

CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
 145.02 General Definition of Unsafe
 145.03 Unsafe Building
 145.04 Notice to Owner

145.05 Conduct of Hearing
 145.06 Posting of Signs
 145.07 Right to Demolish; Municipal Infraction
 145.08 Costs

145.01 ENFORCEMENT OFFICER. The Scott County Building Inspector is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight

(48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

(Code of Iowa, Sec. 364.12 [3h])

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF PANORAMA PARK, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.^{7†}

145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

(Code of Iowa, Sec. 364.12[3h])

^{7†} **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

(Code of Iowa, Sec. 364.12[3h])

.....

CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions

146.02 Conversion to Real Property

146.03 Foundation Requirements

146.01 DEFINITIONS. For use in this chapter the following terms are defined:

(Code of Iowa, Sec. 435.1)

1. “Manufactured home” means a factory-built structure built under the authority of 42 U.S.C. Sec. 5403 which was constructed on or after June 15, 1976, and is required by federal law to display a seal from the United States Department of Housing and Urban Development.
2. “Manufactured home community” means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle 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 also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or federal seals.
4. “Mobile home park” means any site, lot, field or tract of land upon which three (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on its own premises and used exclusively to house said entity’s own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home that is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26 & Sec. 435.35)

1. **Retailer’s Stock.** Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.
2. **Existing Homes.** A taxable mobile home or manufactured home that is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be

assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a mobile home park shall be placed on a permanent frost-free foundation system which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.

(Code of Iowa, Sec. 103A.10)

[The next page is 445]

CHAPTER 155

BUILDING AND LAND USE REGULATIONS

155.01 Purpose	155.12 Side Yard Requirements
155.02 Enforcement	155.13 Rear Yard Requirements
155.03 Permit Required	155.14 Minimum Size of Principal Structure
155.04 Erosion Control	155.15 Height Requirements
155.05 Restrictions	155.16 Minimum Building Standards
155.06 Condition of the Permit	155.17 Billboards and Signs
155.07 Permit Void	155.18 Prohibited Use
155.08 Restricted Residence District	155.19 Exceptions
155.09 Notice Requirements	155.20 Certifying Ordinances
155.10 Lot Requirements	155.21 Abatement of Violation
155.11 Front Yard Requirements	155.22 Variances

155.01 PURPOSE. The purpose of this chapter is to provide and establish reasonable rules and regulations for the erection, reconstruction and altering of buildings of all kinds, as well as the use and occupancy of such buildings to promote the health, morals, safety and general welfare in the City.

(Code of Iowa, Sec. 364.1)

155.02 ENFORCEMENT. The Scott County Planning and Development Department is responsible for the administration and enforcement of this chapter.

155.03 PERMIT REQUIRED. The provisions of Section 156.02 of this Code of Ordinances shall be complied with.

155.04 EROSION CONTROL. When a land disturbing activity, as defined by the *Code of Iowa*, is to occur as a part of a project for which a permit is sought, no permit shall be issued unless there is on file with the City a soil erosion control plan which covers the proposed project and is approved by the Soil Conservation District Commissioners.

(Code of Iowa, Sec. 161A.64)

155.05 RESTRICTIONS. No permit for the erection, alteration, use or occupancy of a building or similar structure shall be granted unless it definitely appears that such erection, alteration, use or occupancy shall not cause or be the source of the following:

(Code of Iowa, Sec. 414.24)

1. Noise. Any undue noise.
2. Electrical Interference. Any undue radio or television interference.
3. Odors. Any offensive odors.
4. Refuse. Any offensive or unsightly refuse.
5. Smoke. Any offensive or undue smoke.
6. Fire Hazard. Any fire hazard.
7. Appearance. Any unsightliness due to the appearance of any building or structure on the premises.

8. Congestion. Any undue gathering, congregating, parking of cars, or undue congestion of people or traffic.
9. Other. Any effect which will be obnoxious, offensive, dangerous or injurious to the health, welfare and safety of citizens.

155.06 CONDITION OF THE PERMIT. All work performed under any permit shall conform to the approved application and plans, and approved amendments thereof. The location of all new construction as shown on the approved plot diagram, or an approved amendment thereof, shall be strictly adhered to. It is unlawful to reduce or diminish the area of a lot or plot of which a plot diagram has been filed and has been used as the basis for a permit, unless a revised plot diagram showing the proposed change in conditions shall have been filed and approved; provided that this shall not apply when the lot is reduced by reason of a street opening or widening or other public improvement.

155.07 PERMIT VOID. In the event that construction covered by a permit is not initiated and underway within one year from the date of issuance of a permit, such permit shall be deemed void and of no effect.

155.08 RESTRICTED RESIDENCE DISTRICT. The following area is hereby defined and established as a restricted residence district:

(Code of Iowa, Sec. 414.24)

All that area lying within the corporate limits of the City.

155.09 NOTICE REQUIREMENTS. Whenever a restricted residence district is established or changed, a public hearing must be held, notice of which shall be given at least seven (7) days in advance in the manner prescribed in Section 18.05 of this Code of Ordinances. In no case shall the public hearing be held earlier than the next regularly scheduled City Council meeting following the published notice.

(Code of Iowa, Sec. 414.24)

155.10 LOT REQUIREMENTS. Lot requirements within the restricted residence district shall be in accordance with the following:

1. Every building erected or structurally altered shall be located on a lot and in no case shall there be more than one main building on a lot unless a special permit therefor is obtained from the Council.
2. Every lot or tract of land shall have an area of not less than ten thousand (10,000) square feet and an average width of not less than forty-five (45) feet. However, this subsection shall not apply to any lot or tract of land legally platted and on record as of May 8, 1968.

155.11 FRONT YARD REQUIREMENTS. Within the restricted residence district there shall be a front yard of not less than thirty-five (35) feet (measured from the front lot line). All structures must be set back a minimum of thirty-five (35) feet from Park Avenue.

155.12 SIDE YARD REQUIREMENTS. Within the restricted residence district no principal building shall be erected closer than eight (8) feet to either side lot line. No accessory building, other than a garage, shall project beyond the side line of the principal building as extended.

155.13 REAR YARD REQUIREMENTS. Within the restricted residence district there shall be a rear yard provided for each principal building of not less than thirty (30) feet (when measured from the rear lot line) or twenty percent (20%) of the depth of the lot, whichever amount is smaller.

155.14 MINIMUM SIZE OF PRINCIPAL STRUCTURE. Within a restricted residential district no principal structure shall have a width or length less than twenty-two (22) feet.

155.15 HEIGHT REQUIREMENTS. Within the restricted residence district no building shall be erected more than two stories above the ground level.

155.16 MINIMUM BUILDING STANDARDS. All buildings and structures shall meet the minimum building standards of the Iowa State Building Code.

155.17 BILLBOARDS AND SIGNS. No billboard or sign shall be constructed or erected without first receiving a building permit therefor.

155.18 PROHIBITED USE. No building or other structure, except residences, school houses, churches and other similar structures, shall be erected, altered, repaired, used or occupied within the restricted residence district as defined herein without first receiving from the Council a special use permit therefor. No such special use permit shall be issued without the affirmative vote of three-fourths ($\frac{3}{4}$) of the full Council.

155.19 EXCEPTIONS. The provisions of the preceding section shall have no application to any business, store or shop existing and in operation in the restricted residence district on the effective date of the ordinance adopting this Code of Ordinances, except in the matter of reconstruction, repair, alteration or change in use of the structure.

155.20 CERTIFYING ORDINANCES. Within fifteen (15) days of the effective date of the adoption of any amendments to the provisions of this chapter the Clerk shall certify such amendment to the County Recorder.

(Code of Iowa, Sec. 380.11)

155.21 ABATEMENT OF VIOLATION. Any building or structure erected, altered, repaired, used or occupied in violation of this chapter shall be determined a nuisance and the same may be abated by the City or by any property owner within said district in the manner provided for the abatement of nuisances.

155.22 VARIANCES. Variances to the provisions of this chapter may be granted by an affirmative vote of two-thirds of all of the members of the Council. Said variance must include the reason for a variance, why the variance was granted, and a specific description of the property for which the variance was granted.

[The next page is 465]

CHAPTER 156
CONSTRUCTION CODE

156.01 Construction Standards**156.02 Permit Required**

156.01 CONSTRUCTION STANDARDS. Pursuant to an agreement by and between the City and the County, the Scott County Construction Code Chapter 5 is applicable to all construction within the City and shall be administered by the Scott County Planning and Development Department, except for the legal enforcement of violations thereof.

156.02 PERMIT REQUIRED. No person shall erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure in the City or cause the same to be done without first obtaining, at a cost of ten dollars (\$10.00), a preliminary permit from the Council granting permission to obtain a separate building permit for each such building or structure from the County Planning and Development Department, Scott County Courthouse. All work shall be completed in accordance with the Construction Code.

.....

CHAPTER 157

SWIMMING POOLS

157.01 Compliance Required
 157.02 Definition
 157.03 Location
 157.04 Permit Required
 157.05 Drawings, Plans, Permits

157.06 Fences
 157.07 Electrical Requirements
 157.08 Drainage
 157.09 Sanitation
 157.10 Inspection

157.01 COMPLIANCE REQUIRED. It is unlawful to construct, maintain, install or enlarge any swimming pool in the City except in compliance with all provisions of this chapter.

157.02 DEFINITION. The term “swimming pool” means a receptacle for water, or an artificial pool of water having a depth at any point of more than two (2) feet, intended for the purpose of immersion or partial immersion therein of human beings.

157.03 LOCATION. No portion of a swimming pool outside a building shall be located at a distance less than ten (10) feet from any side or rear property line or building line. Pumps, filters and pool water disinfecting equipment installations shall be located at a distance not less than ten (10) feet from any side property line.

157.04 PERMIT REQUIRED. It is unlawful to proceed with the construction, installation, enlargement or alterations of any private residential swimming pool and appurtenances within the City unless permits therefor shall have been obtained from the Building Official.

157.05 DRAWINGS, PLANS, PERMITS. All drawings and plans for the construction, installation, enlargement or alteration of any swimming pool and appurtenances shall first be presented to the Building Official for examination and approval as to proper location and construction.

157.06 FENCES.

1. Every person who shall own or be in possession of any premises on which there is situated as of September 6, 1981, or at any time thereafter a swimming pool with a water depth of twenty-four inches (24") or more in any portion thereof, shall maintain on the lot or premises upon which such swimming pool is situated a fence, wall, or other adequate structure completely surrounding such pool to make the same reasonably inaccessible to all persons, including small children. Such fence, wall, or other structure must not be less than four and one-half (4½) feet in height above the grade with no openings large enough to admit a child except through doors or gates as hereinafter provided.

2. All doors or gates shall be of such size as to completely fill any opening in the fence, wall or other structure, and shall be equipped with self-closing and self-latching devices capable of keeping such gate or door securely closed, and with such closing or latching devices inaccessible from the outside to small children. In lieu of such self-closing and self-latching devices said doors and gates may be equipped with locks which shall be kept locked at all times when said pool is not in actual use.

3. The Building Official may allow slight modification for good cause shown in individual cases with respect to height of the fence, wall, or other enclosing structure or the nature or position of the latch or other locking device.

157.07 ELECTRICAL REQUIREMENTS. No current carrying electrical conductors shall cross a private residential swimming pool, either overhead or underground or within fifteen feet (15') of such pool.

157.08 DRAINAGE. Pools shall be equipped with facilities for completely emptying the pool with a discharge that will not cause flooding of existing water relief ditches or other property, or a health hazard. Water may be discharged into storm sewers or water relief ditches as are available in the City. The water discharge shall not be emptied into the sanitary sewer of the City nor shall any direct connection be made to the sanitary sewer.

157.09 SANITATION. The water in the pool must be circulated frequently enough to prevent stagnation and the pool shall be cleaned and skimmed often enough to meet all County and City standards.

157.10 INSPECTION. The Building Official shall periodically inspect all swimming pools to determine whether or not the provisions of the ordinances regarding health, sanitation and safety applicable thereto are being complied with.

CHAPTER 158**LOCATION OF SATELLITE RECEIVERS****158.01 Definition****158.02 Location on Lot**

158.01 DEFINITION. A satellite receiver is a concave dish antenna designed and intended to transmit or receive or intercept microwave, television, radio and other such signals or transmissions.

158.02 LOCATION ON LOT. No satellite receiver shall be erected or placed unless a permit therefor has been obtained from the Council. No satellite receiver shall be located on any residential lot except as set forth herein.

1. No satellite receiver shall be erected or placed in or on any front or side yard, or in any vacant lot.
2. A satellite receiver may be erected or placed in any rear yard, provided that it is located no nearer to any side lot line than the required or actual distance between the principal building on said lot and the side lot line, whichever is greater, and no less than twenty (20) feet from the rear lot line, and provided that a satellite receiver must be located at least thirty (30) feet from any rear yard lot line that abuts a public street or highway.
3. No satellite receiver in excess of three (3) feet in diameter shall be erected upon or affixed to any building.
4. A satellite receiver may be erected or placed in any corner lot provided it is located only in the yard that is opposite the yard used for the street address of the residence.

[The next page is 485]

CHAPTER 160

FLOODPLAIN REGULATIONS

160.01 Definitions

160.02 Statutory Authority, Findings of Fact and Purpose

160.03 General Provisions

160.04 Administration

160.05 Floodplain Management Standards

160.06 Variance Procedures

160.07 Nonconforming Uses

160.08 Penalties for Violation

160.09 Amendments

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

1. “Appurtenant structure” means a structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure
2. “Base flood” means the flood having one percent chance of being equaled or exceeded in any given year and is also commonly referred to as the “100-year flood.”
3. “Base flood elevation” (BFE) means the elevation floodwaters would reach at a particular site during the occurrence of a base flood event.
4. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”
5. “Development” means any man-made change to improved or unimproved real estate, including (but not limited to) buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. “Development” does not include minor projects or routine maintenance of existing buildings and facilities, as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.
6. “Enclosed area below lowest floor” means the floor of the lowest enclosed area in a building when all the following criteria are met:
 - A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of Section 160.05(1)(D)(1) of this chapter.
 - B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking, or storage.
 - C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot above the base flood elevation.
 - D. The enclosed area is not a basement as defined in this section.

7. “Existing construction” means any structure for which the start of construction commenced before the effective date of the first floodplain management regulations adopted by the community.
8. “Existing factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.
9. “Expansion of existing factory-built home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
10. “Factory-built home” means any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this chapter, factory-built homes include mobile homes, manufactured homes, and modular homes; and also include recreational vehicles which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
11. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
12. “500-year flood” means a flood, the magnitude of which has a two-tenths percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every 500 years.
13. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
14. “Flood insurance rate map” (FIRM) means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.
15. “Flood insurance study” (FIS) means a report published by FEMA for a community issued along with the community’s Flood Insurance Rate Maps. The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.
16. “Floodplain” means any land area susceptible to being inundated by water as a result of a flood.
17. “Floodplain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including (but not limited to) emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.

18. "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.
19. "Floodway" means the channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one foot.
20. "Floodway fringe" means those portions of the Special Flood Hazard Area outside the floodway.
21. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
22. "Historic structure" means any structure that is:
 - A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register.
 - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
 - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior.
 - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved State program as determined by the Secretary of the Interior; or (ii) directly by the Secretary of the Interior in states without approved programs.
23. "Lowest floor" means the floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of Enclosed Area Below Lowest Floor are met.
24. "Maximum damage potential development" means hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.
25. "Minor projects" means small development activities (except for filling, grading, and excavating) valued at less than \$500.00.
26. "New construction" (new buildings, factory-built home parks, accessory structures) means those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the

community.

27. "New factory-built home park or subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the first floodplain management regulations adopted by the community.
28. "Recreational vehicle" means a vehicle which is:
 - A. Built on a single chassis.
 - B. Four hundred (400) square feet or less when measured at the largest horizontal projection.
 - C. Designed to be self-propelled or permanently towable by a light duty truck.
 - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
29. "Routine maintenance of existing buildings and facilities" means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:
 - A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding.
 - B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
 - C. Basement sealing.
 - D. Repairing or replacing damaged or broken window panes.
 - E. Repairing plumbing systems, electrical systems, heating or air conditioning systems, and repairing wells or septic systems.
30. "Special flood hazard area" (SFHA) means the land within a community subject to the base flood. This land is identified on the community's Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.
31. "Start of construction" includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the

installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

32. "Structure" means anything constructed or erected on the ground or attached to the ground, including (but not limited to) buildings, factories, sheds, cabins, factory-built homes, storage tanks, grain storage facilities, and/or other similar uses.
33. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.
34. "Substantial improvement" means any improvement to a structure which satisfies either of the following criteria:
 - A. Any repair, reconstruction or improvement of a structure taking place during a 10-year period, the cumulative cost of which, equals or exceeds fifty (50) percent of the market value of the structure either (i) before the "start of construction" of the first improvement of the structure, or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
 - B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.
35. "Variance" means a grant of relief by a community from the terms of the floodplain management regulations.
36. "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

160.02 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.

1. The Legislature of the State of Iowa has in Chapter 364, *Code of Iowa*, as amended, delegated the power to cities to exercise any power and perform any function it deems

appropriate to protect and preserve the rights, privileges and property of the City or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents.

2. Findings of Fact.

- A. The flood hazard areas of the City are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.
- B. These flood losses, hazards, and related adverse effects are caused by: (i) the occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding; and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.
- C. This chapter relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.

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

- A. Reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.
- B. 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.
- C. 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.
- D. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
- E. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

160.03 GENERAL PROVISIONS.

- 1. Lands to Which Ordinance Apply. The provisions of this Ordinance shall apply to all lands and development which have significant flood hazards. The Flood Insurance Rate Map (FIRM) for Scott County and Incorporated Areas, City of Panorama Park, Panel 19163C0387G, dated March 23, 2021, which were prepared as part of the Scott County

Flood Insurance Study, shall be used to identify such flood hazard areas and all areas shown thereon to be within the boundaries of the base flood shall be considered as having significant flood hazards. The Scott County Flood Insurance Study is hereby adopted by reference and is made a part of this ordinance for the purpose of administering floodplain management regulations.

2. Rules for Interpretation of Flood Hazard Boundaries. The boundaries of the Special Flood Hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. Where uncertainty exists with respect to the precise location of the base flood boundary, the location shall be determined on the basis of the base flood elevation at the particular site in question. When an interpretation is needed as to the exact location of a boundary, the Administrator shall make the necessary interpretation. The Council shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Administrator in the enforcement or administration of this Ordinance.
3. Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.
4. Abrogation and Greater Restrictions. It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.
5. Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.
6. Warning and Disclaimer of Liability. The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated Floodplain (Overlay) District areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.
7. Severability. If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

160.04 ADMINISTRATION.¹

1. Appointment, Duties and Responsibilities of Local Official

- A. The Scott County Director of Planning and Development is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator.
- B. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:
 - (1) Review all floodplain development permit applications to assure that the provisions of this chapter will be satisfied.
 - (2) Review floodplain 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 floodplain construction.
 - (3) Record and maintain a record of (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures or (ii) the elevation to which new or substantially improved structures have been floodproofed.
 - (4) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
 - (5) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.
 - (6) Submit to the Federal Insurance Administration an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.
 - (7) Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.
 - (8) Review subdivision proposals to insure such proposals are consistent with the purpose of this ordinance and advise the Council of potential conflict
 - (9) Maintain the accuracy of the community's Flood Insurance Rate Maps when;

¹ EDITOR'S NOTE: Pursuant to a 28E agreement by and between the City and the Scott County Board of Supervisors, the City delegates the duties and responsibilities of administering the floodplain regulations to the Scott County Planning and Development Department, except the legal enforcement of flood plain ordinance violations.

- a. Development placed within the floodway results in any of the following: (i) an increase in the Base Flood Elevations, or (ii) alteration to the floodway boundary
- b. Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base elevation; or
- c. Development relocates or alters the channel.

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

- (10) Perform site inspections to ensure compliance with the standards of this Ordinance.
- (11) Forward all requests for Variances to the Council for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the Council.

2. Floodplain Development Permit

- A. Permit Required - A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, storage of materials and equipment, excavation or drilling operations), including the placement of factory-built homes.
- B. Application for Permit - Application shall be made on forms furnished by the Administrator and shall include the following:
 - (1) Description of the work to be covered by the permit for which application is to be made.
 - (2) Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
 - (3) Location and dimensions of all structures and additions
 - (4) Indication of the use or occupancy for which the proposed work is intended.
 - (5) Elevation of the base flood.
 - (6) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of structures or of the level to which a

structure is to be floodproofed.

- (7) For structures being improved or rebuilt, the estimated cost of improvements and market value of the structure prior to the improvements.
- (8) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this Ordinance.

C. Action on Permit Application. The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the Council.

D. Construction and Use to Be as Provided in Application and Plans. Floodplain development permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, structure floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

160.05 FLOODPLAIN MANAGEMENT STANDARDS.

1. General Floodplain Standards. All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations have not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the base flood elevation. Until a regulatory floodway is designated, no development may increase the Base Flood Elevation more than one (1) foot. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where (i) the bridge or culvert is located on a stream that drains less than two (2) square miles, and (ii) the bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567-71.2(2), Iowa Administrative Code.

A. All development shall:

- (1) Be designed and adequately anchored to prevent flotation, collapse, or lateral movement.
- (2) Use construction methods and practices that will minimize flood damage.

(3) Use construction materials and utility equipment that are resistant to flood damage.

B. Residential Structures. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the base flood elevation and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) may be allowed subject to favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Floodplain Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), Iowa Administrative Code.

C. Nonresidential Structures. All new or substantially improved nonresidential structures shall have the lowest floor (including basement) elevated a minimum of one foot above the base flood elevation, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Floodplain Administrator.

D. All New and Substantially Improved Structures:

(1) 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:

a. A minimum of two (2) openings, with positioning on at least two (2) walls, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than one foot

above grade.

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

- (2) Where the distance between the floor and ceiling of the fully enclosed area below the “lowest floor” is five (5) feet or more, the applicant shall be required to sign and record with the Scott County Recorder a Non-Conversion Agreement that ensures the lower enclosed area remains compliant with the criteria outlined in this subsection.
- (3) New and substantially improved structures shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities (including ductwork) elevated or floodproofed to a minimum of one (1) foot above the base flood elevation.

E. Factory-Built Homes:

- (1) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one foot above the base flood elevation.
- (2) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the *State Building Code*.

F. Utility and Sanitary Systems:

- (1) On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
- (2) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one foot above the base flood elevation.
- (3) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one foot above the base flood elevation.
- (4) Utilities such as gas or electrical systems shall be located and constructed

to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

- G. Storage of Equipment and Materials. Storage of equipment and materials that are flammable, explosive, or injurious to human, animal, or plant life is prohibited unless elevated a minimum of one foot above the base flood elevation. Other material and equipment must either be similarly elevated or: (i) not subject to major flood damage and anchored to prevent movement due to flood waters; or (ii) readily removable from the area within the time available after flood warning.
- H. Flood Control Structures. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of three feet of design freeboard and shall provide for adequate interior drainage. In addition, the Department of Natural Resources shall approve structural flood control works.
- I. Watercourse Alterations. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.
- J. Subdivision. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the base flood. Proposals for subdivisions greater than five acres or 50 lots (whichever is less) shall include base flood elevation data for those areas located within the Special Flood Hazard Area.
- K. Accessory Structures to Residential Uses.
 - (1) Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied:
 - a. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than 1 foot above the base flood elevation must be constructed of flood-resistant materials.
 - b. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.
 - c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

- d. The structure shall be firmly anchored to prevent flotation, collapse, and lateral movement which may result in damage to other structures.
- e. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.
- f. The structure's walls shall include openings that satisfy the provisions of Paragraph D(1) of this subsection.

(2) Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

L. Recreational Vehicles. Recreational vehicles are exempt from the requirements of Paragraph E of this subsection regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

- (1) The recreational vehicle shall be located on the site for less than 180 consecutive days; and
- (2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

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 Paragraph E of this subsection regarding anchoring and elevation of factory-built homes.

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

N. Maximum Damage Potential Development. All new or substantially improved maximum damage potential development shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing 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 0.2% annual chance flood; and that the structure, below the 0.2% annual chance flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator. Where 0.2% chance flood elevation data has

not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

2. Special Floodway Provisions. In addition to the General Floodplain Standards, development within the floodway must meet the following applicable standards. The floodway is that portion of the floodplain which must be protected from developmental encroachment to allow the free flow of flood waters. Where floodway data has been provided in the Flood Insurance Study, such data shall be used to define the floodway. Where no floodway data has been provided, the Department of Natural Resources shall be contacted to provide a floodway delineation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.
 - A. No development shall be permitted in the floodway that would result in any increase in the base flood elevation. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
 - B. All development within the floodway 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.
 - C. No development shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other drainage facility or system.
 - D. Structures, buildings, recreational vehicles, and sanitary and utility systems, if permitted, shall meet the applicable General Floodplain standards and shall be constructed or aligned to present the minimum possible resistance to flood flows.
 - E. Structures, if permitted, shall have a low flood damage potential and shall not be for human habitation.
 - F. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the floodway within the time available after flood warning.
 - G. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
 - H. Any fill allowed in the floodway must be shown to have some beneficial purpose

and shall be limited to the minimum amount necessary.

- I. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

160.06 VARIANCE PROCEDURES.

1. The Council 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.
 - A. Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
 - B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
 - C. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - D. In cases where the variance involves a lower level of flood protection for structures 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.
 - E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.
2. Factors Upon Which the Decision of the Council Shall be Based - In passing upon applications for Variances, the Council 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.
 - F. The requirements of the facility for a floodplain 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 floodplain 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 Council 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 Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.
 - E. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Council shall require that the applicant submit a plan or document certified by a registered professional engineer that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

160.07 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance codified in this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:
 - A. If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this chapter.
 - B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation

Except as provided in Subsection 1(B) of this section, any use which has been permitted as a variance shall be considered a conforming use.

160.08 PENALTIES FOR VIOLATION.

Violations of the provisions of this chapter or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$1,000.00 (one thousand dollars). Nothing herein contained prevents the City from taking such other lawful action as is necessary to prevent or remedy violation.

160.09 AMENDMENTS.

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