet. The Loop Lane shall have a minimum roadway paving width of twenty (20) feet. The Subdivider's Engineer shall at the completion of construction certify to the City that the pavement has been constructed and installed in accordance with the approved plans and specifications.

Curb and Gutter shall be required on all streets, except as hereafter provided. All Curb and Gutter shall be constructed to the grade approved by the City.

For subdivisions in the City's R-1 Low Density Residential Zoning District, the foregoing paving and curb and gutter requirement may be subject to variance by the City. In the event of such variance, the following requirements shall apply:

A licensed Engineer must design all roadways. The roadway shall be designed to comply with the Iowa Statewide Urban Design and Specifications (SUDAS) for Public Improvements, current edition. The roadway shall have a minimum width of twenty-four (24) feet traveled roadway and graded shoulder width of two (2) feet on each side of the traveled roadway. Storm water drainage and the use of



curb and gutter in conjunction with the roadway design may be subject to variance as provided above. Upon completion of the roadway, the Engineer shall submit to the City a letter certifying the construction of the roadway in accordance with the approved plans and specifications. The letter shall be submitted prior to the acceptance of the final plat.

E. Sewer

Where a public sanitary sewer is reasonably accessible, the Subdivider shall connect to the sanitary sewer main and provide each lot in the subdivision with connection to this sewer. Sanitary sewer lines shall be designed by the Subdivider's Engineer in accordance with the standard specifications established by the City. Further, where the existing sewer may be reasonably extended through the subdivision at a greater depth and/or with a larger diameter pipe so as to provide for continuous future development, such installation shall be made by the Subdivider and the additional cost may be divided between the City and the Subdivider based upon a negotiated cost share considering the circumstances of each development project.

All house service lines shall be installed to the right-of-way line prior to the paving of the street, Service lines shall have a minimum diameter of four (4) inches and be made available to each lot. The end of these service lines shall be marked on the ground surface by a wooden or metal stake substantial enough to remain in place until the lot is developed.

Any plat that cannot reasonably be served by public sewer may be eligible for the installation of an on-site wastewater disposal system. The Subdivider shall show results of soil percolation tests made by the Engineer preparing the plat and show evidence that the County sanitary permits can be issued for the soils in such subdivision. Such tests shall be in accordance with federal, state and local requirements. All such systems are to comply with all applicable federal, state and local laws and regulations pertaining to such systems. The Engineer shall furnish the City with three (3) certified copies of as-built plans for such systems and certify that the facilities have been installed in accordance with the approved plans and specifications and permit standards. As-built plans shall specifically show service lines locations.

F. ELECTRICITY

Electrical main lines with accessory equipment shall be installed available to each lot in compliance with City standards and procedures.

G. TELEPHONE

Telephone main lines with any accessory equipment shall be installed available to each lot in compliance with the telephone franchisee standards and procedures.

H. CABLE TELEVISION

Cable television lines with any accessory equipment shall be installed available to each lot in compliance with the cable television franchisee standards and procedures.

I. Water Lines

Where a public water main is accessible, the subdivider shall connect to such water main and provide a water connection for each lot, extended to the right-of-way line prior to the paving of the street. The end of this line shall be marked on the ground surface by a wooden or metal post substantial enough to remain in place until the lot is developed. Water lines shall be designed by a Registered Engineer in accordance with the standard specifications established by the City. Water line construction and specifications shall conform to any requirements and plans of the Board of Trustees of the Winterset Municipal Utilities.

The subdivider's Engineer shall furnish the City with three certified copies of as-built plans and certify that the facilities have been installed in accordance with his plans and specifications.

As-built plans shall specifically show service line stub locations. Where a proposed water main may reasonable be extended through the subdivision at a larger size so as to provide for future development, such installation shall be made by the developer and the additional cost shall be divided between the subdivider and the city based upon a negotiated cost share considering the circumstances of each development project.

J. Recreation Trail

A recreation trail shall be designed to comply with the current standards of the Urban Design Standards Manual as published by the Urban Standards and Specifications Committee of the Des Moines Metropolitan area as the manual now and hereafter provides. The property upon which a recreational trail is located shall be either owned by a Homeowner's Association created under the Iowa Horizontal Property Regime Act or shall be dedicated to the City subject to the City's approval thereof.

4.1008 MINOR SUBDIVISIONS. Minor subdivisions shall, except as otherwise provided in this section, be exempt from the plat review and approval procedure for preliminary and final plats; but the following procedures and requirements shall apply to minor subdivision plats:

A. Purpose.

The purpose of a minor subdivision procedure is to provide a more expedient process for reviewing small divisions of land having less land development impact and having no requirements for public streets or municipal infrastructure as a part off such land division as compared to major subdivisions requiring the full preliminary and final plat procedures as specified under this ordinance.

B. Procedure.

The subdivider shall consult with the zoning administrator and shall submit three copies of a sketch plat which contains all information required in Section 4.1007, A. and drawn as a certified survey by a licensed engineer or surveyor. Within 15 days of receiving copies of the sketch plat, the Zoning Administrator shall take action to approve, conditionally approve, or refer such plat to the Planning and Zoning Commission, unless time is extended by mutual agreement with the subdivider. The Planning and Zoning commission is the only body having the authority to reject a minor subdivision plat. Where a minor subdivision is conditionally approved or rejected the reasons for rejection or the imposed conditions shall be stated in writing.

4.1009 PRELIMINARY PLAT REQUIREMENTS FOR MAJOR SUBDIVISIONS. The preliminary plat of a subdivision is not intended to serve as a record plat and shall be submitted for review separately and prior to submission of the final plat. Preliminary platting procedure is as follows:

A. Pre-application Coordination.

Prior to filing a preliminary plat the subdivider or his agent shall consult with the Zoning Administrator for the purpose of receiving general information about any city plans, zoning requirements or other factors so as to avoid unnecessary difficulty and time delays for the subdivider and facilitate the plat review. No formal plat or filing fee is required for this step. A sketch map, drawn to a scale acceptable to the Zoning Administrator shall be provided to the Zoning Administrator, and which sketch which shall include, at a minimum, the following information: legal description and boundaries of the property proposed for subdividing, the ownership of all adjacent lands, the approximate size of the planned parcels, north arrow, all existing structures, principal natural land features including drainage ways, existing roads within or giving access to the property, location of flood prone lands and any other information relevant to the development of the property. At this review, or within 15 days thereafter, the Zoning Administrator shall inform the subdivider of any additional information needed, recommended changes or corrections to be made before a preliminary plat is prepared. The Zoning Administrator shall provide the results of this pre-application coordination to the Plan Commission at the time the preliminary plat is reviewed by the Commission.

B. NUMBER OF COPIES AND SCALE OF THE PRELIMINARY PLAT

Three copies of the preliminary plat shall be submitted to the city's plat review agent and prepared according to the requirements of this Section for review. The scale of the map shall be 1" = 50' on small subdivisions and 1" = 100' on large subdivisions unless otherwise approved by the Commission.

C. CONTENTS OF PRELIMINARY PLAT

1. Areas to be dedicated for public use such as parks,

playgrounds, streets, drainage easements and utility easements.

2. Boundaries of the proposed subdivision shall be labeled and indicated by a heavy line.

3. Proposed lot lines.

4. Buffer easement and method where required.

5. Contour lines at intervals of not more than two (2) feet to City datum, except where the slope of the land exceeds twenty-five (25) per cent in which event five (5) foot intervals may be used.

6. Location and size of all proposed utilities and required utility easements. For water lines, the location of all laterals, hydrants and gate valves shall be shown. For sanitary sewers, all manholes shall be shown.

7. Existing buildings, railroads, underground utilities, other rights-of-way

8. Location and name(s) of adjoining subdivision(s).

9. Location, names and widths of all existing and proposed roads, alleys, streets and highways adjoining the area being subdivided.

10. Lot area (approximate) of all non-rectangular lots and the area of smallest rectangular lot.

11. Lot numbers

12. Name and address of engineer and surveyor.

13. Name and address of land owner(s) and/or developer.

14. Name of subdivision, date, compass point, scale and legal description and acreage of the property being platted.

15. The boundaries and numbers of all addressing blocks within the proposed subdivision according to the city's addressing plan.

D. ACCOMPANYING MATERIAL

1. Any plat that cannot reasonably be served by public sewer shall show results of soil percolation tests made by the Engineer preparing the plat as required by this Chapter and certification from the County Sanitarian as to what parts of the plat would qualify for a septic system permit.

2. Restrictions proposed, if any, to be included in the owner's dedication of the plat. Such restrictions are not subject to approval by the City, however, it's the applicant's responsibility to assure that no such

restriction shall be in violation of any federal, state or city laws.

3. Written statement by the appropriate officials of the availability to the proposed subdivision of all utilities required by this Chapter.

4.1010      FINAL PLAT REQUIREMENTS OF MAJOR SUBDDIVISIONS

A. NUMBER OF COPIES AND SCALE

After the preliminary plat is approved, the subdivider shall submit six copies of the final plat for review by the Commission. The final plat may include only part of the preliminary plat. The scale of the plat, if different from the preliminary plat, shall be approved by the Zoning Administrator.

B. CONTENTS OF FINAL PLAT

The following information shall be shown on the plat:

1. Block lines shall be designated by heavy solid lines.

2. Boundary lines shall be designated by a heavy line.

a. Boundary dimensions from angle point to angle point shall be shown for all sides of the closed traverse.

b. Bearings, based on an assumed meridian approximating north, of all boundary lines or internal angles of all angles points on the boundary shall be shown.

3. Street names, locations, lot designations and right-of-way width for all streets within or abutting the plat shall be shown. Streets that are a continuation of present streets should bear the same name. The city Council shall be the final authority for approving street names consistent with any 9-1-1 street naming standards.

4. Certification by a registered Land Surveyor in accordance with the Iowa law.

5. Easements for public utilities and drainage facilities shall be designated by fine line of medium length dashes, and appropriately labeled with reserved width and type of easement.

6. Fractional lines and corners of the government township and section surveys shall be appropriately labeled and dimensioned as applicable to the plat.

All plats shall be tied to a known section or fractional corners or adjoining subdivisions by distances and bearing or angles.

7. Legal description of the platted area shall be included on the plat.

8. Lot lines shall be designated by medium fine to solid lines.

9. Lots shall be numbered consecutively with all sides dimensioned. The bearings or corner angles of all lot lines, which are not parallel to the block lines, shall be shown and lines intersecting a curved line shall be labeled as

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radial or not radial as applicable. Dimensions of lot lines which are curved shall include appropriate curve data.

10. Permanent reference monuments shall be labeled (P.R.M.) and located.

11. Scale shall be indicated graphically as the scale in feet along with the compass point.

12. Surveyor's notes shall include the following as appropriate or applicable to the particular plat.

a. All bearings are based on an assumed meridian for computation purposes.

b. A legend indicating the meaning of various lines and symbols in the plat.

c. Any other notes deemed necessary for the particular plat.

C. ACCOMPANYING MATERIAL

The final plat upon filing with the Zoning Administrator shall be accompanied by the following material:

1. All documents required by Iowa Code Section 354 as that section now or hereafter requires, except for the resolution of the City Council approving the final plat.

2. Any protective covenants or restrictions to be imposed upon the plat. Such covenants or restrictions are not subject to approval by the City; however, it is the responsibility of the subdivider to assure that no such covenant or restriction violates any federal, state or local laws.

3. Plans and profiles of all street, alleys and sidewalks (whether being installed or not) at an appropriate scale approved by the Zoning Administrator. Profiles shall show location, size and grade of all conduits, sewers, pipelines, sidewalks, streets, etc. being installed

4. The following documents:

a. A certificate by the subdivider's Engineer that all improvements required by this Chapter have either been installed in accordance with the approved plans and specifications and a description of any improvements which fail to meet the approved plans and specifications.

b. Maintenance bond for all installed improvements warranting the materials and construction methods for a period of two (2) years from the date of acceptance by the City of the improvements (four years for the street paving); or,

c. Performance bond, if necessary, for any improvements not

installed at the time of filing of the final plat.

d. A digital video of the Storm and Sanitary sewer Main systems showing the inside area within the Main line.

e. The computer data for the installed utility systems compatible with City software to be integrated into the City Geographic Information System (GIS).

D. RECORDING PLAT

After approval of the final plat by the City Council, the final plat and the pertinent accompanying material shall be recorded at the subdivider's cost in the manner required by Iowa Code Chapter 354, including rules of the County Recorder's Office

4.1011 VARIANCES. Where in the case of a specific proposed subdivision, it can be shown that strict compliance with the requirements of this chapter would warrant consideration for relief from such requirements, a variance may be considered under those conditions provided below:

A. Hardship.

Where the Plan Commission and city Council find that extraordinary hardship or practical difficulties caused by strict compliance with these regulations due to topography and parcel size and shape which thereby cause reduced development potential, it may make variations or exceptions to the regulations so that substantial justice may be done and the public interest secured, provided that such variation or exception shall not have the effect of nullifying the intent and purpose of these regulations or the objectives of the Comprehensive Plan; that it not be in conflict with the Zoning Ordinance; and further provided the Council shall not grant variations or exceptions to these regulations unless it shall make findings based upon the evidence presented to it in each specific case that:

1. The granting of the variation will not be detrimental to the public health, safety or welfare or injurious to other property or improvements in the neighborhood in which the property is located.

2. The conditions upon which the request for a variation is based are unique to the property for which the variation is sought and are not applicable, generally, to other property.

3. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, of the strict letter of the regulations were carried out.

4. The purpose of the variation is not based exclusively upon a desire to make more money out of the property.

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5. Except as provided in sub-paragraph B below, neither the code requirements for improvements to be dedicated to the public shall not be waived nor the construction standards for the physical improvements diminished.

B. Plats Located in the R-1 Low Density Residential Zoning District. Residential subdivision plats with this District shall be considered for variances from the improvement standards and requirements of this Chapter due to the lesser need for all such improvements in a low intensity development and the intentions of this zoning district to preserve as much of the natural landscape as possible. Variances shall not be considered for the improvement standards referenced in Section 4.1007 of this Chapter for subdivisions in other zoning districts. The Subdivider shall present to the Commission a written description and justification of each variance requested. Final variances shall be determined by negotiations between the Subdivider and the Commission and City Council. Any and all variances granted under this subparagraph shall remain consistent with providing for the health, safety and general welfare of the Subdivision occupants and the City in general and shall be consistent with the Comprehensive Land Use Plan. Any roadway for which a variance is granted from the standards of this Chapter may be accepted as a public street by the City Council, provided, however, that any such roadway shall have as a minimum a twenty-four (24) foot wide traveled roadway, a two (2) foot wide graded shoulder on each side of the roadway, and a fifty (50) foot road lot or easement for each such roadway variance.

B. Conditions.

In granting variations and exceptions the Council may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of this chapter.

C. Procedure For Variance.

A petition for any such variance shall be submitted in writing by the developer at the time when the preliminary plat is filed. Such petition shall be signed by the subdivider acknowledging the accuracy of all information in the petition. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner. The petition submitted by any petitioner with a variance request and the record of the granting of any such request shall be filed for record by the subdivider with the recording of the final Plat.

4.1012 FEES. Before a Preliminary Plat may be considered by the Commission, the Subdivider shall pay the City a fee in a sum of money fixed by Resolution of the City Council from time to time and shall not need to be fixed by City Ordinance.

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4.1013      ENFORCEMENT.

A. No plat of any subdivision or plat of survey shall be recorded in the County Recorder's office or have any validity until the division and the improvements, if any, have been approved in conformance with both this Chapter and Iowa law.

B. The City Council shall not permit any city funds to be expended for repairs or maintenance on any improvements in any area that has been subdivided unless such subdivision has been approved and the improvements accepted in accordance with this Chapter.

C. No building permit shall be issued for any lot in a subdivision which has received final approval under this Chapter, wherein the improvements as provided in Section 4.1006 of this Chapter have neither been installed nor a performance bond for the improvements posted with the City as provided in this Chapter. Unless in an approved Planned Unit Development Zoning District, the City shall not allow more than one (1) principal structure on any one subdivided residential lot unless the division of that lot had been established by replat approved in conformance with this Chapter and Iowa law.

D. No more than one building permit for each separate tract existing as of January 1, 1973 shall be issued unless said tract has been platted, except that this provision shall not limit the number of building permits that may be issued for accessory buildings or additions to building already existing on said tract. Separate tract means an aliquot part of a section, a lot within an official plat, or a government lot under one ownership as of January 1, 1973.

D. This Code Chapter shall apply to and be enforceable upon any division of a tract or parcel of land within the jurisdiction of the City as defined by Section 4.1002 of this Code for which an Official Plat is required by the laws of the State of Iowa or this Code Chapter.

E. Subdivision lots which have been further divided by plat of survey shall not have any Building Permits issued for improvements to be placed thereon until the division has been established by replat approved in conformance with both this Chapter and Iowa law.

4.1014 COMMISSION REGULATIONS. The Commission may issue rules and regulations implementing the provisions of this Chapter.

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CHAPTER 11      SIDEWALKS

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4.1101 COUNCIL MAY ORDER. The City Council may, by resolution, order the construction or reconstruction of sidewalks along any of the streets, avenues or other public ways of the city.

4.1102 ABSENCE OF SIDEWALKS. Sidewalks may be ordered constructed whenever either side of the street, or any portion thereof, shall be without a sidewalk.

4.1103 IMPROPERLY BUILT SIDEWALKS. Sidewalks may be ordered constructed to take the place of any sidewalk which at the time of being built does not conform to the requirements of the ordinances and policies of the City as to material or to other specifications and the manner of construction, or which is not constructed at the established grade.

4.1104 WORN-OUT SIDEWALKS. Sidewalks may be ordered constructed as provided by this Chapter to take the place of any sidewalk, whenever and however built, which has become worn out, dilapidated, or dangerous, and which has fallen into such condition as that ordinary repairs in the judgment of the City are insufficient to pace the sidewalk in a good, safe condition.

4.1105 GENERAL PROCEDURES. Whenever the City Council desires the construction or reconstruction of any sidewalk, the City Council shall first adopt a resolution as provided by Section 4.1101 of this Chapter. The resolution so adopted shall include the following information:

- a. Name and last known address of all property owners abutting to the sidewalk proposed for construction or reconstruction;
- b. Location of the sidewalk and list of specifications of materials to be used and construction methods to be followed;
- c. statement of estimated unit cost;

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d. a statement that if the sidewalk is not constructed or reconstructed by the owner of the property abutting thereon within the time fixed in this Chapter, then the sidewalk shall be constructed or reconstructed by the City and the costs thereof shall be assessed against the abutting property as provided by this Chapter; and,

e. specify the rate of interest on any unpaid assessments, which rate shall not exceed the rate permitted by Chapter 74A of the Code of Iowa.

4.1106. NOTICE TO THE PROPERTY OWNERS. When a sidewalk is ordered to be constructed or reconstructed as provided in this Chapter, a written notice shall be served on the owner of the abutting property. The notice shall provide the following information:

a. All material parts of the resolution of the Council as set out in Section 4.1105;

b. Shall inform the person notified that unless the sidewalk is built or rebuilt by them within the time period specified in the Council resolution ordering the construction or reconstruction, then the sidewalk will be built or rebuilt by the City, and the costs thereof assessed against the abutting property; and,

c. Shall inform the person notified of their right to appeal the proposed action to the City Council as hereafter provided.

4.1107. METHOD OF SERVICE. All notices required to be served by this Chapter shall be deemed served upon the person or persons named on the Notice upon mailing by certified mail through the United States Postal Service to the person's last known address.

4.1108. OWNER OF THE PROPERTY. The owner of the property shall be deemed to be the person in whose name the real estate is taxed according to the property tax records maintained by the County Treasurer.

4.1109 APPEAL RIGHTS. The owner of the property shall have the right to appeal the proposed action of the City to the City Council within fifteen (15) days from the date of service of the notice as provided by Section 4.1107. The date of depositing the Notice in a United States Postal Service mail receptacle shall be deemed the date of service. The appeal shall be in writing signed by the owner of the property and shall be filed with the office of the City Administrator. The City Council shall set the date of hearing on the appeal, shall cause the appellant to be notified of the hearing date at least three (3) days in advance and shall act upon the appeal following the hearing thereon. The City Council by resolution may prescribe rules for the appeal hearing. The action of the City Council on the appeal shall be final for all purposes under the Chapter unless timely appealed as hereafter provided. If the Council action on the appeal orders the sidewalk construction, then the Council shall also further specify the time period in which the property owner shall be allowed to construct the sidewalk.

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4.1110. JUDICIAL REVIEW. The owner of the property within thirty (30) days of the City Council action on the appeal may appeal the decision of the Iowa District Court as provided by Section 414.15 of the Code of Iowa.



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4.1111. CONSTRUCTION BY THE CITY. In case the owner of the property so ordered to construct or reconstruct the proposed sidewalk shall fail to timely install the sidewalk at their expense, then the sidewalk shall be constructed or reconstructed by the City or their agent or contractor.

4.1112. STATEMENT OF COSTS. After the construction or reconstruction of the sidewalk by the City is complete, the City Administrator shall cause to be prepared a statement of the number of square feet of sidewalk built along each parcel of property abutting on said sidewalk, and the total costs thereof. The statement of costs shall further provide that the total costs, unless paid within thirty (30) days, will be assessed against the abutting property for collection in the same manner as a property tax; the unpaid assessment shall be payable in five (5) annual installments; and, the unpaid assessment shall bear interest in the manner and at the rate not to exceed the rate permitted by Chapter 74A of the Code of Iowa. The City Administrator shall cause this statement to be mailed to the owner of the property in the manner provided by Section 4.1107.

4.1113. TIME FOR OWNER TO PAY COSTS. The owner of the property shall be allowed to pay the costs of said sidewalk in the amount provided in the statement of costs within thirty (30) days of the date of mailing said statement.

4.1114. ASSESSMENT OF COSTS. In the event the owner of the property does not timely pay the costs of said sidewalk according to the statement of costs, then the City Administrator shall cause any unpaid costs thereof to be assessed against the abutting property for collection in the same manner as a property tax. The unpaid assessment shall be payable in five (5) annual installments with interest on the unpaid installments at an annual rate not to exceed the rate authorized by Chapter 74A of the Code of Iowa.

4.1115. GRADE ESTABLISHED BY THE CITY. In all cases the City shall first establish the proper grade for the sidewalk. The owner of the abutting property at their cost shall be responsible for the cost of establishing the grade and for bringing the bed of the sidewalk to the grade established by the City. In all cases, the sidewalk shall be built to the established sidewalk grade.

4.1116. LOCATION OF WALKS. All sidewalks shall be constructed or reconstructed in the public right of way as nearly as practicable on or near the lot line. Sidewalks so constructed or reconstructed shall be of such width as specified in the resolution ordering the sidewalk and shall run in a straight line as nearly as may be practicable, and shall join on and be a continuation of the sidewalks already built.

4.1117. REPAIR. All property owners shall keep the sidewalks abutting their property in good repair and safe for public use.

**CHAPTER 11      SIDEWALKS**

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4.1118. VOLUNTARY CONSTRUCTION BY THE OWNER. Any property owner who desires to voluntarily construct sidewalks in front of their property shall first apply to the City Administrator for a building permit on forms supplied by the City. Upon receipt of a building permit application for sidewalk, the City shall set construction standards and specifications for the sidewalk and shall cause the grade to be established for the sidewalk, if necessary. Upon issuance of the building permit, the owner may then commence construction or reconstruction of the sidewalk. The sidewalk shall be built in accordance with the specifications provided by the City.

4.1119 VOLUNTARY ASSESSMENT BY THE OWNER. Any property owner who desires to voluntarily have sidewalks constructed or reconstructed in front of their property and have the costs thereof assessed against their abutting property for collection in the same manner as a property tax may make application to the City Administrator on forms supplied by the City. Such application shall request the City to cause said sidewalk to be installed with the costs thereof assessed against the abutting property in the same manner as a property tax. The application shall waive the property owner's right to a statement of costs and an opportunity to pay such costs and shall acknowledge the assessment procedure established by this Chapter. Upon completion of the construction or reconstruction of the sidewalk by the City, the City Administrator shall cause the costs thereof to be assessed against the property for collection in the same manner as a property tax in accordance with Section 4.1114.

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PREAMBLE

4.12001      SHORT TITLE.    This Chapter shall be known as the Zoning Ordinance of the City of Winterset, Iowa, and shall also be known as Title IV, Chapter 12 of the Winterset Municipal Code

4.12002      INTERPRETATION OF STANDARDS. This ordinance is intended to provide for the health, safety, general welfare, and efficiency in the provision of municipal services and the overall quality of life for the City of Winterset, Iowa. 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 or regulations or Chapters, the provisions of this Chapter shall control.

4.12003      DEFINITIONS. For the purpose of this Chapter, certain terms or words used herein shall be interpreted as follows:

Person. The word person includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

The present tense includes the future tense, the singular number includes plural, and the plural number includes the singular.

The word shall is mandatory; the word may is permissive.

The words used or occupied include the words intended, designed, or arranged to be used or occupied.

The word lot includes the words plot or parcel, and all other words or phrases used to denote an individual building site which complies with the minimum provisions of this Chapter.

Accessory Use or Structure:

A use or structure subordinate to the principal use of a building or other improvement upon the lot and serving a purpose customarily incidental to the use of the principal building or use of the land. A storage or freight vessel capable of being used for commercial hauling shall not become an accessory structure upon any lot.

Agriculture:

The use of land for farming, including animal husbandry, dairying, field cropping, floriculture, forestry, groves, horticulture, orchards, poultry husbandry, ranching, viticulture, horse raising and stables, kennels and the necessary accessory uses for sheltering, feed storage, pacing, showing, training, treating; however, the operation of any accessory uses shall be subordinate to that of the normal agriculture activities. The term Agriculture in this ordinance does not include commercial feedlots and confinement feeding of livestock or poultry.

Alley

A public way other than a street, twenty-six feet or less in width, affording secondary means of access to abutting property. An alley shall not be considered a public thoroughfare.

Automobile Service Station:

A retail place of business having pumps and/or storage tanks from which liquid fuel and/or lubricants are dispensed directly into the motor vehicle. Sales of auto accessories, washing, polishing, inspections and cleaning and similar activities incidental to the sale of fuel, lubricants and accessories are permitted; and, the performance of minor repairs not involving replacing or repairing major auto components such as engines or transmissions are permitted. However, steam cleaning, major auto repairs or auto bodywork are not allowed.

Automobile Wrecking:

(See "Junk Yard")

Awning:

Roof like cover entirely supported by and extending from a building for the purpose of protecting openings therein from the elements.

Basement:

A story having more than one-half of its heights below grade.

Bed and breakfast home: A private residence which provides lodging and meals for guests, in which no more than five guest families or individual patrons are lodged at the same time, and which, while it may advertise and accept reservations, does not present itself to the public as a restaurant, hotel, motel, or resort, and does not require reservations, and serves food only to overnight customers.

Block:

Property abutting on one side of a street and property lying between the two nearest intersecting or intercepting streets, railroad right-of-way, waterway, open space, farm land, campus, park or other definite boundary.

Building Height:

The vertical distance from the average finished ground grade at the building line to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.

Centerline, Public Thoroughfare:

A line running parallel with the thoroughfare right-of-way which is half the distance between the extreme edges of the official right-of-way width.

Certified Survey:

A sketch, plat, map or other exhibit bearing a written statement of its accuracy or conformity to specified standards which is signed by a Registered Land Surveyor as defined by the Code of Iowa.

Commission:

The Planning and Zoning Commission.

Convenience Store:

A retail place of business whose primary purpose is the sale to the general public of the following consumer goods: edible foodstuff, beverages, petroleum products for immediate use in motor vehicles, and other similar retail consumer goods generally associated with this type of consumer servicing enterprise.

Dwelling:

Any building, or portion thereof, which is designed or used exclusively for residential purposes including modular homes and manufactured homes as defined in this section, but not including a tent, cabin, trailer, vehicle, motor home or travel-trailer.

Dwelling Unit:

One or more rooms arranged, designed, connected together and resided in by only one family. Such unit shall have its own cooking, sleeping and bathroom facilities. Such unit shall be physically separate from any other dwelling units in the same building.

Dwelling, One-Family:

A building designed for and used exclusively for residential purposes by one family and containing one dwelling unit.

Dwelling, Multiple:

A building designed for and used for occupancy by three or more families living independently of each other and containing three or more dwelling units.

Dwelling, Earth Sheltered:

A residential building constructed underground, or with more than one-half of its height (measured from floor to ceiling) below the adjoining exterior grade on one or more walls, having one or more sides completely exposed and having its main floor level at or above the approximate grade between the building and property line on one or more sides and generally not more than one-half story below the grade of the street from which access is obtained unless the natural slope would normally accommodate a full walk-out story.

Duplex:

A building designed for and used for occupancy by two families living independently of each other and containing two dwelling units.

Family:

A family is:

- A. An individual or two or more persons related by blood, marriage or adoption or foster children living together as a single housekeeping unit in a dwelling unit, or
- B. A group of not more than five persons who need not be related, living together as a single housekeeping unit in a dwelling unit.

Farm:

An area comprising ten acres or more that is used for agriculture.

Garage, public:

A structure in which major mechanical repair or rebuilding of motor powered vehicles is performed and in which the storage, hiring, selling, leasing are accessory uses.

Garage, Private:

An accessory building or an accessory portion of the main building, designed and/or used for the shelter or storage of vehicles, trailers boats or other personal property owned by the occupants or by the owners of the main building.

Garage, private, residential: An accessory use structure located on and serving a residential property which shall be designed and used for the sheltering of no more than three motor vehicles and other personal property used by the occupants of the associated residential property, and no more than one of these vehicles may be a commercial vehicle over two tons capacity.

Grade:

The average level of the finished surface of the ground adjacent to the exterior walls of the structure. However, when any wall approximately parallels and is not more than five feet from a street line, then the average elevation of the street along that wall shall be grade.

Home Occupation:

Any occupation or profession conducted solely by resident occupants in their place of residence, involving primarily service and not the sale of commodities upon the premises; provided further, that not more than one quarter the area of not more than one floor level of the building may be used in pursuit of the occupation and any sign identifying the occupation shall not exceed two square feet in total area and shall be attached to the outer wall of the residence; one person other than the occupant of the building may be employed in the home occupation. Home occupations may sell incidental products held in stock to customers but there shall be no advertising of such incidental products. Home occupations shall have no exterior storage of materials or products and shall not emit odors, smoke, glare, noise, and lighting or create parking problems which would be a nuisance in the neighborhood. Home occupations are subject to periodic zoning compliance inspections by the City Zoning Administrator. In Home Day Care Provider is a separate zoning classification and is not considered a Home Occupation.

In Home Day Care Provider:

Childcare provided in the home of the resident occupant for all day or a portion of the day for compensation, excluding emergency situations. The provider's children who are age thirteen (13) or younger shall be included in determining the number of children under childcare.

Loading Space:

Any off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

Lot:

A parcel of land or two or more contiguous parcels to be used as a unit under the provisions of this Chapter, and having its principal frontage on a dedicated street or an approved private street and of at least sufficient size to meet minimum zoning requirements for use and area, and to provide such yards and other open spaces as are herein required. A lot may consist of any one of the following:

- A. A combination of complete lots of record, of complete lots of record and portions of lots of records, or of portions of lots of record.
- B. A parcel of land described by metes and bounds: provided that in no case of division or combination shall any residential lot or parcel be created which does not meet the requirements of this Chapter.
- C. A single lot of record.

Lot Lines:

A. Front: The front property line of a lot shall be determined as follows:

Corner Lot. The front property line of a corner lot shall be the shorter of the two lines adjacent to the streets as platted, subdivided, or laid out. Where the lines are equal, the front line shall be that line which is obviously the front by reasons of the prevailing custom of the other buildings in the block. If such front is not evident, then either may be considered the front of the lot, but not both.

Interior Lot. The front property line of an interior lot shall be the line bounding the street frontage.

Through Lot. The front property line of a through lot shall be that line which is obviously the front by reason of the prevailing custom of the other buildings in the block.

Where such front property line is not obviously evident, the Board of Adjustment shall determine the front property line. Such a lot over 200 feet deep shall be considered for the purpose of this definition, as two lots each with its own frontage.

B. Rear: The rear property line of a lot is that lot line opposite the front property line. Where the side property lines of a lot meet in a point, the rear property line shall be assumed to be a line not less than ten feet long lying within the lot and parallel to the front property line. If the front property line is a curved line, then the property line shall be assumed to be a line not less than ten feet long lying within the lot and parallel to a line tangent to the front property line at its midpoint.

C. Side: The side property lines of a lot are those lot lines connecting the front and rear property lines of a lot.

Lot Measurements:

A. Area. The gross area exclusive of dedicated or easement streets or other recorded rights-of-way such as railroads. Except as noted in Article XIV.

B. Depth. The mean horizontal distance between the front and rear lot lines as measured perpendicular to the midpoint of the mean front lot line. In the case of an interior triangular or gore-shaped lot, the depth shall be the horizontal distance between the midpoints of the front and rear lot lines.

C. Width. The horizontal distance between the side lot lines as measured perpendicular to the line comprising the lot depth at its point of intersection with the required minimum front setback. Where the lot width is decreasing from front to rear, the horizontal distance between the side lot lines as described above shall be measured at its point of intersection with the required minimum rear setback.

Lot Types:

A. Corner Lot. A lot located at the intersection of two or more streets and having the street right-of-way abut the front and one or more sidelines of the lot.

B. Double Frontage Lot. A lot located at the intersection of two or more streets and having the street right-of-way abut the front and one or more sidelines of the lot.

C. Interior Lot. A lot other than a corner lot having frontage on but one street or public thoroughfare.

D. Key Lot. An interior lot, one side of which is contiguous to the rear line of a corner lot.

Major Recreational Equipment:

Travel trailers, pickup campers or coaches, motorized dwellings, tent trailers, boats or boat trailers, personal water craft, hover craft, horse trailers, snow mobiles or snow mobile trailers and similar equipment.

Manufactured Home:

A factory-built single family structure, which is manufactured or constructed under the authority of 42 U.S.C. Section 5403, Federal Manufactured Home Construction and Safety Standards, and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. For the purposes of these regulations, manufactured home shall be considered the same as any other site built single-family dwelling.

Modular Home:

Factory-built housing as provided by Iowa Code Section 135.1(3), which has been certified as meeting the State Building Code Applicable to modular housing. Once certified by the State of Iowa, modular homes shall be subject to the same standards as site built homes.

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Mobile Home:

Any vehicle as provided by Iowa Code Section 135.1(1) without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home is a factory-built housing built on a chassis. A mobile home shall not be construed to be a travel trailer or any other form of recreation vehicle. A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other pertinence of mobility are removed and regardless of the nature of the foundation provided. However, certain mobile homes may be classified as "manufactured homes." Nothing in this Chapter shall be construed as permitting a mobile home in other than an approved mobile home park, unless such mobile home is classified as a manufactured home. A mobile home shall be a dwelling unit for density and parking requirements purposes, but shall not be considered a single or multiple dwelling, apartment, efficiency apartment, rooming unit or guest room. A mobile home shall be larger than eight (8) feet in width and thirty-two (32) feet in length. The mobile home shall contain sleeping accommodations, a flush toilet, a tub, or shower, and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems.

Mobile Home Park:

Any lot, tract or parcel of land licensed and used or offered for use in whole or in part, with or without charge, for the parking of occupied mobile homes and travel trailers subject to Article X and used solely for living and/or sleeping purposes. Travel trailers shall not occupy more than fifteen percent of the spaces of the total mobile home park.

Motel or Motor Hotel:

A building or group of two or more buildings designed to provide sleeping accommodations for transient or overnight guests with garage attached or parking facilities conveniently located to each such unit.

Non-Conforming Use:

Any structure or land lawfully used at the time of the effective date of this Ordinance, which does not conform, with the use regulations of the District in which it is located.

Parking Space, Automobile:

An area other than a street or alley reserved for the parking of an automobile-- such space having a dimension not less than ten feet by twenty feet, plus such additional area as is necessary to afford adequate ingress-egress. Where four or more automobile parking spaces are to be grouped as a common facility meeting a requirement of this Chapter, the individual car spaces, plus the area necessary for driveways, shall total not less than 315 square feet per car space.

Premises:

A lot or tract of land and any structure located thereon.

Public Thoroughfare:

(See "Street".)

Seasonal Room:

An enclosed porch area or room attached to the dwelling unit which has an exterior door separating the area or room from the dwelling unit. A seasonal room which is heated and/or cooled shall be constructed in compliance with Title IV of the City Code.

Setback:

The building restriction line nearest the front of and across a lot establishing the minimum distance to be provided between the line of a building located on said Lot and the nearest street right-of-way line or nearest lot line if there is no street.

Spas:

A bathing facility such as a hot tub or whirlpool designed for recreational or therapeutic use and not designed to be drained, cleaned, and refilled for each individual use. Spas shall have a means of agitation to include, but not be limited to, hydro jet circulation; hot water, cold water, mineral baths, air inductions systems; or, any combination thereof.

Street:

A public thoroughfare which affords the principal means of access to the abutting property. An alley is not a street. (See "Public Thoroughfare.")

Structural Alterations:

Any replacement or change beyond ordinary repairs and maintenance in the shape or size of any portion of a building or of the supporting members of a building or structure such as walls, columns, beams, arches, girders, floor joists, or roof trusses.

Structure:

Anything constructed or erected either portable or with a rigid or fixed location on the ground, or attached to something having a permanent location on the ground, including buildings, walls, fences, signs, light standards, towers, tanks and billboards, monuments, stadiums.

Subdivision:

A division of a lot, tract or parcel of land into three or more lots, plats, sites for the purpose, whether immediate or future, of sale, lease, conveyance or transfer with the appurtenant streets, alleys, and easements, dedicated or intended to be dedicated to public use or for the use of purchasers or owners within the tract subdivided. If a new street is involved, any division of a parcel of land or the division into two or more parts of any residential lot shall also be deemed a subdivision.

SWIMMING POOL:

A body of water which has a depth of more than 24" in an artificial or semi-artificial receptacle, except for spas.

Travel Trailer:

Any vehicular, portable structure built on a chassis, with or without motive power, designed as a temporary dwelling not exceeding eight feet in width, exclusive of slide-out components, and not exceeding forty-two feet in length exclusive of separate towing unit. The term "travel trailer" shall include pick-up coach, motor home, camp trailer, or other similar mobile and temporary dwellings commonly used for travel, recreation or vacation quarters.

Travel Trailer Park:

Any lot, tract or parcel of land licensed and used or offered for use in whole or in part, with or without charge, for the parking of occupied mobile homes, travel trailers, pick-up campers, converted buses, tent trailers, tents or similar devices served by licensed sanitary facilities, and used for temporary recreational and sleeping purposes associated with recreational, vacation and tourism purposes.

Variance:

A modification of the terms of the zoning ordinance where such modification 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 ordinance would result in unnecessary and undue hardship and practical difficulty. As used in this ordinance, a variance is authorized only for height, area and size of structure or size of 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 non-conformities in the zoning district or uses in an adjoining zoning district.

Yard:

An open space on a lot extending from the lot line to the required set back line and unoccupied and unobstructed from thirty inches above the ground upward, except for landscaping, balconies, steps and awnings or as otherwise provided in this Chapter.

Yard, Front:

The yard area extending across the front of a lot between the public right of way and the required front yard set back line. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension, except where the owner shall elect to front the building on the street parallel to the lot line having the greater dimension.

Yard, Rear:

The yard area extending across the rear of a lot between the lot line and the required rear lot set back line.

Yard, Side:

The yard area lying between a front and rear yard set back lines and extending from the side lot line to the required side yard set back line.

Zone:

Any one of the classes of districts established by this Chapter.

4.12004 OFFICIAL ZONING MAP. The City is hereby divided into districts as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by this reference and declared to be a part of this Chapter.

The Official Zoning Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 4.12004 of the Winterset Municipal Code". This map shall be kept on file at City Hall and available for inspection by the public. The official zoning map shall have inscribed on its face the boundaries of all rezoning approved by the City Council. The official zoning map may be updated at any time by the Planning Commission and City Administrator with such map re-certified as provided above.

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4.12005      DISTRICTS. For the purpose of this Chapter, the City is hereby divided into land use districts as follows:

- R - 1    Low Density Residential District
- R - 2    Single and Two Family Residential District
- R - 3    Multi-Family Residential District
- TD- 1   Residential-Commercial Transition District
- TD- 2   Downtown Commercial Transition District
- C -      Commercial District
- DC-     Downtown Commercial District
- I -      Industrial District
- A -      Agricultural District
- CO-     Conservation - Open Space District

4.12006    BOUNDARIES. Where uncertainty exists as to the boundaries of any of these districts, the district boundaries are either lot lines or the centerlines of street and alleys, quarter-quarter section lines or lines denoted by specific measurements from known and fixed points. Where uncertainties or disputes arise, the Board of Adjustment shall investigate and determine zoning boundary locations.

GENERAL REGULATIONS

4.12007    RECREATIONAL EQUIPMENT. No major recreational equipment shall be parked or stored in any front yard in a residential district for more than twenty-four hours except on the driveway for the residence. Major recreational equipment shall not be used for living, sleeping, or housekeeping purposes except in a mobile home park.

4.12008    CONFORMANCE REQUIRED. Except as hereinafter specified, no building or structure shall be erected, converted, enlarged, reconstructed, moved 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 or land is located.

4.12009    CONTINUING EXISTING USES. Except as hereafter provided, the lawful use of a lot or parcel of land at the time the lot or parcel first became subject to zoning regulation by the City may be continued even though such use may not conform with the regulations of this Chapter for the district in which it is located. This provision shall not be construed to authorize a land use which under prior zoning regulations was invalid.

4.12010    NONCONFORMANCE. Within the districts established by this Chapter or by amendments which may later be adopted, there exist lots, structures, buildings and uses which were lawful before this Chapter was effective or amended, but which would be prohibited regulated or restricted under the provisions of this Chapter or future amendment, the intent of this Chapter is to permit these nonconformities to continue until they are removed or cease to be so used, but not to encourage their survival. It is further the intent of this Chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

4.12011 NONCONFORMING LOTS OF RECORD. A single family dwelling and customary accessory buildings, notwithstanding limitations imposed by other provisions of this Chapter, may be erected in any district in which single family dwellings are permitted on any single lot of record at the date the lot or parcel first became subject to city zoning regulations. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.

4.12012 NONCONFORMING USES IN ANY DISTRICT. No building or land devoted to a use not permitted by this Chapter in the zoning district in which such building or land is located shall be enlarged, extended constructed, reconstructed, substituted or structurally altered, unless the use thereof is changed to a use permitted in the district in which such buildings, structure or premises is located, except as follows:

A. SUBSTITUTION. If no structural alterations are made, a nonconforming use of building or structure may be changed to another nonconforming use of the same or of a more restrictive zoning use classification. Whenever a nonconforming use has been changed to a more restrictive use or to a conforming use, such use shall not thereafter be changed to a less restrictive use.

B. DISCONTINUANCE. In the event that a nonconforming use classification of any building or premises is discontinued or abandoned or is a nuisance as defined by this Code, the use of premises shall conform thereafter to the uses permitted in the district in which it is located. The use of land upon which no improvement or building is erected or constructed, which becomes nonconforming by reasons of a subsequent change in this Chapter, shall be discontinued within one year from the effective date of the zoning change.

C. REPAIR AND MAINTENANCE OF NONCONFORMING STRUCTURES. Any nonconforming building or structure requiring repairs or maintenance as a result of ordinary wear and tear, depreciation, or for any other reason which costs more than fifty percent of its then existing value, as determined by the building inspector, shall not be repaired, restored or reconstructed and the nonconforming use shall then cease; but, if the cost of such repairs or maintenance is less than fifty percent of the then existing value of the structure, it may be restored, reconstructed and used as before provided that such repairs can be completed within six months.

4.12013      STREET FRONTAGE REQUIRED.

- a.      Except as permitted in Section 4.12010, no lot shall contain any building used in whole or in part for residence purposes unless such lot abuts at least forty feet on at least one street or right-of-way, or unless it has an exclusive unobstructed private easement of access or right-of-way at least twenty feet wide to a street; and, there shall be not more than one single-family dwelling for such frontage or easement, except that a common easement of access at least fifty feet wide shall be provided for two or more such single-family dwellings or for one or more two-family or multiple dwellings.
- b.      The number of ingress/egress access points to public streets and/or alleys from off-street parking areas are subject to the City approval and shall be located to limit vehicular conflicts, provide acceptable location of driveway accesses to public streets, preserve proper traffic safety and, as possible, not impair the movement of vehicular traffic on public streets and alleys.      The permitted number of ingress/egress driveway approaches to public streets/alleys for an off-street parking lot shall be dependent upon the existing and projected future average daily traffic (ADT) for the public street and, where possible, public street accesses should be located in alignment with driveway approaches gaining access to the same public street and/or alley from property on the opposite side of the street and/or alley.
- c.      Except for single-family detached dwellings, and unless recommended by the Zoning Administrator, access drives onto public streets/alleys should have a      minimum separation of one hundred feet (100') apart measured center line to center line; and, on arterial streets the required distance should be three hundred feet (300').      No driveway shall be permitted to access a public street within twenty-five feet (25') of the end of radius at a street intersection.
- d.      Single-family residences shall normally have only one (1) driveway for each residential lot.      The approved driveway shall not exceed ten percent (10%) of the square footage of the lot nor shall the driveway within the front yard of a single family residence occupy greater than fifty percent (50%) of the area between the building setback line and the public right of way.      In considering exceptions, the Zoning Administrator shall apply the criteria in subparagraph (a) above, the City Comprehensive Land Use Plan, the Zoning Classification of the lot, and the compatibility of the proposed use with other land uses within the vicinity of the lot before approving any exceptions to this requirement.      Driveways and associated off-street parking areas for single-family residences shall not be located closer than one foot (1') from an adjoining residential lot line unless such driveway is jointly used by the adjoining residential lot owner and a joint access easement has been filed as a public record.



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4.12014      ACCESSORY BUILDING AND STRUCTURES. No accessory building or structure shall be erected in a required yard, except as provided hereafter.

1. Accessory building or structure which is located entirely within the principal building area of the lot (the lot area minus the required yards) whether attached or detached to the principal building, shall be subject to the regulations applicable to the principal building.

2. Accessory building or structures, except buildings housing animals or fowl, may be erected as a part of the principal building or may be connected thereto by a breezeway or similar structure; provided said building shall comply with all yard requirements for a principal building.

3. Detached accessory buildings may be located in rear yards as follows:

a. A minimum of ten feet distant from other structures on the lot.

b. A minimum of five feet from alley lines and lot lines.

4. Accessory building or structures may be located in side yards no closer than ten (10) feet to the side of the principal building providing the minimum side yard requirements can be met on both corner and side lots.

5. Accessory buildings shall be no closer to the front right-of-way line than the front line of the principal building.

6. The accessory building shall not exceed one story of twenty feet in height.

7. Accessory buildings and structures shall not occupy more than 30% of any yard area on a lot, however this regulation shall not be interpreted to prohibit the construction of a garage which does not exceed 550 square feet of building area.

8. No more than two (2) accessory buildings or structures shall be allowed on any lot within any residential district.

9. No accessory building or structure shall be located on a lot before the principal building or use.

10. Detached garages and accessory structures shall be residential in character with similar architectural features as the principal structure, including roof slope, overhangs, etc. The exterior surface of detached garages and accessory structure which are metal clad shall be pre-finished colored steel or similar cover. Galvanized metal is prohibited as the exterior finish material in residential zoning districts.

11. All detached accessory buildings or structures on a permanent foundation under 720 square feet in area shall be constructed on at least a 3 ½ inch concrete slab with not less than 6 inch by 6 inch continuous footings around the perimeter; if the structure is set on sloping ground, the footing shall be a minimum of 12 inches by 6 inches into existing soil. All detached accessory buildings or structures on a permanent foundation over 720 square feet in area, but less than 1,000 square feet in area shall have either frost-protected footings extending 42 inches below finished grade (minimum 6 inches thickness) or a 6 inch thick poured concrete slab containing throughout a minimum of ½ inch reinforcement bar spaced on 30 inch centers with not less than 6 inch by 6 inch continuous footings around the perimeter. All detached accessory buildings or structures on a permanent foundation over 1,000 square feet in area shall have frost-protected footings extending 42 inches below finished grade (minimum 6 inches thickness)

4.12015      CORNER LOTS. For corner lots platted after the date the City zoning ordinances first became effective, the street side yard shall be equal in width to the minimum required side yard for the district in which it is located, plus twenty feet; provided however, this regulation shall not require a side street yard of greater width than the minimum required front yard width.

On corner lots platted and of record at the time of the date the City zoning ordinances first became effective, the same regulations shall apply except that this regulation shall not reduce the buildable width of the corner lot facing an intersecting street and of record to less than twenty-eight feet nor to prohibit the erection of an accessory building.

For corner lots, platted after the date the City zoning ordinances first became effective, the minimum required lot width shall be increased by an amount not less than twenty feet so as to allow for the additional required street side yard.

4.12016      FENCES, WALLS AND VISION CLEARANCE.

1. On a corner lot, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision between a height of two and one-half feet and ten feet above the centerline grades of the area described as follows:

That area bounded by the street right-of-way lines of a corner lot and a straight line joining points on said right-of-way lines twenty-five feet from the point of intersection of said right-of-way lines.

This regulation shall not apply to the DC-Downtown Commercial District.

- a. Any fence installed or constructed in any zoning district using materials with only one (1) finished side shall have the finished side exposed to the street right of way or the exterior of the lot.

2. In any district, fences and walls not exceeding six feet in height are permitted within the side and rear yard areas. A fence or wall not exceeding four feet in height is permitted within the front yard area. In the case of retaining walls supporting embankments, the above requirements shall apply only to that part of the wall above the ground surface of the retained embankment.

3. In any district where a fence or wall is required by this Chapter, the Subdivision Chapter or other Chapter, to serve as a screening wall, buffer wall or other separating or protective wall, the restrictions of Paragraph 1 above, shall yield to the requirements of the specific ordinance.

4.12017    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 about any building or structure for the purpose of complying with the provisions of this Chapter shall be included as 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.

The following parking regulations shall apply in all R-Residential Districts within the City:

a. FRONT AND SIDE YARDS. No off-street parking allowed except for licensed and operable motor vehicles on the private driveways or parking lots which are duly approved or authorized for such use by the Zoning Administrator pursuant to this Zoning Ordinance:

b. REAR YARDS. No off-street parking allowed except for:

1. Licensed and operable motor vehicles on driveways or parking lots duly approved or authorized for such use by the appropriate city officials pursuant to this Zoning Ordinance or:

2. Not more than one of any of the following types of property on the other rear yard areas:

- a. Licensed and operable motor vehicles
- b. Licensed trailers
- c. Any other type of operable machinery or equipment

Any person desiring a variance from these regulations shall apply for a permit temporarily permitting parking for a period not to exceed 60 days. This application shall be in writing to the Zoning Administrator upon such application form as is prescribed by the Zoning Administrator. The fee to accompany said application shall be \$5.00 and is non-refundable in all cases. The application shall include a site plan, if required, and such other plans, information or justification necessary to clearly establish the basis for the requested permit or such other information as may reasonably be required by the Zoning Administrator in reviewing the application. Nothing herein shall be construed so as to prevent application for a new temporary permit following expiration of any permit obtained in accordance herewith; however, the granting thereof shall not be deemed a matter of right on the part of the applicant and the granting thereof, as in the case of an initial permit, shall be at the discretion of the Zoning Administrator. Appeals from the decision of the Zoning Administrator upon said application shall be taken pursuant to Section 4.12090 of this Code.

These off-street parking regulations within R-Residential Districts shall not apply to any vehicle or trailer which in common usage is moved by human power alone or to any vehicle parked within either an attached or detached garage or within other duly authorized accessory structure.

4.12018      BUILDING LINES ON APPROVED PLATS. Whenever the plat of a land subdivision approved by the City and on record in the office of the County Recorder shows a setback building line along any frontage for the purpose of creating a front yard or side street yard line, the setback requirements of the Zoning Ordinance shall govern, subject to Section 4.12093,A,3.

4.12019      PENDING APPLICATIONS FOR BUILDING PERMITS. Nothing herein contained shall require any change in the overall layout, plans, construction, size or designated use of any building, or part thereof, for which approvals and required building permits have been granted before the enactment of this Chapter.

R-1 LOW DENSITY RESIDENTIAL DISTRICT

4.12020 PURPOSE. The purpose of the R-1 Residential District is to provide for low density residential land usage and accessory uses particularly in fringe areas of the city where such low density would not require a full compliment of public infrastructure. Also, this district is intended to be located in those areas where there are special landscapes and environmental conditions intended to be preserved but also capable of sustaining some development and where low density will serve to preserve such natural conditions as opposed to normal residential densities, which would significantly alter or destroy such natural amenities. Also this district is intended to reduce urban runoff, flooding, erosion and water contamination and is intended to facilitate low intensity development with low impacts on scenic and timbered landscape areas, all in accord with the Comprehensive Plan.

4.12021 USE REGULATIONS. A building or premises shall be used only for the following purpose:

PRINCIPAL PERMITTED USES

1. Single Family Dwellings
2. Agricultural uses limited to cultivation, pasture and wood lots
3. Permitted uses of the CO-Conservation-Open space District

B. ACCESSORY USES

1. Normal accessory buildings and structures for a dwelling such as private garages, children's playhouses, radio and television receiving antennas, barbecue pits, playground equipment, tennis courts, etc. A private garage of less than three car capacity may be rented for the storage of private vehicles of persons not residents on the premises.
2. Normal accessory buildings and structures for public recreation areas such as refreshment stands, playground equipment, all-weather shelters, tennis courts, barbecue pits, etc.
3. Horses for personal use only, rather than commercial use, may be kept in this district provided that no grazing or structure housing such animals shall be located less than 200 feet from any structure used for dwelling purposes (other than the residence of the owner of such animals), nor less than 200 feet from the front lot line. Any structure housing such animals shall be located at least fifty feet from all side or rear boundary lines of the property on which the structure is located. Not more than two animals may be kept on any lot or parcel of land of less than two acres in area, and one additional animal may be added for each additional acre over two acre. These number limitations shall not apply to tracts of land of ten acres or more in size.
4. Domestic animals such as cats, dogs, birds, tropical fish, etc. Horses, cows, sheep, chickens, etc., normally considered farm or wild, untamed and dangerous animals, shall be excluded except as otherwise provided in this Code.
5. In Home Day Care Provider with 6 or fewer children.
6. Flower and vegetable gardening for noncommercial purposes.

7. Greenhouses and horticultural nurseries for noncommercial purposes.

C. SPECIAL EXCEPTION USES

1. Home Occupations which are conducted entirely within a dwelling and carried on by persons residing therein, which use is clearly incidental and secondary to the use of the dwelling as a residence and does not change the character thereof. Those occupations shall be excluded which normally are classified as a trade and require the substantial use of employees or subcontractors or mechanics tools or equipment.
2. In Home Day Care Provider with more than 6 children

4.12022 MAXIMUM HEIGHT REGULATIONS. No principal building shall exceed 35' in height.

4.12023 LOT AREA, FRONTAGE AND YARD REQUIREMENTS. The following minimum requirements shall be observed:

Principal Use	Lot Area	Lot Frontage	Front Yard Depths	Side Yard Least Width on any one Side	Sum of Side Yards	Rear Yard Depths
Single-Family dwellings and non dwellings Agriculture	2 acres	150 ft.	30 ft.	25 ft.	50 ft.	50 ft.

The enforcement of the lot frontage requirement for cul-de-sac and loop lane streets may be at the building setback line for the lots located on the radius of the street.

The single family dwelling standards of the R-2 Residence District shall apply for such uses in the R-1 Low Density Residential District.

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R-2 SINGLE AND TWO-FAMILY RESIDENTIAL DISTRICT

4.12024    PURPOSE.    The R-2 Single and Two-Family Residential District is for single and two-family dwellings designed to develop, maintain, and protect residential neighborhoods of single family and two family housing and associated residential environments, consistent with the Comprehensive Plan.

4.12025    USE REGULATIONS.    A building or premises shall be used only for the following purpose:

A.    PRINCIPAL PERMITTED USES.

1. A single-family dwelling on each lot or building site.
2. Two-family dwellings.
3. Earth sheltered dwellings as defined by this Code.
3. Agricultural field crops but not including the raising of poultry, pets, or livestock for commercial or agricultural purposes.

B.    ACCESSORY USES

1. Accessory uses of the R-1 District.

C.    SPECIAL EXCEPTION USES

1. Home occupations which are conducted entirely within a dwelling and carried on by persons residing therein, which use is clearly incidental and secondary to the use of the dwelling as a residence and does not change the character thereof. Those occupations shall be excluded which normally are classified as a trade and require the substantial use of employees or subcontractors or mechanics tools or equipment.
2. Poultry, rabbits, chinchillas, mink, hamsters, pigeons and other fowl or small animals for personal use only rather than commercial use may be kept in this District provided that no grazing or structure housing such animals shall be located less than 200 feet from any structure either now or in the future used for dwelling purposes (other than the residence of the owner of such animals), nor less than 200 feet from the front lot line. Any structure housing such animals shall be located at least fifty feet from all side or rear boundary lines of the property on which the structure is located. Not more than twelve of such poultry, fowl, or small animals may be maintained on any lot or parcel of land of less than one and one-half acres in area.
3. Places of worship and associated public gathering facilities
4. Any educational buildings or institutions.
5. Hospitals, medical and dental clinics and their related professional offices and services, nursing homes, boarding houses, clubs, lodge organizations.
6. In Home Day Care Providers with more than 6 children.
7. Bed and Breakfast Home as defined in 4.12003 of this Code.

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4.12026    MAXIMUM HEIGHT REGULATION. No principal building shall exceed thirty-five feet in height.

4.12027    LOT AREA, FRONTAGE AND YARD REQUIREMENTS. The following minimum requirements shall be observed:

Principal Use	Lot Area	Lot Frontage	Front Yard Depths	Side Yard Least Width on any one Side	Sum of Side Yards	Rear Yard Depths
Single-Family dwelling	7,500 sq ft.	60 ft.	30 ft.	5 ft.	15 ft.	30 ft.
Two-Family dwelling	12,000 sq ft	60 ft.	30 ft.	12 ft.	25 ft.	30 ft.
Non-dwellings	1 acre	150 ft.	50 ft.	25 ft.	50 ft.	50 ft.

The enforcement of the lot frontage requirement for cul-de-sac and loop lane streets may be at the building setback line for the lots located on the radius of the street.

4.12028    SINGLE AND TWO FAMILY DWELLING STANDARDS. The following standards shall apply to all single and two family dwellings:

1. The minimum dimension of the main body of the dwelling unit shall not be less than twenty-four feet.
2. The dwelling unit shall be erected on frost-free footings of poured concrete installed around the entire perimeter of the structure in accordance with the Building Code. Seasonal rooms may be constructed on a foundation consisting of a minimum six inch by six inch treated woods posts located under all roof bearing points on an approved frost-free footing conforming to the City Building Codes standards; or, the seasonal room foundation may be structurally designed by a registered, professional architect or engineer.
3. The dwelling unit shall be erected on a continuous permanent foundation of either poured concrete or concrete block or securely fastened to this foundation. This requirement shall not apply to Manufactured Homes as defined in Iowa Code Section 414.28 which shall have a foundation system complying with the State of Iowa Building Code as now or hereafter adopted or amended.
4. The dwelling unit shall have a minimum area of eight hundred sixty (860) feet.
5. Single family dwellings subject to the Iowa Horizontal Property Regime Act need only meet one (1) side yard setback requirement; all other dwelling units shall meet the relevant one or two family dwelling requirements in Section 4.12027 of this Code.

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R-3 MULTI-FAMILY RESIDENTIAL DISTRICT

4.12029    PURPOSE.    The R-3 Multi-Family Residential District allows for diversity of housing choices, residential environments and housing densities and allows for similar compatible uses designed to maintain, protect and preserve the character of the development and of the neighborhood, all in accord with the Comprehensive Plan.

4.12030    USE REGULATIONS.    A building or premises shall be used only for the following purposes:

A. PRINCIPAL PERMITTED USES.

1. Any use permitted in the R-2 Residential District providing such use shall comply with the minimum requirements of the R-2 Residential District.
2. Multi-family dwellings; providing however, that a minimum of 2,000 square feet of lot area be provided for each dwelling unit.
4. Bed and breakfast lodging

SPECIAL EXCEPTION USES

1. Special Exception Uses of the R-2 Residence district
2. Playground areas and equipment accessory to multi-family dwellings.
3. Community centers for recreational, laundry and other service facilities for multi-family dwellings, providing such areas shall not be located to the front of the principal building at ground level or above and such areas shall be screened from public view.

ACCESSORY USES

1. Accessory uses of the R-2 Residential District

4.12031    BUILDING AREA PERMITTED.

Height of Building	Maximum Building Area of Lot
1 story . . . . .	35%
2 story . . . . .	25%
3 story . . . . .	25%
4 story . . . . .	20%

Chapter 12 Zoning

4.12032 LOT AREA, FRONTAGE AND YARD REQUIREMENTS. The following minimum requirements shall be observed for the R-3 Residence district:

Principal Use	Lot Area	Lot Frontage	Front Yard Depths	Side Yard Least Width on any one Side	Width Minimum Sum of Both Side Yards	Rear Yard Depths
Single-Family dwellings	6,500 sq ft	60 ft.	25 ft.	5 ft.	15 ft.*	30 ft.
Two-Family dwellings & day nurseries	7,500 sq ft.	60 ft.	30 ft.	10 ft.	20 ft.	35 ft.
Multi-family dwellings	10,000 sq ft.	80 ft.	30 ft.	10 ft.	20 ft.	35 ft.
Non-dwellings	1 acre	150 ft.	50 ft.	25 ft.	50 ft.	50 ft.

\*Each lot shall have a minimum access to the rear yard of 10 ft.

The enforcement of the lot frontage requirement for cul-de-sac and loop lane streets may be at the building setback line for the lots located on the radius of the street.

4.12033 SINGLE AND TWO FAMILY DWELLING STANDARDS. The single and two family dwelling standards of the R-2 Residence District shall apply for such uses in the R-3 Residence district.

4.12034 OFF-STREET PARKING. The provisions of Section 4.12070 shall apply

TD-1    RESIDENTIAL-COMMERCIAL TRANSITION DISTRICT

4.12035 PURPOSE. This district is intended to be a mixed-use, buffer one between the Commercial District uses and areas intended to remain residential. This District includes mixed uses of moderate intensity such as offices, service uses, small-scale retail and diverse housing types. This district is also intended to protect residential neighborhoods from the intrusion of intensive commercial uses and is intended to help protect residential property values and to prevent the decentralization of commercial uses from the downtown area. Off street parking is required in this District. This District is intended to be compatible with the Comprehensive Plan.

4.12036 USE REGULATIONS. A building or premises shall be used for only the following purposes:

A. PRINCIPAL PERMITTED USES

1. Permitted uses of the R-3 Residential District
2. Charitable and religious uses
3. Professional offices less than 2,500 sq. ft.
4. Medical clinics and medical offices
5. Retail and personal service businesses less than 2,500 sq. ft.
6. Restaurants
7. Gas stations and convenience stores, but no automobile garages or repair shops
8. Museums

B. ACCESSORY USES

1. Customary accessory uses

C. SPECIAL EXCEPTION USES

1. Any office, retail or service business permitted in this District in excess of 2,500 sq. ft.
2. Educational institutions.
3. Public and private entertainment or recreation facility.
4. Special exception uses of the R-3 District.
5. Home occupations.
6. Daycare including In-Home Daycare Providers with more than six (6) children

4.12037 HEIGHT, AREA, LOT FRONTAGE AND YARD REQUIREMENTS. The requirements of the C-Commercial District shall apply.

4.12038 OFF-STREET PARKING. The provisions of Section 4.12070 shall apply.

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TD-2 DOWNTOWN COMMERCIAL TRANSITION DISTRICT

4.12039 PURPOSE. This District is intended to provide a land use buffer between the downtown commercial area and neighborhoods intended to remain residential. This district is also a pre-designated area which is planned for the expansion of the Downtown Commercial zoning district as needs arise. An overall intention is to provide for the growth and survival of a viable downtown area and at the same time provide planned limits to such growth in the interest of protecting residential values and living environments. This District is intended to be consistent with the Comprehensive Plan.

4.12040 USE REGULATIONS. A building or premises shall be used only for the following purposes:

A. PRINCIPAL PERMITTED USES.

1. Any Principal Permitted Use of the DC-Downtown Commercial District.
2. Any Principal Permitted Use of the R-3 Multiple Family Residential District.

B. ACCESORY USES

1. Customary accessory uses.

SPECIAL EXCEPTION USES

1. In Home Day Care Providers with more than 6 children.
2. Day care centers

4.12041 HEIGHT, YARD AND BUILDING MATERIAL REQUIREMENTS. For all residential uses in this District the standards of the R-3 District shall apply. For all Commercial uses in this District the following standards shall apply:

1. No principal building shall be taller than 35'.
2. Front, side and rear yard depth shall be a minimum of 5'.
3. No open space requirements.
4. No unloading zone requirements.
5. Building materials; the provisions of Chapter 12 Section 4.12048 of this Code shall apply.

4.12042 OFF-STREET PARKING. Off street parking is required for all uses in this district. The provisions of Chapter 12 Section 4.12070 shall apply

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DC-DOWNTOWN COMMERCIAL DISTRICT

4.12043 PURPOSE. The DC-Downtown Commercial District is intended to provide the retail business and commercial service core of the community. It is intended to provide diversity of business environments and opportunity. The area's historic and architectural qualities are intended to be preserved and enhanced in accord with an overall theme which is reflected in design continuity of structures including public infrastructure and landscaping.

4.12044 DISTRICT BOUNDARIES. The DC-Downtown Commercial District shall be those represented on the city's official Zoning Map, and as may be changed from time to time.

4.12045 USE REGULATIONS. A building or premises shall be used for the following or similar type uses.

A. PRINCIPAL PERMITTED USES.

1. Retail business or service establishments to include, but not limited to, the following:

Antique shop  
Apparel shop  
Art goods and bric-a-brac shop  
Artist shop and studio  
Ballroom and dance hall  
Bakery  
Bank, including drive-in teller service  
Barbershop or beauty salon  
Bicycle sales  
Billiard parlor and pool hall  
Bookstore  
Bowling alley  
Candy shop  
Catalog merchandise store  
Charitable and non-profit institutions and facilities, lodges or fraternal or public service clubs or organizations  
Cigar and cigarette store  
Clothes cleaning and laundry pickup station  
Collection office of a public utility  
Confectionery and ice cream store  
Convenience stores with gas stations  
Curio, hobby and bric-a-brac store  
Dance and/or music studio  
Drugstore  
Florist shop  
Furniture store  
General hardware store  
General department store  
Gift shop  
Governmental administrative offices  
Governmental public protection facilities and water supply  
Grocery, delicatessen or meat market

Hardware, paint, wallpaper and landscape supply store  
Indoor Showroom of Motor Vehicles  
Jewelry store  
Laundromat  
Leather goods store  
Messenger office and newsstand  
Millinery shop  
Movie theatres and other performing arts establishments  
Museums, libraries and other cultural attractions  
Music store and record shop  
Office equipment sales and service  
Pet shop  
Photographic store and/or studio  
Post Office substation  
Printing  
Professional services  
Radio and television sales and repair  
Radio or TV broadcasting station, studios and offices  
but not towers in excess of 100 feet  
Restaurant and bakeries  
School-business, commercial, dancing or music  
Shoe and Shoe repair shop  
Small animal clinic  
Small appliances or household appliances or electronics sales  
and/or repair  
Variety store

2. Any use found by the Zoning Administrator to be compatible with those retail uses specified herein and not injurious to the neighborhood or detrimental to the public welfare may be permitted by the Zoning Administrator subject to such reasonable restrictions established by the Zoning Administrator to preserve and maintain the intent and purpose of this Zoning District. Subsequent violation of these restrictions shall be grounds for termination of the permitted use by the Zoning Administrator, in addition to any other penalties or remedies prescribed by law.
3. Outdoor advertising signs in accordance with provisions of Section 4.12080 of this Code.
4. Private overhead or area lighting shall be located and focused so as to avoid casting direct light upon any adjacent residential property, or interfere with a traveled portion of a public street.
5. Construction and alteration within any city-adopted Fire Zone must comply with any applicable fire code regulations

B. ACCESSORY USES

1. Any accessory uses customarily incidental to the principal use permitted providing such accessory use shall comply with the minimum requirements for the DC-Downtown Commercial District.
2. Single Family, Two Family, and Multi-family Dwelling Units may be located within this DC-Downtown Commercial District as follows:
  - i. Single Family, Two Family, and Multi-family Dwelling Units only when located on the second floor or above of the building structure; or
  - ii. Multi-Family Dwelling Units only when located on the first floor or above of the building structure which are within the following areas of the zoning district:

<u>LOT NUMBER</u>	<u>BLOCK NUMBER</u>
3 and 4	11
1,2,3,4,5,6	10
3,4,5,6	18
3,4,5,6,7,8	23
5,6	24
1,2,3,4,7,8	12
1,2,7,8	17
1,2,7,8	25

C. SPECIAL EXCEPTION USES

1. Hotels and related facilities
2. Convenience store
3. Taverns and night clubs
4. Amusement parlors and arcades
5. Public and private parking lots
6. Day care centers

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4.12046      LOT AREA, LOT FRONTAGE, YARD And HEIGHT REQUIREMENTS. The following minimum requirements shall be observed:

Lot area	None
Lot frontage	None
Front yard depth	None
Side yard least width any one side	None, except adjacent to an R-Residential District in which case not less than 10 feet. Where a side yard is provided it shall not be less than 8 feet wide.
Rear yard depth	None, except abutting an R-Residential District in which case not less than 25 feet.
Height	No principal building shall exceed 35, feet in height

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4.12047 OFF STREET PARKING. The DC Downtown Commercial District shall be exempt from all off street parking requirements imposed by this chapter.

4.12048 BUILDING MATERIALS. Natural materials, rather than simulated or synthetic materials, shall be used for the exposed building materials on exterior building surfaces visible to the public streets for all principal buildings and accessory buildings. Natural materials include, but are not limited to, stone, stone facing, brick, wood, stucco, clay tile, ceramic tile, quarry tile, terra cotta, and cut stone. Rough-faced concrete block may be used for an exterior surface where concrete block is the only building material option because of existing structural conditions or requirements. Materials to be avoided include, but are not limited to, plain concrete block, fiberglass, simulated brick and stone, vinyl siding, metal siding, and wood siding panels

To the extent possible, original materials, consistent with the natural materials enumerated above, shall be retained in existing building facades. Such original material should be removed only when it is structurally unsound and is beyond restoration.

Awnings are allowed on any building consistent with other City Codes and requirements. Awnings shall not exceed six (6) feet in depth. Awnings must provide a minimum of eight (8) feet vertical clearance from the sidewalk to the bottom of the awning. Awnings must be constructed of fire resistant materials. Vertical awning supports in the surface paving are prohibited. Fixed metal awnings are prohibited. Any awning extending over a public sidewalk or passageway shall require a building permit with a condition of issuance being the Zoning Administrator's determination that the proposed awning complies with the appropriate snow loading standard determined to be appropriate by the Zoning Administrator.

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C-COMMERCIAL DISTRICT

4.12049 PURPOSE. The C-Commercial District is intended to provide areas for retail, commercial, service and related uses having substantial space requirements and having requirements of direct accessibility to arterial streets and highways. This district is intended to provide the space needed for uses having large parking, loading and storage requirements and not conducive to pedestrian shopping. This District is not intended to duplicate or weaken the Downtown Commercial District and is intended to be consistent with the Comprehensive Plan.

4.12050 USE REGULATIONS. A building or premise shall be used only for the following purposes:

A. PRINCIPAL PERMITTED USES.

1. Permitted uses of the TD-1 Residential-Commercial Transition District except the "Permitted uses of the R-3 Residential District.
2. Any other use not otherwise allowed by this section involving the exchange or buying and selling of commodities or services whether for profit or not, but not including any principal permitted uses in the I-Industrial District
3. Supermarkets, pharmacies.
4. Wholesale businesses.
5. **New Automotive and new farm equipment/implement sales and related repair services; used automotive and used farm equipment/implement sales only; automotive parts sales stores; however, no salvage or junk yard operations of any kind.**
6. Mobile home and manufacturing home sales and display.
7. Fruit and vegetable markets, green houses and nurseries.
8. Animal hospitals, veterinary clinics and pet shops.
9. Commercial or institutional outdoors recreational uses and fields.
10. Lumber and Building Supply Retail/Storage Yards.
11. Warehouses and self-storage facilities.
12. Merchandise fulfillment centers including telemarketing facilities.
13. Bowling alleys, dance halls, auditoriums and movie theatres.
14. Hospitals, clinics and related professional offices and services.
15. Private clubs and lodges.
16. Nursing homes.
17. Residential facilities for physically or mentally impaired including halfway houses and rehabilitation facilities.
18. Funeral homes.
19. Places of worship.
20. Educational institutions.
21. Restaurants.
22. Motels.
23. Bank facilities.
24. Rescue missions and leagues.
25. Cabinet maker/custom carpentry.
26. Laundromat
27. Plumbing, heating, and/or air conditioning retail sales
28. Tavern & Nightclubs
29. Convenience store
30. Day care

B. SPECIAL EXCEPTION USES.

No occupancy permit shall be issued for any of the following uses until such use shall have been authorized by the Board of Adjustment after reports by the Planning and Zoning Commission, engineer, Chief of the Fire Department and the Health Department:

1. Special Exception Uses of the DC-Downtown Commercial District
2. Gas cylinder recharging
3. Go-cart tracks
4. Race tracks for any motorized vehicles or devices
5. Shopping centers or additions there-to
6. Towers and structural elements, other than buildings, taller than 35feet.
7. Columbarium, crematories, mausoleums unless inside a cemetery
8. Mobile home parks, subject to the minimum standards of Chapter 12 Section 4.12066
9. Travel trailer parks, subject to the minimum standards of Section 12 Chapter 4.12067.
10. Automobile body repair, wash and body shops
11. Automotive Repair Garage.
12. Farm equipment/implement repairs.

4.12051    HEIGHT REGULATIONS. No principal building shall be taller than 35 feet.

4.12052    LOT AREA, LOT FRONTAGE AND YARD REQUIREMENTS. The following minimum requirements shall be followed:

Front yard depth:	25 feet
Side yard least width on any one side	15 feet except adjacent to R-Residential District in which case not less than 20 feet.
Width: minimum sum of both side yards:	30 feet
Rear Yard depth:	25 feet

4.12053    OFF-STREET PARKING. The provisions of Section 4.12070 of this Code shall apply.

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I-INDUSTRIAL DISTRICT

4.12054 PURPOSE. This district is established to provide for manufacturing or other industrial uses at locations all consistent with land use planning principles and industrial location standards, and compatible with surrounding neighborhoods, adequately served by utilities and vehicle and truck access, compatible with the natural environment and consistent with the Comprehensive Plan.

4.12055 USE REGULATIONS. A building or premises may be used only for any of the following permitted uses:

A. PRINCIPAL PERMITTED USES

1. Automobile body repair shop
2. Automobile repair garage
3. Automobile construction, assembly or factory specializing in the rework or rebuilding of automobile components
4. Auto service stations and/or convenience store
5. Bag, carpet and rug cleaning
6. Industrial Bakery
7. Carpenter and cabinet shop engaged in bulk production
8. Commercial cleaning facility
9. Concrete mixing, concrete products manufacture
10. Contractor's equipment and materials storage yard
11. Creamery, bottling works, dairy ice cream manufacturing
12. Ice manufacturing and cold storage plant.
13. Enameling, lacquering or japanning
14. Foundry casting lightweight nonferrous metals or Electric foundry not causing noxious fumes or odors.
15. Laboratory - experimental or testing
16. Lumber and building manufacturing or assembly yard
17. Machine shop
18. Milk distributing station
19. Motor freight terminal
20. Plumbing, heating and/or air-conditioning manufacturing and/or reconditioning
21. Sawmill, planing mill, including manufacture of wood products
22. Sheet metal shop
23. Kennels
24. Agricultural services such as hatcheries and laboratories
25. Concrete ready-mix plants
26. Manufacturing, assembly and processing of any metal or non-metal products, not otherwise prohibited in this section.
27. Circus or carnival or similar transient enterprises
28. Truck terminals and municipal garages and yard facilities
29. Whole businesses
30. New automobile and farm implement sales and repair, used automobiles and farm implement sales only, auto parts stores, but not salvage or junk yard operations.
31. Mobile homes and manufactured home sales and display.
32. Animal hospitals, veterinary clinics and pet shops.
33. Lumber and building supply retail/storage yards.
34. Warehouses and self-storage facilities.
35. Merchandise fulfillment centers including telemarketing facilities.
36. Cabinet maker/custom carpentry.
37. Professional, Mental health and counseling services.

B. ACCESSORY USE

Any accessory use customarily and incidental to a permitted principal use.

C. SPECIAL EXCEPTION USES.

No occupancy permit shall be issued for any of the uses until and unless the location of such use shall have been authorized by the Board of Adjustment after reports by the Planning and Zoning Commission and, when deemed appropriate by the Board, the City Engineer, Chief of the Fire Department and the County Health Department:

1. Abattoir and slaughterhouse or stockyard
2. Acid manufacture or wholesale storage of acid
3. Cement lime, gypsum, or plaster of paris manufacture
4. Chemical manufacturing
5. Distillation of bones
6. Fat rendering
7. Garbage, offal or dead animals reduction or dumping provided that all refuse is earth covered daily
8. Gas manufacture and cylinder recharging
9. Glue, size or gelatin manufacture
10. Junkyard where the premises upon which such activities are conducted are wholly enclosed within a building, wall or fence, not less than six feet in height, completely obscuring the activity from surrounding lots.
11. Petroleum or its products, refining or wholesale storage of gasoline, gasohol and diesel.
12. Rubber goods manufacture
13. Sand or gravel pits provided they are enclosed by a fence which provides an effective barrier against trespassing.
14. Smelting of tin, copper, zinc or iron ores
15. Electric power and transmitting station
16. Manufacturing, blending, bulk storage and sales of any flammable, explosive, or toxic substances, including but not limited to: gasoline, fuel oil, liquid petroleum, anhydrous ammonia, fertilizer, pesticide, herbicide, fuel oil, dynamite and fire works. For purposes of this paragraph, "bulk storage" means storage for other than on-premise retail sales as part of a retail business. Any such facility which is permitted shall be a minimum of 500 feet distant from the property line of any residential property.
17. Any food manufacturing or processing plant including meat packing plants
18. Airports and customary accessory uses
19. Caretakers quarters incidental to a permitted industrial use.
20. Wind powered electrical generation facilities.
21. Family-Oriented Live Performing Arts Facility.

D. COMPLIANCE WITH OTHER LAWS AND REGULATIONS.

No permitted or special exception use in the Manufacturing District will be permitted if it is in conflict with any ordinance of the City of Winterset, Iowa; or law of the State of Iowa which regulates nuisances; or if a proposed use has not produced evidence of being able to meet or has met all requirements and regulations of any other State or Federal laws related to land use development, construction, environment or waste disposal.

E. REQUIRED CONDITIONS.

1. No use shall be permitted to be established or maintained which by reason of its nature or manner of operation is or may become hazardous, noxious, offensive or will pollute the air or water due to the emission of cinders, fumes, noise, odor, smoke, refuse matter or water carried waste.

2. The best practical means known shall be employed for the disposal of refuse or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise or similar nuisance.

3. All principal buildings and all accessory buildings or structures, including loading and unloading facilities shall be located at least 200 feet from any R-Residential District and not less than 100 feet from any other district except an I-Industrial District.

4.12056 HEIGHT REGULATIONS. Not over 45 feet for any building, exclusive of penthouse structures, or utility fixtures, elevator augers and shafts and similar functional devices serving the principal use and secondary to it.

4.12057 LOT AREA, LOT FRONTAGE AND YARD REQUIREMENTS. The following minimum requirements shall be observed.

Uses	Lot Area	Lot Width	Front Yard Depth	Side Yard Each Side	Rear Yard Depth
All Uses	20,000 sq ft	100 ft	45 ft	23 ft	45 ft

\*All yards in the I-Industrial District abutting a public thoroughfare shall be considered front yards and shall comply with the requirements for a front yard.

I-Industrial District adjacent to any R-Residential District, the minimum setback shall be fifty feet from the I-Industrial District boundary line, except in such cases where the district line is construed to follow the centerline of a public thoroughfare, wherein such cases shall be determined by the provisions of the required minimum front yard dept.

4.12058 OFF-STREET PARKING. The provisions of Code Sections 4.12070 and 4.12071 pertaining to off-street parking and loading areas shall apply to this Zoning District.



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A-AGRICULTURAL DISTRICT

4.12059 PURPOSE. The A-Agricultural District is intended to accommodate conventional farming land use, woodland and nursery use, and customary accessory uses. This district is intended to be used to protect farm operations and farm owners for those lands not subject to plans for urban development. Land use for this District is intended to be planned in accordance with the Comprehensive Plan.

4.12060 USE REGULATIONS. A building or premises shall be used only for the following purposes:

A. PRINCIPAL PERMITTED USES.

1. Agricultural land use and activities
2. Truck gardening and nurseries, provided that no permanent dwelling units shall be erected thereon unless the tract contains ten or more acres.
3. Forest and forestry.
3. Seasonal, portable roadside vegetable stands no larger than 500 sq. ft. with no customer parking on a public highway or street right-of-way.
4. Farm-related residences of a farm owner, operator or lessee or a parent or child of such owner, operator or lessee located on the farmstead of the farm. There may be up to two such farm-related residences on a single farmstead and one additional farm or non-farm residence per quarter-quarter section of the same farm ownership exclusive of the quarter-quarter section where the farmstead is located.
5. Grain storage
6. Seed corn dealers
7. Dealerships and sales of farm related products and equipment carried on as a home occupation of the farm owner, operator or lessee.

B. ACCESSORY USES.

1. Accessory buildings and uses customarily incidental to any of the above uses.

Bulletin boards and signs pertaining to the lease, hire, or sale of a building or premises, or signs pertaining to any material that is grown, or treated within the district; provided, however, that such signs shall be located upon or immediately adjacent to the building or in the area in which such materials are treated, processed, or stored.

C. SPECIAL EXCEPTION USES

1. Kennels and the residence of the owner or operator
2. Junk, salvage or wrecking yards and the residence of the owner or operator
3. Trucking terminals, and the residence of the owner or operator
4. Livestock sales barns and related facilities including the residence of the owner, operator or custodian
5. Fair grounds and related race tracks, concessions and customary and historic Madison County fair ground activities
6. Grain elevators and related storage; and fertilizer storage, mixing and sales
7. Any other non-farm storage, processing or manufacturing uses including food products for human or animal consumption
8. Home occupations
9. Mining operations, including Rock quarries, gravel pits and customary accessory uses.
10. Mink ranches
11. Sanitary landfills, incinerators and other waste disposal facilities provided such facilities possess all required federal and state permits before being eligible to receive a Special Exception Use permit from the City of Winterset.
12. Accessory uses larger than the principal permitted use.
13. Travel trailer parks per the standards of section 4.12067.
14. Shooting ranges including trap shooting
15. Non-commercial park, playground, gold courses) both public and private) and recreational use.
16. Transmitting stations and communications towers
17. Airports and customary accessory uses.

4.12061      HEIGHT REGULATIONS. Any building hereafter erected or structurally altered may be erected to any height not in conflict with other existing or future Ordinances of the City of Winterset, Iowa.

4.12062      LOT AREA, LOT FRONTAGE AND YARD REQUIREMENTS. The following minimum requirements shall be observed:

Principal Use	Lot Area	Lot Width	Front Yard Depths	Side Yard	Width	Minimum Sum Side Yards	Rear Yard Depths
				Least Width on any One Side	of both Side Yards		
All uses	10 acres	200 ft.	50 ft.	50 ft.	100 ft.		50 ft.
Dwellings	2 acres	200ft.	50ft.	50 ft.	100 ft.		50 ft

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CO-CONSERVATION-OPEN SPACE DISTRICT

4.12063 PURPOSE. The CO-Conservation-open space district is established to provide protection to environmentally sensitive lands such as flood plains, wetlands, drainage courses, and park lands and also to enhance the performance of these lands in their natural functions. The standards of this district are intended to promote the health, safety and general welfare of the public through the protection of water quality, prevention of erosion and siltation, and the preservation of natural open spaces and plant material for the maintenance of air quality. The cutting of non-nuisance plant material is discouraged to protect scenic beauty, control erosion and reduce the flow of pollutants and nutrients into streams and drinking water supplies.

4.12064 USE REGULATIONS. A building or premise shall be used for only the following purposes.

A. PRINCIPAL PERMITTED USES

1. Truck gardening, hay fields, garden plots
2. Parks, play grounds, athletic fields and camp grounds
3. Recreational trails
4. Public roads and streets
5. Wood lots and orchards
6. Raising and keeping horses for personal use provided there is at least two acres of land available per horse with adequate shelter provided. Lands where horses are present must be securely fenced with any horse stable or shelter being at least 100 feet from any Residential zoning district boundary line and with no manure storage or spreading within this 100 foot distance.
7. Cemeteries
8. Historic, cultural and outdoor educational attractions and facilities.
9. Other uses similar to the above uses and compatible with the purpose of this district

B. Customary accessory uses

C. SPECIAL EXCEPTION USES

1. Any utility structure, substation, transmission line or pipeline
2. Dams, dikes, drainage channels, reservoirs, ponds or other devices intended to affect flowing or standing water.
3. Private roads and streets.
4. Any private filling, grading, impounding, dredging or land filling.
5. Any building in excess of 200 square feet.
6. Shooting ranges including trap shooting.

D. PERFORMANCE STANDARDS

1. Height limitation: maximum of 30 feet
2. Lot area and density: no minimum
3. Lot width: no minimum
4. Front yard setback: 35 feet
5. Side yard setback: 35 feet
6. Rear yard setback: 35 feet
7. Area of structures: no minimum
8. Parking: per Section 4.12070
9. Signs: per Section 4.12080
10. Flood prone areas: No temporary or permanent building or other obstruction shall be placed in any flood prone area on within any natural drainage course.
11. Land disturbance: There shall be no land disturbance, including cultivation for agricultural farming, within 100 feet of the shore lines of any course of natural flowing water or within 100 feet on either side of the center line of a drainage course having intermittent natural drainage flows. No stream or drainage course shall be straightened or altered except in accord with a professionally prepared plan justifying the need for such work and with such plan approved by the Winterset City Council
12. Trees: Clear cutting of trees is prohibited and the cutting of trees solely for income purposes is prohibited. The cutting of trees, including substantial seedlings, can be done for the purpose of silvicultural thinning and in following a formal plan of a state forester official and for removal of diseased and hazardous trees.

PLANNED UNIT DEVELOPMENT ZONING DISTRICT

- 4.12064.1      Planned Unit Development District (PUD)
- 4.12064.2      Statement of Intent
- 4.12064.3      Size, Land Use and Maximum Density
- 4.12064.4      Master Plan
- 4.12064.5      Rules, Regulations, and Guidelines for Land Use and Performance
- 4.12064.6      Process for City Review of Planned Unit Development
- 4.12064.7      Recordation of Master Plan and Associated Rules, Regulations and Guidelines
- 4.12064.8      Adjustments and Modifications

4.12064.1      PLANNED UNIT DEVELOPMENT DISTRICT.      The Planned Unit Development District (PUD District) is hereby established with the Zoning Regulations hereafter set forth in this Chapter and elsewhere in the Zoning Code to be applicable to the Planned Unit Development District.

4.12064.2      STATEMENT OF INTENT.      The PUD District is intended to provide for the development or redevelopment of land under the control and in accordance with a Master Plan providing for development guidelines and standards in which the land uses, transportation elements, building densities, arrangements, and types are set forth in a unified plan, which may provide greater flexibility of land use, transfer of development rights within the PUD, bulk regulations, and building locations than the conventional zoning district may permit. The PUD District is intended to maximize benefits from the use of open spaces; maximize aesthetics; encourage certain architectural standards for buildings, permit mixed uses and diversity of bulk regulations without endangering the health, safety, welfare, and land value of surrounding and internal properties. A PUD District may consist of a mix of land uses of residential building types, commercial and limited industrial, provided such approved Master Plan for the Planned Unit Development is compatible with the City Comprehensive Land Use Plan.

4.12064.3      SIZE, LAND USE AND MAXIMUM DENSITY.      A PUD District shall be a minimum size of three (3) acres of land; shall have a building unit density not in excess of the density set forth in the City Comprehensive Land Use Plan; and, shall be located within the PUD Zoning District.

4.12064.4      MASTER PLAN.      In order to rezone land in the City as a Planned Unit Development District, the Developer shall first prepare and submit to the City in Fifteen (15) copies a Master Plan which shows the generalized overall land use plan for the development of the land area of the proposed PUD District which Plan shall include the following information:

A.      A vicinity map of sufficient scale to show site boundaries and the zoning of adjacent properties within one thousand feet (1,000') of the exterior boundaries of the proposed PUD.

B.      Dimensions, legal descriptions of the land, acreage, existing zoning classification, existing land use and ownership of the land within the proposed PUD District; the existing zoning classification and land use and ownership of the adjacent properties within two hundred feet (200') of the exterior boundaries of the proposed PUD.

- C.      The location and delineation of each "parcel" proposed with different land uses and bulk regulations, and a schedule of the proposed land use and bulk regulations for each "parcel" set forth by ordinance.
- D.      Existing and proposed location of street, pedestrian ways, trails, parks, recreation areas, open space, buffers, parking areas, schools, and anticipated traffic generation.
- E.      Area and number of dwelling units, and anticipated floor area of non-residential buildings by "parcel".
- F.      Existing tree masses, water channels, drainage ways, flood hazard areas, and other topographic or environmentally important characteristics.
- G.      Proposed privately owned common areas and public ownership areas, including any open space, park land, and school sites.
- H.      Location of existing or proposed municipal utilities to serve the PUD District and adjoining properties, including sanitary sewer, storm sewer, electricity and water.
- I.      In addition to storm sewer facilities, other required storm water management facilities and requirements shall be shown and/or explained in the Master Plan.
- J.      Dimensions of all street right-of-way and paving widths, including all proposed easements areas.
- K.      Staging schedule of the development, including anticipated year the construction is to be initiated and the phasing of development planned to be implemented.
- L.      Landscape areas proposed as part of small-scale PUD proposals to include the general location of shrubs, trees and earth berms.
- M.      Delineate the traffic impacts that would result from the Project and how the can be mitigated.
- N.      The Master Plan shall be submitted to the City on paper sheets of 24 inches by 36 inches and at a minimum scale of 1=50.
- O.      The Developer shall be deemed a Subdivider under Chapter 10 of Title IV of the Code; the Master Plan shall comply with the City Subdivision Code; and, the Master Plan shall be considered a Preliminary Plat Plan under the City Subdivision Code.

4.12064.5. PUD RULES, REGULATIONS AND GUIDELINES FOR LAND USE AND PERFORMANCE. The Developer shall submit to the City with the Master Plan the proposed rules, regulations and guidelines for the development of the PUD (hereafter the Regulations). In addition, the Developer shall submit to the City a Petition for Rezoning the Land accompanied by the proposed ordinance for the rezoning of the property to a PUD Zoning District. The City shall provide the ReZoning Petition, the proposed zoning ordinance, the Master Plan and the Regulations to the Planning and Zoning Commission (hereafter the Commission) for



its consideration as hereafter provided.

The proposed Regulations shall set forth the permitted land use, bulk regulations, transfer of development rights within the PUD land area, height requirements, open space and landscaping requirements, architectural standards, sign regulations, buffer requirements, off street parking and loading requirements, and other performance standards as required by the City for each parcel designated within the Master Plan.

4.12064.6      CITY REVIEW OF THE PLANNED UNIT DEVELOPMENT.      The Developer may elect to present the PUD proposal to the Zoning Administrator as a pre-Application proposal for their informal comment and discussion. Upon receipt of the Developer's formal Application with the accompanying documents described above, the Zoning Administrator shall review the submitted PUD Application; may discuss any suggestions or provide additional information to the Developer, and shall present a report together with the Applicant's proposal to the Commission.

A. The Commission shall consider the Application with all accompanying materials pursuant to the following criteria:

1.      Compatibility with the City Comprehensive Land Use Plan;
2.      Land Use and Density;
3.      Building types, functions, architecture, buffers and arrangements;
4.      Provision and use of open space and landscaping;
5.      Access to and from the site and related traffic circulation; and,
6.      General relationship to the adjoining properties and area.

B. The Commission may approve or disapprove the Application, the Master Plan, the Regulations as submitted either in whole or in part and may require the Developer to modify, alter, adjust or amend the Application and accompanying documents as the Commission may deem appropriate in order to preserve the harmonious intent and purpose of this Chapter and the City Comprehensive Land Use Plan.

C. After the Commission's final review of the Application and accompanying documents, the Commission shall present to the City Council its report and recommendation(s) on the matter.

D. Following the receipt of the Commission's report on the Application, the City Council shall set a date for public hearing before the Council on the Petition for Rezoning the land to the PUD Zoning District and upon the Application for the proposed PUD District with Notice thereof as provided by this Chapter. In addition to the public hearing notice requirements, notice of the hearing shall be sent by regular mail at least seven (7) days prior to public hearing to the owners of property which is located within two hundred (200) feet thereof.

Following the public hearing on the matter, the City Council shall approve or deny the Application and the Rezoning Petition. However, such City Council

approval shall not be considered as approval of any final plat under Chapter 10 of Title IV of the City Code (the Subdivision Code) unless and until the Developer has complied with that Code Chapter and, in each instance, each phase thereof is to be separately approved by the City as provided by the Subdivision Code.

4.12064.7      RECORDATION OF MASTER PLAN AND REGULATIONS.      Upon final approval of the Application and accompanying documents, the City at the Developer's cost shall record in the Office of the Madison County Recorder the Ordinance rezoning the land to the PUD Zoning District and the Master Plan and Regulations.      No "phase" of the PUD District is to be commenced until all the documents have been recorded.      The Rezoning Ordinance, Master Plan and Regulations approved by the City shall be binding upon the property owner(s), their heirs, successors or assigns.

4.12064.8      MODIFICATIONS OF APPROVED PUD DISTRICT.      Any proposed modification or amendment of the PUD District Plan as finally approved by the City shall be submitted upon Application in the same manner and in the same form(s) as the original Application and shall be submitted by the City to the same review, approval and recordation procedure as the original Application.

SPECIAL EXCEPTION USES

4.12065      REGULATIONS.    The regulations set forth in this Article or elsewhere in this Chapter that are applicable shall apply to the special exception uses listed in this Article and listed in the individual zoning districts.

It shall be recognized that certain uses possess characteristics of such unique and special form as to make impractical their being included automatically as permitted uses in the various districts established by this Chapter; therefore, these uses shall be subject to certain conditions and standards set forth in this Article or as set by the Board of Adjustment as part of an application for a specific special exception use and the issuance of a special exception use permit by the Board of Adjustment provided, however; a special exception use permit may not be granted for a use in a zoning district from which it is specifically excluded by the provisions of this Article.

A. SPECIAL EXCEPTION USES PERMITTED IN ANY ZONING DISTRICT.    The following special exception uses may be authorized in any zoning district, except as it is specifically excluded or limited by the provisions of this Section.

1. Accessory or branch structures and facilities for public utilities and public service uses, including reservoirs and tanks, pumping stations, telephone exchanges and power and transformer stations; providing, however, equipment storage yards and garages which are considered commercial, business and industrial uses shall not be permitted in any R-Residential District.

2. Buildings and uses, except as herein designated as permitted uses, owned by the City, County, State of Iowa or the U. S. Government or its political subdivisions or by private agencies providing public services for general public benefit on behalf of a political subdivision under written contract with and funded, in whole or in part, by the federal or state governments, or the political subdivisions thereof; provided, however, all such uses shall be compatible with surrounding land uses in the zoning district and shall not be disruptive of, or contrary to, the provisions of Section 4.12001 of this Code. Equipment and vehicle storage yards and public garages involving major mechanical repair or rebuilding shall not be permitted in any R-Residential District.

B. SPECIAL EXCEPTION USES PERMITTED IN INDIVIDUAL ZONING DISTRICTS.    The individual zoning districts in this ordinance list those special exception uses which are eligible to apply for a special exception permit subject to the standards of Section 4.12068 and the procedures of Section 4.12069. In addition the Board of Adjustment may impose additional conditions and standards which address specific issues of a requested use and which address issues regarding the specific location and neighborhood setting of the requested use.

4.12066 MOBILE HOME PARKS. Mobile home parks are a special exception use subject to the minimum development requirements as follows:

A. LOCATION. C-Commercial District only

B. MINIMUM REQUIREMENTS

Front yard Seventy-five feet.

Side yard. Thirty-five feet.

Area. Minimum of two acres.

Drives. The entrance road connecting the park streets with a public street shall have a minimum road pavement width of twenty-nine feet, measured back to back of curbs. All interior streets shall be not less than twenty-nine feet in width, measured back to back of curbs. All streets shall be constructed with either hot mix asphaltic concrete or Portland cement concrete with an approved curb to provide for drainage. Such streets shall meet the specifications contained in Chapter 12, Section 4.10006 of this Code.

Sanitary facilities. Connection with the municipal sewer system or adequate private sewage disposal facilities.

C. HOME SPACES

Space size. Fifty feet by ninety feet.

Space area. 4,500 square feet.

Off-drive parking. One parking space for each home space.

Front yard. Fifteen feet.

Rear yard. Ten feet.

Side yard. Five feet.

4.12067 TRAVEL TRAILER PARKS

A. LOCATION.      C-Commercial Districts Only

B. MINIMUM REQUIREMENTS FOR PARK

Front yard. Same as the zoning district or fifty feet, whichever is greater. This requirement shall apply to any and all roads or streets upon which "park" abuts.

Side yard. Thirty-five feet.

Rear yard. Thirty-five feet.

Minimum area. One and one-half acres.

Maximum density. Twenty unit spaces per gross acre of park site.

Drives. Twenty-five feet in width with asphaltic concrete surface.

A common service building providing laundry facilities, short order, food service, accessory supplies, etc, may be included, provided such a building shall be located within the central "park" area, shall not be visible to passing traffic, and shall be restricted to the use of the park occupants. Such service buildings shall be permitted in the C-Commercial District providing such use shall conform to the requirements provided in the C-Commercial District Regulations. The rear and/or side yards shall be screened from adjacent property access by planting screen not less than ten feet in width, or by a fence wall.

C. REQUIREMENTS FOR TRAILER SPACES

Minimum space size. Twenty feet by fifty-five feet.

Minimum space area. 1,100 square feet

Off-drive parking. One parking space for and within the area of each trailer space.

Minimum front yard. Ten feet.

Minimum rear yard. Five feet.

Minimum side yard. Five feet.

Trailer separation. The minimum distance between any two trailers shall be not less than ten feet.

4.12068 SWIMMING POOLS, WATER IMPONDMENTS AND DRAINAGE AREAS. All private swimming pools, surface ponds, reservoirs, or any areas containing runoff surface water in any zoning district within the City shall meet the following minimum requirements:

- A. No public swimming, or sunbathing or ice-skating will be allowed unless specific permission is granted to do so by the City.
- B. Terrain surrounding any surface water area(s) will be so graded to prevent runoff into any developed areas or into soils with a high permeability rating, that may result in high levels of ground water in nearby developed areas.
- C. Any discharge of water into the City's underground storm or sanitary sewer system from a private surface water source must be approved by the City on a case-by-case basis.
- D. All such uses must meet applicable Federal, State or County Public Health and Safety Standards.
- E. A fence constructed of solid materials (wood, brick, cinder block, chain link, etc.) must surround the immediate surface water area. Any such fence must be a minimum of six (6) feet in height. This paragraph applies only to constructed swimming pools.

4.12069      REQUIRED CONDITIONS AND PROCEDURES

A. GENERAL CONDITIONS

- 1. A special exception use permit shall not authorize a use which does not comply with the minimum requirements of the district in which it is located.
- 2. A special exception use permit shall not authorize a use which is in conflict with this Code or laws of the State of Iowa or the United States regulating nuisance, pollution or hazardous occupation.

B. REQUIRED SITE PLAN AND STATISTICAL INFORMATION

The request for authorization of special exception use shall be accompanied by a site plan in compliance with Section 4.12061 of this Code.

C. RESTRICTIONS And STANDARDS

Authorization for a special exception use permit may be granted subject to the following conditions:

- 1. Buildings involving the large assemblages of people shall not be located less than 300 feet from any existing dwelling site.

2. Uses within the C-Commercial, TD Transitional and I-Industrial Zoning Districts which emit or create a substantial level of noise, vibration, odor, pollution, etc. and which are within five hundred feet (500') of an R-Residential Zoning District shall disclose these levels and shall include a plan to control and minimize any detrimental effects such levels may have upon adjoining property.
3. Uses involving the large assemblages of people shall not be located where the arterial traffic system is inadequate to provide for the increased traffic density.
4. Uses involving the extensive use of exterior lighting shall not be located where such lighting may be hazardous to air or ground traffic and such uses shall not be located less than a distance required to reduce the light intensity to normal residential street lighting intensity at any R-Residential District boundary.
5. Public or private utility services which involve large structures such as pumping stations, electric substations and power transmitters and which are located within an R-Residential or C-Commercial District shall be screened from public view by buffer walls or strip parks.
6. That the establishment, maintenance, or operation of the use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
7. That the use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
8. That the establishment of the use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
9. That the exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed in the immediate neighborhood or with the character of the applicable district as to cause a substantial depreciation in the property values within the neighborhood;
10. That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;
11. 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;
12. That the proposed use is not contrary to the objectives of any duly adopted comprehensive plan for the City of Winterset; and,
13. In the case of the uses enumerated in the following subparagraphs

(I) and ii), that there be a minimum distance of 500 feet between such use and all places of human habitation, public assembly or business not associated with such use and that such use not be so located that prevailing winds would carry any fumes, odors or gasses from such use toward developed properties or into the city:

(i) Bulk storage of any flammable or explosive substance, including but not limited to liquid petroleum, gasoline, fuel oil, dynamite, and fireworks. For purposes of this subparagraph, "bulk storage" means storage for other than retail or on-premises sales.

(ii) Storage, blending, mixing or on-premises sales of toxic substances, whether or not under pressure, for commercial or agricultural purposes, including but not limited to anhydrous ammonia, fertilizer, pesticide, and herbicide.

D. PROCEDURE. The procedure for obtaining a special exception use permit shall be as follows:

1. Written applications shall be filed with the Zoning Administrator and shall be accompanied by such plans as required by this Code. The application shall include a list showing the names and last known addresses for all property owners of record within five hundred feet of the premises where the special use is to be located.

2. The application shall be referred to the Board of Adjustment within five days of the date of the application and the Board shall hold a public hearing within thirty (30) days of receiving the application. The Board may refer the application to the Planning Commission if in the Board's judgment there are sufficient planning issues justifying their input and recommendation.

3. The Board of Adjustment shall make a written report of its decision on the application within forty-five (45) days of the public hearing.

4. Notice of the public hearing by the Board shall be given to all property owners within 500 feet of the boundary of the property on which the special use is to be located. Such notice shall be at least ten days prior to the hearing; shall contain the time and location of such hearing; and, shall be served by ordinary mail to the owner's last known address submitted by the applicant.

5. If a special exception use permit is issued it is subject to the addition of conditions which may include time limits and other terms deemed necessary or appropriate by the Board. Violations of such terms shall be deemed a violation of this Code punishable as herein provided. In addition, the Board may upon notice and hearing revoke the permit for violation of the terms of the permit.

6. Whenever an application for special exception use permit has been denied by the Board, no reapplication for the same special use on the same property or any portion thereof shall be filed or considered by the Board until six months shall have elapsed from the date of the official denial of the first application.



7. Before an Application for Special Use Permit may be considered by the City, the Applicant shall pay the City a fee in a sum of money fixed by Resolution of the City Council from time to time and shall not need to be fixed by City Ordinance.

OFF-STREET PARKING AND LOADING AREAS

4.12070      OFF-STREET LOADING SPACE REQUIRED.

A. In any district in connection with every building or part thereof hereafter erected, having a gross floor area of 10,000 square feet or more, which is to be occupied by uses requiring the receipt or distribution of materials or merchandise involving uses such as manufacturing, storage, warehouse, good display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning, there shall be provided and maintained on the same lot with building, at least one off-street loading space; and, one additional such loading space for each 20,000 square feet or fraction thereof in excess of 10,000 square feet.

B. The requirements for off-street loading spaces are as follows:

1. Each loading space shall be not less than ten feet in width and sixty feet in length.
2. Such space may occupy all or any part of any required yard or court space, except required open space under Section 4.12072 of this Code.

4.12071 OFF-STREET PARKING AREA REQUIRED.

A. In all districts, space for parking and storage of vehicles shall be provided in accordance with the following schedule; however, no parking area required hereunder shall be less than 1,000 square feet in area except in the case of dwellings and retail stores and shops under 500 square feet.

1. Automobile sales and service garages - one parking space for each 300 square feet of floor area and one parking space for each four persons regularly employed on the premises.
2. Banks, business and professional offices - one parking space for each 200 square feet of floor area and one parking space for each office in the principal building or one and one-fourth parking spaces for each person regularly employed on the premises, whichever is greater.
3. Bowling alley - five spaces for each alley and one space for each five-spectator seats.
4. Churches - one parking space for each four seats and one parking space for each classroom.
5. Dance halls, assembly halls - one parking space for each 100 square

feet of floor area or one parking space for each four seats of maximum seating capacity, whichever is greater.

6. Dwellings, residential:
  - a. One and Two-family Dwellings - two parking spaces for each dwelling unit.
  - b. Multi-family Dwellings - two parking spaces for each of the first twelve dwellings units and one and one-half parking spaces for each additional unit. One garage parking space for each dwelling unit may be counted as a portion of the parking requirement.
7. Funeral homes, mortuaries - fifteen parking spaces or one parking space for each four seats in the principal auditorium or four parking spaces for each service or viewing room, whichever is greater. In addition, one parking space for each two persons regularly employed on the premises.
8. Furniture, appliance and other retail stores displaying large and bulky merchandise - one parking space for each 400 square feet of floor area.
9. Hospitals, sanitariums and nursing homes - one parking space for each four patient beds and one parking space for each two persons regularly employed on the premises.
10. Hotels, motels, lodging houses - one parking space for each room or suite of rooms offered for tourist accommodations and one parking space for each two persons regularly employed on the premises.
6. Industrial or manufacturing plants - one parking space for each employee on the maximum working shift; or one parking space for each 1,000 square feet of floor area up to 10,000 square feet; and, then one parking space for each additional 1,500 square feet, or portion thereof.
7. Restaurants, taverns, night clubs or similar places dispensing food, drink or refreshments - one parking space for each fifty square feet of floor area devoted to patron use within the establishment. In addition, on parking space must be provided for each four persons regularly employed.
8. Retail stores, supermarkets, shopping centers, department stores, etc.
  - a. Stores containing over 2,000 square feet floor area - one parking space for each 175 feet of color area.
  - b. Stores and shops containing under 2,000 square feet - one parking space for each 500 square feet of floor area, and one space for each persons regularly employed on the premises; provided, however, there shall not be less than five parking spaces.
14. Schools and other places of education or instruction.
  - a. Elementary, junior high and other places for under driving age

students - one parking space for each person regularly employed on the premises. In addition, one parking space for each twenty student desks or classroom seating facilities.

b. High schools - one parking space for each person regularly employed on the premises. In addition, one parking space for each ten student desks or classroom seating facilities.

c. Colleges, trade schools and other places of young adult learning - one parking space for each person regularly employed on the premises. In addition, one parking space for each three student desks or classroom seating facilities.

15. Sports arenas, theaters, auditoriums and other similar places of public assembly - one parking space for each four persons of maximum standing and seating capacity.

16. Wholesale establishments or warehouses -one space for each person regularly employed on the premises.

B. In case of any building, structure or premises, the use of which is not specifically mentioned herein, the provisions for a use which is mentioned and to which said use is similar shall apply.

C. All lots with off-street parking shall abut upon street right of way except as may be provided by Section 4.12013 of this Code.

D. 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:

1. No part of any off-street parking space shall be closer than five feet to any established street right-of-way or alley line. Where this parking lot adjoins an R-Residential District, it shall be set back at least ten feet from the R-Residential District boundary.

2. Any off-street parking area, including any commercial parking lot for more than two vehicles shall be surfaced with an asphaltic or Portland cement pavement or such other surface as shall be approved by the City Engineer so as to provide a durable and dustless surface; shall be so graded and drained as to dispose of all surface water accumulation within the area; and shall be so arranged and marked as to provide for orderly and safe loading or unloading and parking and storage of self-propelled vehicles.

3. 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 any R-Residential District.

4. A landscaping plan ensuring compatibility with surrounding and adjoining uses shall be submitted to the Board for approval for any parking area with a gross capacity of fifty (50) motor vehicles or more.

The applicant shall be responsible for the implementation of the plan in accordance with the timetable submitted.

E. Off-street facilities for all uses, except one and two-family dwellings fronting on a residential street, shall be designed so as to permit entrance and exit by forward movement of the vehicle. The backing or backward movement of vehicles from an off-street parking facilities on to streets shall be strictly prohibited.

OPEN SPACE REQUIREMENTS

4.12072    INTENT. It is recognized that the extensive use and congestion of land adversely affects the general health and welfare of the community. Therefore, the intent of the following Section shall be to ensure the creation and maintenance of adequate open spaces.

4.12073    OPEN SPACE REQUIREMENTS.

A. All buildings and land use in any R-Residential District or TD-Transition District shall comply with the following:

1. On each lot there shall be provided an open space equal to at least twenty-five per cent of the total lot area. Said open space shall not include any structure or off-street parking area.

2. Each principal structure of a multi-family dwelling unit shall be separated from any other principal structure in the complex by an open space of not less than sixteen feet in width.

3. Where doors and windows in the exterior walls of a living unit face a wall of the same building and/or wall of another building in the same complex site, there shall be provided a minimum open space of not less than thirty feet. Said distance to be measured on a line projected at right angles at the opening from the wall containing the opening to the opposite wall.

4. Cantilevers and open porches may project from the building wall into the required open space (court only) not more than four feet; open stairways may project from the building wall into the required open space (court only) not more than seven and one-half feet. Stairways when located in the required open space (court only) shall be cantilevered or supported by the necessary columns only; support by a wall other than the exterior building wall is strictly prohibited.

B. All buildings and land use in any C-Commercial District or I-Industrial District shall comply with the following except as herein provided:

1. Any R-Residential District use in any C-Commercial District shall comply with Part A above.

2. On each lot there shall be provided an open space equal to at least twenty per cent of the total lot area; said space shall not include any structure or off-street parking area.

3. Each principal structure of an building complex shall be separated from any other principal structure in the complex by an open space of not less than sixteen feet in width.

4. Where door and windows in the exterior walls of a living unit face a wall of the same building and/or a wall of another building in the same complex site, there shall be provided a minimum open space of not less than thirty feet. Said distance to be measured on a line project at right angles at the opening, from the wall containing the opening of the opposite wall.

5. Cantilevers and open porches may project from the building wall into the required open space (court only) not more than four feet; open stairways may project from the building wall into the required open space (court only) not more than seven and one-half feet. Stairways when located in the required open space (court only) shall be cantilevered or supported by the necessary columns only; support by a wall other than the exterior building wall is strictly prohibited.

SITE PLANS

4.12074      SITE PLANS.      Site plans which are required for review and approval for any use in any district or elsewhere by this Chapter, and shall comply with the following:

1. Site plans shall be drawn at a scale not less than 1" = 100'; and, two copies of the site plan shall be submitted with any application for rezoning or permit application.
2. The site plan shall include, but not be limited to, the types of structure proposed, number and size of dwelling units, floor area of any commercial or industrial building, child capacity of a day nursery, buffers, landscaping, off-street parking area, walls, density, floor area ratio, anticipated expansion and other information deemed necessary to illustrate compliance with the requirements of this Chapter.
3. A preliminary site plan may be submitted for preliminary or tentative land use approval; providing however, that a final site plan shall be submitted and reviewed for compliance with the provisions of this Chapter prior to the issuance of any zoning change or permit.
4. The site plan shall show the size and dimensions in feet of the lot where the proposed structure is to be located.
5. The site plan shall include a legal description of the lot or tract of land where the proposed structure is to be located.
6. The site plan shall include the location of all utilities located upon or under the land surface and a plan for surface water drainage. The location, size and availability of municipal utilities shall be provided.

4.12075      LOT BOUNDARIES LOCATED.      Prior to the issuance of any permit, the applicant shall establish at the site the actual location of the boundaries of the lot where the proposed structure is to be located. In the event the applicant cannot show the lot boundaries by the location of original monuments or corner pins established by a land survey of record, then the applicant shall cause the lot to be surveyed by a registered land surveyor prior to the issuance of any permit.

EXCEPTIONS, MODIFICATIONS, INTERPRETATIONS

4.12076      STRUCTURES PERMITTED ABOVE HEIGHT LIMIT.    The building height limitations of this Chapter shall be modified as follows:

1. Chimneys, cooling towers, fire towers, grain elevators, monuments, stacks, stage towers or scenery lofts, tanks, silos, water towers, ornamental towers and spires, radio or television towers or necessary mechanical appurtenances may be erected to a height approved by the Board of Adjustment.

2. Public service buildings, hospitals, or schools when permitted in a district may be erected to a greater height than otherwise permitted in the district if the building is set back from each property line, in addition to the minimum yard requirements, at least one foot requirements for each two feet of additional building height above the height limit otherwise provided in the district in which the building is constructed.

4.12077      DOUBLE FRONTAGE LOTS.    Buildings on double frontage lots extending through from street to street shall be permitted ingress-egress from only one of the streets.

4.12078      OTHER EXCEPTIONS TO YARD REQUIREMENTS.    Every part of a required yard shall be open to the sky unobstructed with any building or structure, except for a permitted accessory building in a rear yard, and except for roof projections and awnings not to exceed thirty-six inches.

4.12079      UNCONVERTED MOBILE HOMES.    Mobile homes, which have not been converted to real estate as provided by Iowa Code Chapter 135D shall be located in mobile home parks only.



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OUTDOOR ADVERTISING SIGNS

4.12080      DEFINITIONS. For the purposes of this Chapter, these words or terms shall have the following meaning:

Sign - A name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure, trailer or land in view of the general public and which directs attention to a product, place, activity, person, institution or business. A sign does not include the following: flags of nations, states and cities or organizations; objects or devices visible through windows; or works of art, except murals, which in no way identify a commercial product or have a commercial purpose.

Sign, Advertising - An advertising device as defined by Chapter 306C of the Code of Iowa having the capacity of being visible from any public right of way.

Sign, Area of - See Sign, Surface Area of.

Sign, Business - A sign which directs attention to a business or profession of a commodity, service, or entertainment sold or offered upon the premises where such a sign is located.

Sign, Display - An advertising sign.

Sign, Flashing - Any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times where such sign is in use.

Sign, Illuminated - Any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes as a part of the sign.

Sign, Marque - Any sign affixed to any hood, marquee or canopy over the entrance to a building.

Sign, Nameplate - Any sign which states the name or address or both of the business or occupant of the lot where the sign is placed.

Sign, Rotating - A sign which revolves or rotates on its axis by mechanical means.

Sign, Surface Area of - The entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface, not including any structural elements outside the limits of such sign and not forming an integral part of the display. Only one side of a double-face or V-type sign structure shall be used in computing total surface area.

**Chapter 12      Zoning**

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4.12081 SIGN REGULATIONS.

All signs now existing or hereafter erected or maintained, except official traffic signs, shall conform with the provisions of this regulation.

1. General Provisions for all Zoning Districts:

The following regulations shall apply to all signs hereinafter permitted in all Districts:

- A. Signs shall not be permitted within the public right-of-way or public easements.
- B. Flashing or rotating signs resembling emergency vehicles shall not be permitted in any district.
- C. Any signs not permanently affixed to buildings or permanently anchored in the ground shall not be permitted in any zoning district.
- D. No signs shall be permitted to obstruct any window, door, fire escape, stairway or opening intending to provide light, air or access to any building or structure.
- E. Upon notification by the Zoning Administrator that a sign is rotted, unsafe or unsightly, the owner of said sign or owner of the property upon which the sign is located shall remove or repair the sign.
- F. The owner, lessee or manager of any sign anchored in the ground and/or the owner of the land on which the sign is located shall keep grass or weeds and other growth cut and debris and rubbish cleaned up and removed from the ground surrounding the sign.
- G. Political signs may be permitted for a period of not more than forty-five (45) days before and seven (7) days after an election.
- H. Signs for service clubs and semi-public institutions are permitted within the public right-of-way, provided that they are not more than 500 feet from the corporate limits and further provided that they do not exceed three square feet in area. These signs are for the purpose of displaying the emblem of the club or institution and information on time and location of meetings.
- I. Except as may be expressly provided by these regulations, no advertising signs shall be erected or maintained other than on the premises of the business or other activity involved.

2. Signs in Residential Districts.

No sign shall be erected in any RESIDENTIAL DISTRICT except:

- A. A nameplate sign identifying the owner or occupant of a building or dwelling unit, provided such sign does not exceed two (2) square feet in surface area. Such sign shall not be illuminated.
- B. A sign pertaining to the lease or sale of the building or property provided such sign does not exceed four (4) square feet in surface area. Such signs shall not be illuminated.
- C. A temporary sign not exceeding four (4) square feet in surface area identifying an engineer, architect, contractor, or product engaged in or used in the construction of a building may be erected upon issuance of the building permit. A temporary sign shall be removed prior to the occupancy of the building. Such sign shall not be illuminated except for signs required by State or Federal law.
- D. One identification sign on premises not to exceed twenty-four (24) square feet in surface area displaying location information for churches, schools, hospitals, nursing homes, clubs, offices, libraries or similar use. Such signs may be illuminated.
- E. Directional non-illuminated signs on premises not exceeding two (2) square feet in surface area displaying directional information for churches, schools, hospitals, nursing homes, clubs, libraries or similar uses excluding office or commercial establishments, provided that each such use shall be limited to one such sign per thoroughfare approach.
- F. Business signs located in Residential zones as Non-Conforming or Home Occupations shall not be located in the front yard. Signs shall be attached to the house and shall not be illuminated and not larger than two (2) square feet in surface area.

3. Signs in Commercial Districts or Transition Districts.

Signs may be erected in Commercial Districts subject to the following provisions:

- A. The total surface area of all business signs on a lot shall not exceed two (2) square feet per lineal foot of lot frontage or ten (10) percent of the building frontage area, or seventy-five (75) square feet, in area whichever is greater. Signs may be illuminated.
- B. Advertising signs shall be on premises and limited to one sign for a business location of 100 foot frontage or less; one additional sign for each additional 100 feet of frontage; or, a minimum of one sign per individual business. Rear signs on businesses shall be governed by the same restrictions as those pertaining to frontage.
- C. No advertising sign may be erected within one hundred (100) feet of an

adjoining RESIDENTIAL DISTRICT. Business identification signs on the same premises may be located up to thirty (30) feet from a Residential District boundary.

- D. For corner lots, the "frontage" used to determine allowable sign area shall be the least dimension along a street, but an equivalent sign area shall be allowed facing the intersecting street.
- E. No sign shall project above the highest point of a roof.
- F. Signs painted on a building shall be governed by the square footage limitations specified above. Such signs shall be maintained in good condition and shall be repainted, removed, or painted out when, in the opinion of the Zoning Administrator, such sign is not so maintained.
- G. Where a sign is illuminated, the source of light shall not be visible from any public right-of-way, and such light shall be directed away from any RESIDENTIAL DISTRICT.
- H. No sign shall project more than one (1) foot perpendicular from the building face.

4. Signs in the I-INDUSTRIAL DISTRICT.

Signs may be erected in the I-INDUSTRIAL DISTRICT subject to the following provisions:

- A. Advertising sign shall be limited to one (1) sign for a business premise of one hundred (100) foot frontage or less and one (1) additional sign for each additional frontage of one hundred (100) feet. Such structures shall not exceed twenty-five (25) feet in length. No advertising sign may be erected within one hundred (100) feet of a RESIDENTIAL DISTRICT.
- B. Sign lighting shall not be directed toward a public right-of-way or any RESIDENTIAL DISTRICT.
- C. The total surface area of all business signs on a lot shall not exceed three (3) square feet per lineal foot of lot frontage or twenty (20) percent of the building frontage area or three hundred (300) square feet in area, whichever is greater. Such signs may be illuminated.
- D. No sign shall project higher than six (6) feet above the height of the building.

4.12082 NONCONFORMING SIGNS. Any advertising device in existence on the effective date of this Code which does not conform to the provisions of this Chapter shall be either brought into conformity with this Chapter or removed from the premises within five (5) years after January 1,1992. Any advertising device

## Chapter 12      Zoning

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in existence on the effective date of this Code which on that date does conform to the provisions of this Chapter but which later does not conform to this Chapter shall be either brought into conformity with this Chapter or removed from the premises. Subject to the provisions of this Chapter, the Zoning Administrator shall have the authority to order either the sign owner or the owner of the premises upon which the sign is located forthwith either to conform a nonconforming advertising device to this Chapter or to remove the advertising device from the premises.

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ADMINISTRATION AND ENFORCEMENT BUILDING PERMITS  
AND CERTIFICATES OF OCCUPANCY

4.12083    ADMINISTRATIONS AND ENFORCEMENT.    The provisions of this Chapter shall be enforced and administered by the Zoning Administrator. If the Zoning Administrator shall find that any of the provisions of this Chapter are being violated, the Zoning Administrator shall notify in writing the person responsible for such violations indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done, or shall take any other action authorized by this Chapter to insure compliance with or to prevent violation of its provisions.

4.12084    BUILDING PERMITS REQUIRED.    Buildings or other structures shall not be erected, added to or structurally altered without a permit issued by the Zoning Administrator. Building permits shall be issued in conformance with the provisions of this Chapter, or upon written order from the Board of Adjustment, but shall be null and void if the purpose for which the permit is issued is not commenced within six months from date of issuance and completed within twelve months from the date of issuance. In the instance of a structure or building removed or demolished, all work must be completed within three months from the date the permit is issued.

4.12085    APPLICATION FOR BUILDING PERMIT.    All applications for building permits shall be accompanied by a site plan in conformance with Section 4.12061 of this Chapter. The application shall include existing or proposed building or alteration; existing or proposed uses of the building and land; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this Chapter.

4.12086    CERTIFICATES OF OCCUPANCY FOR NEW, ALTERED OR NON-CONFORMING USES.    It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or part thereof, which has been erected, changed, converted, altered or enlarged in its use or structure until a certificate of occupancy has been issued by the Zoning Administrator.

Certificates of occupancy shall be applied for coincidentally with the application for a building permit and shall be issued after the completion of the lawful erection or alteration of the building or other improvements.

A temporary certificate of occupancy may be issued by the Zoning Administrator for a period not exceeding six months during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may require such conditions and safeguards as will protect the safety of the occupants and the public.



The Zoning Administrator shall maintain a record of all certificates of occupancy and copies shall be furnished upon request to any person. Failure to obtain a certificate of occupancy shall be a violation of this Chapter and punishable as provided by this Chapter.

4.12087 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS AND CERTIFICATES OF ZONING OCCUPANCY. Building permits or certificates of occupancy issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use or construction set forth in such approved plans and specifications, and no other use or construction. Use or construction at variance with that authorized by Zoning Administrator shall be deemed a violation of this Chapter and punishable as provided by this Chapter.

BOARD OF ADJUSTMENT PROCEDURE, POWERS AND DUTIES

4.12088 BOARD CREATED. A Board of Adjustment is hereby established which shall consist of five (5) members. The term of office of the members of the Board and the manner of their appointment shall be as provided by Chapter 414 of the Code of Iowa. Each member of the Board shall be compensated for meeting attendance at a rate to be fixed by Resolution of the City Council from time to time and shall not need to be fixed by City Ordinance.

4.12089 MEETINGS, GENERAL PROCEDURES AND RULES. Meetings, general board procedures, and rules of the Board shall be in conformance with and pursuant to Chapter 414 of the Code of Iowa as that Chapter now or hereafter provides.

4.12090 APPEALS. Appeals to the Board may be taken by any person aggrieved or by any officer, department, or board of the City of Winterset affected by any decision of the Zoning Administrator. Such appeal shall be taken with ten days by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board after notice of appeal shall have been filed with the Zoning Administrator that by reasons of facts stated in the certificate a stay would in the Administrator's opinion cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application on notice to the Zoning Administrator and on due cause known.

4.12091 FEE FOR APPEAL. Before an appeal to the Board of Adjustment may be considered by the City, the Appellant shall pay the City a fee in a sum of money fixed by Resolution of the City Council from time to time and shall not need to be fixed by City Ordinance.

4.12092 HEARINGS, NOTICE. The Board shall fix a reasonable time for the hearing on the appeal, comply with Chapter 21 of the Code of Iowa and provide notice to the appellant at least twenty-four hours prior to the meeting. At the hearing any party may appear in person or by agent or by attorney.

4.12093 JURISDICTION AND POWERS OF THE BOARD OF ADJUSTMENT.

A. The Board shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Chapter or any supplement or amendment.
2. To hear and decide special use exceptions to the terms of this Chapter upon which the Board is required to pass under this Chapter.
3. To authorize upon appeal in specific cases such variance from the terms of this Chapter as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the Chapter will result in practical difficulty and unnecessary hardship to the applicant so that the spirit of the Chapter shall be observed and substantial justice done.

B. No variance from the provisions of this Chapter shall be made by the Board unless a written application for a variance is submitted demonstrating:

1. That special conditions and circumstances 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 district;
2. That literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Chapter;
3. That the special conditions and circumstances do not result from the actions of the applicant.
4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, structures or buildings in the same district.

C. The Board shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Chapter, shall not be in conflict with the comprehensive Plan, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

D. In granting any variance or other relief, the Board 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 variance or relief is granted, shall be deemed a violation of this Chapter and punishable as provided by this Chapter.

E. Use variances prohibited: Under no circumstances, shall the Board grant

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a variance to allow a use not permissible under the terms of this Chapter in the district involved, or any use expressly or by implication prohibited by the terms of this Chapter in said district.

No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

4.12094 DECISIONS OF THE BOARD OF ADJUSTMENT. In exercising the above-mentioned powers, the Board may so long as such action is in conformity with the terms of this Chapter, reverse or affirm, wholly or partly or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement or determination as ought to be made and to that end shall have powers of the Zoning Administrator from whom the appeal is taken.

The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of this applicant on any matter upon which it is required to pass under this Chapter or to effect any variation in the application of this Chapter.

4.12095 APPEALS FROM DECISION OF THE BOARD OF ADJUSTMENT. Any taxpayer or any officer, department, or board of the City or any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the Board.

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DUTIES OF ADMINISTRATIVE OFFICER, BOARD OF  
ADJUSTMENT, COUNCIL AND COURTS ON MATTERS OF APPEAL

4.12096. DUTIES OF ADMINISTRATIVE OFFICER, BOARD OF ADJUSTMENT, COUNCIL AND COURTS ON MATTERS OF APPEAL. It is the intent of this Chapter that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law.

It is further the intent of this Chapter that the duties of the Council in connection with this Chapter shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this Chapter. Under this Chapter, the Council shall have only the duties of considering and adopting or rejecting proposed amendments or the repeal of this Chapter as provided by law.

CHANGES AND AMENDMENTS  
MAP REPLACEMENT AND ZONING OF ANNEXED AREAS

4.12097 CHANGES AND AMENDMENTS. These zoning regulations may be amended only by duly adopted ordinance. The change shall be made by petition initiated either by the Council or by any other interested person. Upon filing with the Zoning Administrator, the petition shall be referred to the Planning and Zoning Commission.

Unless initiated by the City, each petition for amendment shall be accompanied by a fee in the amount of \$25. The fee is non refundable.

Petitions to change the zoning of property shall contain the following information:

1. The legal description and local address of the property.
2. The present zoning classification and the zoning classification requested for the property.
3. The existing use and proposed use of the property.
4. A statement of the reasons why the applicant feels the present zoning classification is no longer valid.
5. A plat showing the locations, dimensions and use of the applicant's property and all property within two hundred (200) feet thereof, including streets, alleys, railroads, and other physical features.
6. Other information as is required by site plans specified in Section 4.12074 if specific property uses are known at the time a petition for change is submitted.

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The Planning and Zoning Commission shall make a report to the Council within thirty days from the date of the receipt of such petition. The Council, after receiving the report of the Commission, shall hold a public hearing at which parties in interest and citizens shall have an opportunity to be heard. The notice of the time and place of the hearing shall be published as provided in Section 362.3 of the Code of Iowa except that at least seven (7) days notice of the time and place of hearing shall be given by publication in a newspaper of general circulation within the City. In the case of a change in the zoning classification of property, notice of the hearing shall be mailed to the owners of property located within two hundred (200) feet thereof at least seven (7) days prior to the date of the hearing. In no case shall the public hearing be held earlier than the next regularly scheduled City Council meeting following the published notice.

The Council may impose conditions or restrictions on the property owner as provided by Section 414.5 of the Code of Iowa. After holding the public hearing the Council may vote upon the proposed amendment, supplement or change. In case of a written protest against any proposed amendment or change filed with the Zoning Administrator and signed by the owners of twenty per cent or more of the area of the lots included in the proposed change or repeal, or by the owners of twenty percent or more of the property which is located within two hundred feet of the exterior boundaries of the property for which the change or repeal is proposed, the change or repeal shall not become effective except by the favorable vote of at least three-fourths of all the members of the Council. The protest, if filed, must be filed before or at the public hearing.

4.12098. MAP REPLACEMENT. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of use, or requires updating because of annexation or changes in zoning districts, the Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Administrator under the following words:

"This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of Ordinance No. \_\_\_\_\_ of the City of Winterset, Iowa".

4.12099. ZONING OF ANNEXED AREAS. Any land annexed to the City after the effective date of this Chapter may assign an intended zoning district, if known, to the area until the Council has by ordinance established such zoning district for the property. If a final or planned zoning district is not known or agreed to at the time of annexation, then any annexed land shall be zoned A-Agricultural until the Plan Commission shall have studied the area and adopted a final zoning plan for the area in accordance with this chapter and the Council has by ordinance established a different zoning district.

4.12100      COMPLAINTS REGARDING VIOLATIONS.    When a violation of this Chapter occurs or is alleged to have occurred, any aggrieved person may file with the Zoning Administrator a written complaint stating fully the causes and basis of the Complaint. The Zoning Administrator shall promptly investigate the matter and initiate such action, if deemed necessary, as may be authorized by this Chapter. This section shall not be construed to restrict the authority of the Zoning Administrator to apply or enforce the provisions of this Chapter.

ENFORCEMENT, VIOLATIONS AND PENALTIES

4.12101      ENFORCEMENT.    The Zoning Administrator is hereby charged with the responsibility for the enforcement of this Chapter. Any permit issued under this Chapter found to be in violation of the terms of this Chapter shall be null and void from its inception.

4.12102      PENALTIES FOR VIOLATION.    Violation of the provisions of this Chapter or failure to comply with any of its requirements shall be a municipal infraction punishable as provided by law. In addition, any person who violates this Chapter or fails to comply with any of its requirements shall upon conviction be guilty of a simple misdemeanor punishable as provided by law. Each day any such violation continues shall be considered a separate offense and may be the subject of repeated prosecutions, if so continued.

The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

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Chapter 13      AIRPORT TALL STRUCTURE ZONING

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4.1301	PREAMBLE
4.1302	TITLE
4.1303	DEFINITIONS
4.1304	AIRPORT ZONES AND AIRSPACE HEIGHT LIMITATIONS
4.1305	USE RESTRICTIONS
4.1306	LIGHTING
4.1307	VARIANCES
4.1308	ENFORCEMENT
4.1309	BOARD OF ADJUSTMENT
4.1310	APPEALS
4.1311	JUDICIAL REVIEW
4.1312	PENALTIES
4.1313	CONFLICTING REGULATIONS

4.1301 PREAMBLE. This Chapter is adopted pursuant to the authority conferred by Chapter 329 and 414 of the Code of Iowa. It is hereby found that an airport hazard endangers the lives and property of users of the Winterset Airport and of occupants of land or to property in its vicinity, and also, if of obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of the Winterset Airport and the public investment therein. Accordingly, it is declared:

- (1) that the creation or establishment of an airport hazard is a public nuisance and an injury to the area served by the Winterset Airport;
- (2) that it is necessary in the interest of the public health, safety and general welfare that the creation or establishment of airport hazards be prevented; and
- (3) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which municipalities may raise and expend public funds, as an incident to the operation of airports, to acquire land or property interests therein.

4.1302 TITLE. This Chapter shall be known and may be cited as "The Winterset Airport Height Zoning Ordinance".

4.1303 DEFINITIONS. As used in this Chapter unless the context otherwise requires:

AIRPORT - the Winterset Airport

AIRPORT ELEVATION - The highest point of an airport's usable landing area measured in feet above mean sea level, which elevation is established to be 1100 feet.



AIRPORT HAZARD - Any structure or object of natural growth located on or in the vicinity of a public airport, or any use or land near such airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at such airport or is otherwise hazardous to such landing or takeoff of aircraft.

AIRPORT PRIMARY SURFACE - Any surface longitudinally centered on a runway. When the runway has a specially prepared hard surface the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

AIRSPACE HEIGHT - For the purpose of determining the height limits in all zones set forth in this ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

RUNWAY - A defined area on an airport prepared for landing and takeoff of aircraft along its length.

VISUAL RUNWAY - A runway intended solely for the operation of aircraft using visual approach procedures with no straight in instrument approach procedures and no instrument designation indicated on a FAA approved airport layout plan, a military services approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

4.1304    AIRPORT ZONES AND AIRSPACE HEIGHT LIMITATIONS. In order to carry out the provisions of this Chapter there are hereby created and established certain zones which are depicted on the Winterset Airport Height Zoning Map. A structure located in more than one (1) zone of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

A.    Horizontal Zone- The land lying under a horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet radii from the center of each end of the primary surface of runway (s) 15-33, and connecting the adjacent arcs by lines tangent to these arcs.

No structure shall exceed 150 feet above the established airport elevation in the horizontal zone, as depicted on the Winterset Airport Zoning Map.

B.    Conical Zone-The land lying under a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet. No structure shall penetrate the conical surface in the conical zone, as depicted on the Winterset Airport Height Zoning Map.

C. Approach Zone-The land lying under a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. (NOTE: An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.)

(1) The inner edge of the Approach Surface is 250 feet wide for Runway (s) 15-31.

(2) The outer edge of the approach zone is 1,250 feet for Runway (s) 15-31.

(3) The Approach Zone extends for a horizontal distance of 5,000 feet at a slope of 20 to 1 for Runway (s) 15-33.

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

D. Transitional Zone - The land under those surfaces extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the Approach Surfaces.

No structure shall exceed the Transitional Surface, as depicted on the Winterset Airport Height Zoning Map.

4.1305 USE RESTRICTIONS. Notwithstanding any other provisions of Section 4.1304, no use may be made of land or water within the City in such a manner as to interfere with the operation of any airborne aircraft. The following special requirements shall apply to each permitted use:

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

B. No operations from any use shall produce smoke, glare or other visual hazards within three (3) statute miles of any useable runway of the Winterset Airport.

C. No operations from any use in the City shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.

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4.1306      LIGHTING

A.      NOTWITHSTANDING the provisions of Section 4.1304, the owner of any structure over 200 feet above ground level must install on the structure lighting in accordance with Federal Aviation Administration (FAA), Advisory Circular 70-7460-ID and amendments. Additionally, any structure, constructed after the effective date of this Ordinance and exceeding 949 feet above ground level, must install on that structure high intensity white obstruction lights in accordance with Chapter 6 of FAA Advisory Circular 7460-ID and amendments.

B.      Any permit or variance granted may be so conditioned as to require the owner of the structure or growth in question to permit the City at its own expense to install, operate and maintain thereto such markers or lights as may be necessary to indicate to pilots the presence of an airspace hazard.

4.1307      VARIANCES. Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use his property in violation of any section of this Ordinance, may apply to the Board of Adjustment for variance from such regulations. NO application for variance to the requirements of this Chapter may be considered by the Board of Adjustment unless a copy of the application has been submitted to the Winterset Airport Authority or Director of Aeronautics for his opinion as to the aeronautical effects of such a variance. If the Winterset Airport Authority or the Aeronautics Director does not respond to the Board of Adjustment within fifteen (15) days from receipt of the copy of the application, the Board may make its decision to grant or deny the variance.

4.1308      ENFORCEMENT. It shall be the duty of the Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be submitted to the Zoning Administrator. Applications for action by the Board of Adjustment shall be transmitted through the Zoning Administrator.

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4.1309 BOARD OF ADJUSTMENT. There is hereby created a Board of Adjustment to have and exercise the following powers:

(1) To hear and decide appeals from any order, requirement, decision or determination made by the Administrative Officer in the enforcement of this ordinance.

(2) To hear and decide special exceptions to the terms of this Chapter upon which such Board of Adjustment under such regulations may be required to pass.

(3) To hear and decide specific variances.

B. The Board of Adjustment shall consist of the Members of the Zoning from the Board of Adjustment.

C. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision or determination of the Administrative Officer or to decide in favor of the applicant or any matter upon which it is required to pass under this Chapter or to effect any variation in this Chapter.

4.1310      APPEALS.

A. Any person aggrieved, or any taxpayer affected, by any decision of the Administrative Officer made in his administration of this Chapter, may appeal to the Board of Adjustment.

B. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the Administrative Officer a written notice of appeal specifying the grounds thereof. The Administrative Officer shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

C. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Administrative Officer certified to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the Administrative Officer and interested parties and on due cause shown.

D. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

**Chapter 13      AIRPORT TALL STRUCTURE ZONING**

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E. The Board of Adjustment may, in conformity with the provision of this Chapter, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination, as may be appropriate under the circumstances.

4.1311 JUDICIAL REVIEW. Any person aggrieved, or any taxpayer affected, by a decision of the Board of Adjustment may appeal to the Court of Record as provided in Chapter 414.15 of the Code of Iowa.

4.1312 PENALTIES. Each violation of this Chapter or of any regulation, order or ruling promulgated hereunder shall constitute a simple misdemeanor punishable as provided by law. Each day a violation continues to exist shall constitute a separate offense.

4.1313 CONFLICTING REGULATIONS. Where there exists a conflict between any of the regulations or limitations prescribed in this Chapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

**CHAPTER 14      UNFAIR OR DISCRIMINATORY HOUSING PRACTICES**

- 4.1401      DISCRIMINATORY PRACTICES DEFINED
- 4.1402      EXEMPTIONS
- 4.1403      COMPLAINTS FILED

4.1401      DISCRIMINATORY PRACTICES DEFINED. It shall be unlawful discriminatory housing practice to engage in any of the following acts, if they are based on race, creed, color, age, disability, sex, national origin, religion or ancestry:

1.      Refusing to sell or rent to, deal or negotiate with any person.
2.      Discriminating in terms, conditions or privileges for buying, renting or transfer of housing.
3.      Discriminating by advertising that housing is available only to persons of a certain race, etc.
4.      Denying that housing is available for inspection, sale or rent when in fact it is so available.
5.      For profit, persuading owners to sell or rent housing by telling them that minority groups are moving into the neighborhood.
6.      Denying or making different rates, terms or conditions for home loans by commercial lenders, such as banks, savings and loan associations and insurance companies.
7.      Making a record of or making available for public knowledge in any way a persons race, etc.
8.      Denying to anyone the use of or participation in any real estate services, such as brokers' organizations, multiple listing services or other facilities related to the selling or renting of housing.

4.1402 EXEMPTIONS. Nothing in this section, except for discrimination based on race, shall be construed to apply to:

1.      The sale or rental of single-family houses owned by a private individual owner of three or fewer such single-family houses provided:
  - a.      A broker is not used.
  - b.      Discriminatory advertising is not used.
  - c.      No more than one house in which the owner was not the most recent resident is sold during any two-year period.
2.      Rentals of rooms or units in owner-occupied multi-dwellings for two to four families, if discriminatory advertising is not used.

**CHAPTER 14      UNFAIR OR DISCRIMINATORY HOUSING PRACTICES**

3.     Limiting the sale, rental, or occupancy of dwellings which a religious organization owns or operates for other than a commercial purpose to persons of the same religion, if membership in that religion is not restricted on account of race, color or national origin.

4.     Limiting to its own members the rental or occupancy of lodgings which a private club owns or operates for other than a commercial purpose.

4.1403    COMPLAINTS FILED.    In order to insure that the rights of all parties will adequately be protected, the following procedures are available:

1.     Any person claiming to be aggrieved by a discriminatory or unfair practice within the city, may, by himself or through his attorney make, sign and file a verified written charge of discriminatory practice with the Equal Opportunity Officer of the City.

2.     If the local Equal Opportunity Officer is unable to obtain voluntary compliance, the complainant may also send a notarized complaint to HUD within 180 days of the alleged discriminatory act.

3.     A person may also take a complaint directly to the U.S. District Court or State or local court within 180 days of the alleged discriminatory act.

4.     Information about possible discrimination in housing may also be brought to the attention of the Attorney General.

CHAPTER 15            EXCAVATION REQUIREMENTS FOR DEMOLITION OF BUILDINGS

- 4.1501            EXCAVATION REQUIREMENTS
- 4.1502            PENALTIES
  
- 4.1501            EXCAVATION REQUIREMENTS.

(a) Excavation left from wrecked or demolished buildings shall be backfilled with clean dirt or approved back fill materials to the existing grade level. Sewers and water lines and other utility pipes shall be capped or plugged with approved materials and methods and approved by the Building Inspector or his agent before back fillings.

(b) Prior to completion of back fill, all excavations shall be surrounded by flares, lanterns, barricades or fence, to protect the general public, to the satisfaction of the Building Inspector or his agent.

(c) Locations of existing sewer and water lines at the foundation line of the building site shall be platted on 1/4" graph paper, with accurate measurements from two permanent points of reference.

4.1502 PENALTIES. In addition to any other penalties provided by this Code, any person violating any provision of this Chapter shall be guilty of a municipal infraction with remedies to the City as provided by this Code.



**CHAPTER 16 FLOOD PLAIN MANAGEMENT**

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4.1601	STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE
4.1602	GENERAL PROVISIONS
4.1603	ESTABLISHMENT OF FLOOD PLAIN (OVERLAY) DISTRICT
4.1604	STANDARDS FOR FLOOD PLAIN (OVERLAY) DISTRICT
4.1605	ADMINISTRATION
4.1606	DEFINITIONS

4.1601 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE. The Legislature of the State of Iowa has a Chapter 414 of the Code of Iowa, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and promote health and general welfare.

A. Findings of Fact:

1. The flood hazard areas of Winterset, Iowa 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.

2. These flood losses, hazards; 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 otherwise protected from flooding, and (ii) the cumulative effect of obstructions on the flood plain causing increases in flood heights and velocities.

B. State of Purpose.

It is the purpose of this Chapter to protect and preserve the rights, privileges, and property of Winterset, Iowa 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 Section 4.1601 (B) (2) with provisions designed to:

1. 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.

2. 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.

3. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

**CHAPTER 16 FLOOD PLAIN MANAGEMENT**

4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

4.1602 GENERAL PROVISIONS.

A. Lands to which Chapter Apply.

The provisions of this Chapter shall apply to all lands within the jurisdiction of Winterset, Iowa which are located within the boundaries of the Flood Plain (Overlay) District as established in Section 4.1603 of this Chapter.

B. Nonconforming Uses

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

a. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.

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 fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this Ordinance.

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.

C. Rules for Interpretation of Flood Plain (Overlay) District.

The boundaries of the Flood Plain (Overlay) District 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 Administrator shall make the necessary interpretation.

D. Compliance.

No structure of land shall hereafter be used and or 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.

E. Abrogation and Greater Restrictions.

**CHAPTER 16 FLOOD PLAIN MANAGEMENT**

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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.

F. 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 the State statutes.

G. 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 areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of Winterset, Iowa or any officer or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made there under.

4.1603 ESTABLISHMENT OF FLOOD PLAIN (OVERLAY) DISTRICT. The areas within the jurisdiction of the City of Winterset having special flood hazards are hereby designated as a FLOOD PLAIN (Overlay) District and shall be subject to the standards of the FLOOD PLAIN (Overlay) District (as well as those for the underlying zoning district). The FLOOD PLAIN (Overlay) District boundaries shall be as shown on the Flood Insurance Rate Map (FIRM) for Madison County, Iowa and Incorporated Areas, City of Winterset, Iowa Panels 19121C0231C, 0232C, 0233C, 0234C, 0251C, and 0253C, dated October 6, 2010.

4.1604 STANDARDS FOR FLOOD PLAIN (OVERLAY) DISTRICT. All uses shall meet the following applicable performance standards. Where needed, the Department of Natural Resources shall be contacted to compute 100 year flood elevation and floodway data.

- A. All development within the Flood Plain (Overlay) District shall:
  - 1. Be consistent with the need to minimize flood damage.
  - 2. Use construction methods and practices that will minimize flood damage.
  - 3. Use construction materials and utility equipment that are resistant to flood damage.
  - 4. Obtain all necessary permits from Federal, State, and Local Governmental agencies including approval, when required, from the

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Department of Natural Resources.

- B. Structures
  - 1. New or substantially improved residential structures shall have the first floor (including basement) elevated to a minimum of one (1) foot above the 100-year flood level.
  - 2. New or substantially improved non-residential structures shall have the first floor (including basement) elevated to a minimum of one (1) foot above the 100-year flood level, 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 100-year flood, and that the structure below the 100-year flood level is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to the National Geodetic Vertical Datum) to which any structures are flood-proofed shall be maintained by the Administrator.
  - 3. 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 (2) openings having a total net area of not less than one (1) 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 (1) foot above grade.
      - 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
    - 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

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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 services facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

**C. Factory-built Homes.**

Factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement.

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 (1) foot above the 100 year flood level.

**D. Accessory Structures**

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

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

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.

**E. Recreational Vehicles**

- 1. Recreational vehicles are exempt from the requirements of (Section IV E) of this Ordinance regarding anchoring and elevation

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of factory-built homes when the following criteria are satisfied.

- a. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
- b. 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.

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

**F. Subdivisions**

Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimum flood damage and shall provide adequate drainage to reduce exposure to flood hazards. Development associated with subdivisions shall meet the applicable standards of this section.

**G. Utility and Sanitary Systems.**

1. All new and replacement sanitary sewage systems shall be designed to minimize and eliminate infiltration of floodwaters into the system as well as the discharge of effluent into floodwaters.
2. On-site waste disposal system shall be designed to minimize or eliminate infiltration of floodwaters into the system.
3. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
4. Utilities such as gas and electrical systems shall be located and constructed to minimize or eliminate flood damage to the systems and the risk associated with such flood damaged or impaired systems.

**H. Watercourse Alteration or Relocation.**

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Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion.

I. Storage of Materials and Equipment.

Storage of materials and equipment that are flammable, explosive, or injurious to human, animal, or plant life is prohibited unless elevated a minimum of one(1) foot about the 100-year flood level. Other material and equipment must either be similarly elevated, or:

1. Not be subject to major flood damage and be anchored to prevent movement due to flood waters, or
2. Be readily removed after flood warning.

J. Flood control structural works

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

K. Pipeline river and stream 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.

4.1605 ADMINISTRATION.

A. Appointment, duties and responsibilities of Flood Plain Zoning Administrator.

1. The Zoning Administrator is hereby appointed to implement and administer the provisions of this Chapter and will herein be referred to as the Administrator
2. Duties of the Administrator shall include, but not necessarily be limited to the following:

- a. Review all flood plain development permit applications to assure

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that the provisions of this Chapter will be satisfied.

- b. 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.
- c. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.
- d. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) to which all new or substantially improved structures have been flood-proofed.
- e. Notify adjacent communities, county, and the Department of Natural Resources prior to any proposed alteration or relocation of watercourses and submit evidence of such notifications to the Federal Emergency Management Agency.
- f. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Chapter.

B. Flood Plain Development Permit.

1. 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 Ordinance. 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 Ordinance, prior to the use or occupancy of any structure.
2. Permit Required.

A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any man-made change to improve 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.

3. Application for Permit.

Application shall be made on forms furnished by the Administrator and shall



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include the following:

- a. Description of the work to be covered by the permit for which application is to be made.
- b. Description of the land on which the proposed work is to be done (i.e. lot, block, tract, street, address, or similar description) that will readily identify and locate the work to be done.
- c. Indication of the use or occupancy for which the proposed work is intended.
- d. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings.
- e. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
- f. For developments involving more than five (5) acres, the elevation of the 100-year flood.
- g. Such other information as the Administrator deems necessary for the purpose of the Chapter.

4. Procedure for Acting on Permit.

The Administrator shall make a determination as to whether the flood plain development, as proposed, meets the application provisions of Section 4.1604 and shall approve or disapprove the application. In reviewing the proposed development, the Administrator shall obtain, review, and reasonably utilize the available flood plain information or data from Federal, State or other sources.

5. Variance

1. The Building Code Board of Appeals may authorize upon request in specific cases such variances from the terms of this Ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.

SEE ANOTHER FILE NAMED IV #2 FOR THE REMAINDER PAGES 248a - 248h