

a. Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

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

c. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

2. Factors Upon Which the Decision of the Board of Adjustment Shall be Based - In passing upon applications for Variances, the Board shall consider all relevant factors specified in other sections of this Ordinance and:

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

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

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

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

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

f. The requirements of the facility for a FLOOD PLAIN location.

g. The availability of alternative locations not subject to flooding for the proposed use.

- h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - i. The relationship of the proposed use to the comprehensive plan and FLOOD PLAIN management program for the area.
 - j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
 - l. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
 - m. Such other factors which are relevant to the purpose of this Ordinance.
3. Conditions Attached to Variances - Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:
- a. Modification of waste disposal and water supply facilities.
 - b. Limitation of periods of use and operation.
 - c. Imposition of operational controls, sureties, and deed restrictions.
 - d. Requirements for construction of channel modifications, dikes, levees. and other protective measures provided such are approved by the Iowa Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.
 - e. Flood proofing measures.

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The Administrator shall review all subdivision proposals within the Flood Plain (Overlay) District to assure that such proposals are consistent with the purpose and spirit of this Chapter and shall advise the City Council of potential conflicts. Flood plain development in connection with a subdivision (including installation of public facilities) shall require Flood Plain Development Permit as provided in Section V.B1. For proposals greater than 50 lots, the subdivider shall be responsible for providing flood elevation data.

4.1606 DEFINITIONS.

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

BASEMENT - Any enclosed area of a building which has its floor or lowest level below ground level (sub grade) on all sides. Also see "lowest floor".

DEVELOPMENT - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling grading, paving, excavation, or drilling operations.

EXISTING CONSTRUCTION - Any structure for which the "start of construction" commenced before the effective date of the first FLOOD PLAIN management regulations adopted by the City of Winterset.

EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first FLOOD PLAIN management regulations adopted by the City of Winterset.

EXPANSION OF EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION - The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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FACTORY-BUILT HOME - Any structure, designed for residential use, which

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is wholly or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this Chapter, factory-built- homes include mobile homes, manufactured homes, and modular homes and also include park trailer, travel trailers, and other similar vehicles places on a site for greater than 180 consecutive days.

FACTORY BUILT HOME PARK OR SUBDIVISION - A parcel (or contiguous parcels) of land divided into two or more factory built home lots for sale or rent.

FLOOD - A temporary rise in stream's flow or stage that results in water overflowing its banks and inundating areas adjacent to the channel or an unusual and rapid accumulation of runoff or surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM) - The official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

HISTORIC STRUCTURE - Any structure that is:

a. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

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FLOODPROOFING - Any combination of structural and non-structural

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additions, changes or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

FLOODWAY - The channel of a river or stream and those portions of the flood plain adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not result in substantially higher flood levels and flow velocities.

LOWEST FLOOR - The floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

- a. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provision of Section IV. B3.a
- b. The enclosed area is unfinished (not carpeted, dry walled, c. etc.) and used solely for damage potential uses such as building access, parking or storage.
- d. Machinery and service facilities (e.g. hot water heater, furnace, electrical, service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level.
- e. The enclosed area is not a "basement" as defined in this section.

In cases where the lowest enclosed area satisfies criteria a,b,c and d above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

MINOR PROJECTS - Small development activities (except for filling, grading and excavating) valued at less than \$500.

NEW CONSTRUCTION - (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or after the effective date of the first FLOOD PLAIN management regulations adopted by the City of Winterset and includes any subsequent improvements to such structures.

NEW FACTORY-BUILT HOME PARK OR SUBDIVISION - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum,

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the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the effective date of the first FLOOD PLAIN management regulations adopted by the City of Winterset and includes any subsequent improvements to such structures.

RECREATIONAL VEHICLE - A vehicle which is:

- a. Built on a single chassis;
- b. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

ROUTINE MAINTENANCE OF EXISTING BUILDINGS AND FACILITIES B Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

- a) Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
- b) Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
- c) Basement sealing;
- d) Repairing or replacing damaged or broken window panes; and
- e) Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

SPECIAL FLOOD HAZARD AREA - The land within a community subject to a one-percent or greater chance of flooding in any given year. This land is identified as zone A on the Flood Insurance Rate Map.

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STRUCTURE - Anything constructed or erected on the ground or attached to the ground including but not limited to buildings, factories, sheds, cabins, factory-built homes, storage tanks and other similar uses.

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SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - Any improvement to a structure which satisfies either of the following criteria:

Any repair, reconstruction, or improvement of structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (i) before the improvement or repair is started, or (ii) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences whether or not that alternation affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use.

Any addition which increases the original floor area of a building by 25 percent to more. All additions construction after March 1, 1992 shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

VARIANCE - A grant of relief by a community from the terms of the FLOOD PLAIN management regulations.

VIOLATION - The failure of a structure or other development to be fully compliant with the City of Winterset FLOOD PLAIN management regulations.

100 YEAR FLOOD - A flood, the magnitude of which has a one percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every 100-years.

4.1607 PENALTIES FOR VIOLATION

Violations of the provisions of this Chapter or failure to comply with any of the requirements hereof shall constitute a simple misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than Five Hundred Dollars (\$500.00) or imprisoned for not more than thirty (30) days. Nothing herein contained prevent the City of Winterset from taking such other lawful action as is necessary to prevent or remedy violation including a municipal infraction as may be allowed by law.

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4.1608 AMENDMENTS

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

