

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
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145.01 ENFORCEMENT OFFICER. The Mayor 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 WYOMING, 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.

145.07 RIGHT TO DEMOLISH. 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.

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

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.

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

[†] **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.

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CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions

146.03 Foundation Requirements

146.02 Conversion to Real Property

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 their own premises and used exclusively to house their 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 which 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 which 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 manufactured home community or 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 & 414.28)

CHAPTER 150

TREES

150.01 Definition

150.02 Planting Restrictions

150.03 Duty to Trim Trees

150.04 Trimming Trees to be Supervised

150.05 Disease Control

150.06 Inspection and Removal

150.01 DEFINITION. For use in this chapter, “parking” means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

150.02 PLANTING RESTRICTIONS. No tree shall be planted in any parking or street.

150.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2c, d & e])

150.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 150.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

150.05 DISEASE CONTROL. Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

150.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected

by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

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CHAPTER 151

NUMBERING OF BUILDINGS

151.01 Buildings to Be Numbered
151.02 Numbering System

151.03 Type of Numbers; Size
151.04 Enforcement

151.01 BUILDINGS TO BE NUMBERED. All buildings now or hereafter erected within the City limits and used as principal structures for residency or business shall be assigned numbers and the owners notified of the assigned number. Any building not used as a principal structure but which is provided with a separate utility service shall also be assigned a number. The owners shall cause the numbers to be placed and maintained on their property.

151.02 NUMBERING SYSTEM. Numbers shall be assigned in accordance with the system developed by the City Council. The east streets shall have even numbers on the south side and odd numbers on the north side. The west streets shall have odd numbers on the south side and even numbers on the north side. The north streets shall have even numbers on the east side and odd numbers on the west side. The south streets shall have odd numbers on the east side and even numbers on the west side. The owner shall obtain the assigned number to the principal building from the Clerk.

151.03 TYPE OF NUMBERS; SIZE. The numbers shall be conspicuously displayed on the portion of the building of which the primary entrance faces the street. If the numbers are not displayed on the building, they must be installed in a manner and location to avoid confusion as to the building identified. Curbside painted numbers will not satisfy the requirements of this chapter. All numbers shall be of durable substance, clearly legible and shall be not less than three (3) inches in height in a color contrasting with the surrounding material.

151.04 ENFORCEMENT. If numbers meeting the requirements of this chapter have not been placed on each building, the City shall cause individual notice to be given to the owner of buildings not numbered, requiring compliance within one month of the date of the notice. Any person or organization found to be in violation thereof shall be deemed to have committed a simple misdemeanor punishable as provided by law and/or as a municipal infraction. In addition, upon application and showing of cause, injunction relief may be sought as a remedy, each daily violation punishable as a separate misdemeanor and/or municipal infraction.

(Ch. 151 – Ord. 306 – Oct. 04 Supp.)

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CHAPTER 155

USE OF PUBLIC PROPERTY AND RIGHT-OF-WAY

155.01 Purpose and Rule of Interpretation	155.09 City Construction and Paving
155.02 Franchise, License or Lease Required	155.10 Design Notice to City
155.03 Fees Required	155.11 Above-Ground Cables, Wires, Conduits and Poles
155.04 Limit on Term	155.12 Assignment
155.05 Placement of Facilities	155.13 Forfeiture
155.06 Indemnification and Bond	155.14 Application
155.07 Regulation by the City	155.15 Home Rule
155.08 Construction and Excavation by Holders	155.16 New Technologies

155.01 PURPOSE AND RULE OF INTERPRETATION. The purpose of this chapter is to establish uniform rules and controls to ensure public safety and provide efficient delivery of services by the City and others wishing to utilize streets and other public property for the delivery of utility or other services, in order to protect public and private investment, ensure orderly use of public property and ensure the health, safety and welfare of the population, to provide for the regulation and administration of the public streets and other public property and secure the rights of the City to a return on its investment in public property. This chapter is to be interpreted in light of these findings for the benefit of the public and users of the streets and other public property.

155.02 FRANCHISE, LICENSE OR LEASE REQUIRED. No person or other entity shall use the public right-of-way or other public property without first obtaining a franchise, license or lease from the City. The City shall not enter into or issue any franchise, license or lease that grants exclusive rights. An application for a license or lease shall be filed with the Clerk on a form provided by the City[†] and shall include as a minimum the following information: the name, address and telephone number of the applicant; the name, address and telephone number of a person whom the City may notify or contact at any time concerning the license or lease; an engineering site plan showing the proposed location of the facilities including any manholes, the size, type and proposed depth of any conduit or other enclosures; and any additional information the City may require. All licenses or leases required by this section shall be granted by the Council.

155.03 FEES REQUIRED. No franchise, license or lease for the use of public right-of-way or other public property shall be granted without requiring the grantee thereof to pay a reasonable and competitively neutral fee for the use of public right-of-way or other public property. The fees will be as follows:

[†] **EDITOR'S NOTE:** See Appendix to this Code of Ordinances for form of application.

1. All new franchises shall be assessed a franchise fee of up to five percent (5%) of the gross receipts of customers within the City limits.
2. A license or lease fee will be assessed on all new licenses or leases for space in the right-of-way. This license or lease fee is a one-time fee for the term of the license or lease. Payment is expected when the license or lease is signed; however, a payment schedule may be entered into between the City and the licensee or lessee. Any payment schedule must require full payment of the fee by the end of the fifth year of the license or lease. If the license or lease is renewed, a new license or lease fee will be assessed. The fee shall be based on actual administrative cost to the City for processing application and issuance of any license or lease and is established as follows:

NEW LICENSE OR LEASE FEE

\$250.00 per application filed
\$250.00 per license or lease issued

In addition to the license or lease fee, an annual right-of-way management fee will be assessed on July 1 of each year that the license or lease is in force. The fee is based on the number of linear feet of wire laid in the City right-of-way, and reflects the actual management cost the City incurs while managing the right-of-way. The fee is established as follows:

RIGHT-OF-WAY MANAGEMENT FEES

Buried Lines
All Carriers
\$0.30 per linear foot

Non-buried Lines
Telephone Service Only
All Carriers
\$2.00 per pole

Electronic Network Services
All Carriers
\$3.25 per pole

CATV Service Only
All Carriers
\$4.50 per pole

In addition to the license or lease fee and annual management fee, any person or other entity shall pay a fee every time their facility requires excavation in the right-of-way. This fee will cover costs for street

degradation and replacement, inspection and obstruction and routing of pedestrian and vehicle traffic. The fee schedule is established as follows:

EXCAVATION FEES

All Surfaces

\$100.00 excavation permit fee

Non-surfaced Right-of-way

\$0.50 per linear foot of open trench

Surfaced Right-of-way

Roads, Highways and Streets

\$14.00 per square yard of asphaltic surface

Curbs and Gutters

\$16.00 per linear foot of concrete surface

Sidewalks

\$8.00 per linear foot of concrete surface

All or part of this fee may be waived if work is done in conjunction with City construction.

155.04 LIMIT ON TERM. No franchise, license or lease for use of the public right-of-way or other public property shall be granted for a term in excess of twenty-five (25) years.

155.05 PLACEMENT OF FACILITIES. The facilities, fixtures and equipment of the distribution, transmission or sale of any utility services, or services provided under license or lease or easement, shall be placed and maintained so as not to unnecessarily or unreasonably interfere with the travel on the streets, highways, avenues, alleys, bridges and public places in the City, nor shall such facilities, fixtures and equipment interfere with the proper use of the same, including, but not limited to, ordinary drainage, or the functioning of the sewers, underground pipe or other property of the City. In the event that facilities, fixtures and equipment of any person or other entity located within a public right-of-way must be relocated because of paving, road construction or road reconstruction, sewer construction or sewer reconstruction or the construction or reconstruction of public drainage systems or similar public works or the construction or reconstruction of the facilities of any City-owned utility, such relocation, at the written request of the City, shall be completed by the owner of such facilities at the owner's cost. The City shall upon request of any person or other entity holding a franchise, license or lease, review any plans for the construction of facilities, fixtures and equipment within the public right-of-way and advise the person or other entity of any conflict such construction

may have with planned or anticipated public improvements, but failure of the City to so advise such person or other entity will not relieve the owner of such facilities of its obligations under this chapter. Notwithstanding the foregoing, the Council may require placement of equipment or facilities belonging to any holder of a franchise, license or lease be limited to locations designated by the Council if such limitation is deemed by the Council to be necessary to protect the integrity of use of present and future users of the public right-of-way or other public property.

155.06 INDEMNIFICATION AND BOND. The holder of any franchise, license or lease shall indemnify and hold the City harmless at all times during the term of the franchise, license or lease from and against all claims for injury or damage to any person or property, including payments under worker's compensation laws, caused by the construction, erection, operation or maintenance of its facilities, fixtures or equipment, or the negligence of its contractors or its employees. In case of any suit or action at law being commenced against the City, upon any claim for damage arising out of any loss, injury or damage claimed to have been caused by any installation, improvement, obstruction or excavation made or left in, under or upon such street, sidewalk, alley or public place by the holder of a franchise, license or lease, its agents, contractors or employees, upon being notified in writing by the City of such action or proceeding, the holder of said franchise, license or lease shall appear and make proper defense thereto at the expense of the holder of the franchise, license or lease; and if any judgment or decree shall in any such case be rendered against the City therein, the holder of said franchise, license or lease shall assume, pay and satisfy such judgment or decree, with the cost thereof. Immediately upon issuance of the franchise, license or lease, the holder of the franchise, license or lease shall purchase general liability insurance. The amount of insurance shall be a minimum of \$1,000,000 with a maximum deductible of \$5,000. The holder of the franchise, license or lease shall file with the Clerk a certificate of insurance which clearly discloses on its face coverage in conformity with these requirements. Upon request of the City, the holder of the franchise, license or lease shall submit a certified copy of the policy.

155.07 REGULATION BY THE CITY. The City reserves the right to make reasonable general regulations for the use of streets and other public property which unless otherwise specifically provided shall apply to any holder of a franchise, license or lease.

155.08 CONSTRUCTION AND EXCAVATION BY HOLDERS. A written permit will be obtained from the Clerk whenever it becomes necessary

for the holder of any franchise, license or lease to excavate in streets or public grounds of the City. Such permits shall state a particular part or point of the street where the excavation is to be made and the length of time in which such permit shall authorize the work to be done. An exception to a requirement for a permit shall be made in cases of emergency involving public safety, in which case a permit will be obtained at the earliest opportunity after the work has started. In making excavations in the streets, the holder of any franchise, license or lease shall proceed with such work as to cause the least possible inconvenience to the public. The holder of any franchise, license or lease shall properly protect, according to safety standards generally accepted at the time of placement as may be determined from time to time by the Street Superintendent, all excavations and obstructions by proper placement of shoring, surface plates, barricades, warning lights and such other or additional devices as circumstances may warrant. If in the opinion of the Street Superintendent such excavation or obstruction is not properly and safely protected, the Street Superintendent shall notify such holder of a franchise, license or lease, who shall immediately comply with such reasonable instructions. Immediately after use, any trenches for excavations which the holder of a franchise, license or lease has opened shall be filled. However, no trench or excavation in the streets shall be filled or covered without giving the City the right to inspect the same. All backfilling in streets will be according to City specifications. Temporary street surfacing will be placed in such excavations as soon as the same has been backfilled. Pavements, sidewalks, curbs and gutters or other portions of streets and public places opened, disturbed or damaged shall be promptly restored and replaced with like materials at the expense of the holder of a franchise, license or lease and left in as good condition as before the opening, disturbance or damage occurred. In the event like replacement materials are not available, the holder of the franchise, license or lease shall notify the Street Superintendent, who must approve the use of any alternate materials. In the event that the holder of a franchise, license or lease fails to comply with the provision of this section, after having been given reasonable notice, the City may do such work as may be needed to properly repair such pavements, sidewalks, curbs and gutters or other portions of streets and public places and the cost thereof shall be repaired to the City by the holder of the franchise, license or lease. In cases where a cut or disturbance is made in a section of street paving or sidewalks, but causes greater disturbance than to just the area cut, rather than replace only the area cut, the holder of a franchise, license or lease shall replace that area as may be ordered by the Street Superintendent, which in no event shall exceed the panel or panels disturbed.

155.09 CITY CONSTRUCTION AND PAVING. Whenever the City shall pave or repave any street or shall change the grade line of any street or public place or shall construct or reconstruct any conduit, water main service or water connection, sewer or other City-owned public works or City-owned utility, it shall be the duty of the holder of any franchise, license or lease, when so ordered by the City, to relocate its service lines and other property in the streets or other public places at its own expense so as to conform to the established grade or line of such street or public place and so as not to interfere with the public improvements so constructed or reconstructed. In the case of other public improvements, including but not limited to urban renewal projects, the City may require the holder of a franchise, license or lease to relocate its poles, service lines and appurtenances in the streets at the owner's expense. The City may at its discretion assign personnel for inspection of excavation and related work being performed by the holder of a franchise, license or lease. Should the holder of the franchise, license or lease fail or refuse to do and perform the things provided in this section, the City may, after reasonable notice, perform the work and charge the expense thereof to the holder of the franchise, license or lease and the holder of the franchise, license or lease shall promptly pay said charges.

155.10 DESIGN NOTICE TO CITY. The holder of a franchise, license or lease shall promptly, upon request, furnish the Council a detailed map or maps of its distribution system both within the City limits and the area within two miles surrounding the City unless that area is within another City. The holder of a franchise, license or lease shall thereafter update the map or maps at least annually or upon request, showing all subsequent additions or deletions to the distribution system. Prior to any excavation by the City or its agents, a representative must contact the holder of any franchise, license or lease regarding current information on the location of underground lines or facilities in the area concerned. The obligation to contact the holder of a franchise, license or lease under this section shall be satisfied if contact is made with the corporation organized pursuant to Code of Iowa Chapter 480 or an entity with a similar function utilized by both the City and the company, currently the Iowa One Call System.

155.11 ABOVE-GROUND CABLES, WIRES, CONDUITS AND POLES. All cables, wires, and conduits shall be placed underground except where above-ground connection to buildings or other locations above ground are reasonably necessary. Such above-ground connection shall be by means of poles located, as far as reasonably practical, within alleys. No such poles shall be installed or erected until the Council has approved the proposed location, construction and pole heights.

155.12 ASSIGNMENT. No sale or assignment of any franchise, license or lease of the use of the public right-of-way or other public property shall be effective until it is approved by the Council and until the holder thereof has filed in the office of the Clerk written notice of the proposed sale, transfer, disposition or assignment, such notice to clearly summarize the proposed procedure and the terms and conditions thereof. Such approval by the City shall not be unreasonably withheld. The proposed vendee, assignee or lessee shall similarly file an instrument, duly executed, reciting such proposal, accepting the terms of the franchise, license or lease and agreeing to perform all of the conditions thereof.

155.13 FORFEITURE. The violation of any material portion of a franchise, license or lease by the holder thereof or its successors or assigns or its failure promptly to perform any of the provisions of this chapter shall be cause for forfeiture of said franchise, license or lease and the termination of all rights thereunder. Such forfeiture shall be accomplished by ordinance of the City after written notice to the holder thereof and a continuation of the violation, failure or default specified on the notice for at least thirty (30) days from the date the notice was served.

155.14 APPLICATION. This chapter shall apply to all franchises, licenses or leases and easements granted by the City, including all existing franchises, licenses or leases and easements.

155.15 HOME RULE. This chapter is intended to be and shall be construed as consistent with the reservation of local authority contained in the 25th Amendment to the Iowa Constitution granting cities Home Rule powers. To such end, any limitation on the power of the City contained herein is to be strictly construed and the City reserves to itself the right to exercise all power and authority to regulate and control its local affairs and all ordinances and regulations of the City shall be enforceable against the holder of any franchise, license or lease.

155.16 NEW TECHNOLOGIES. Should, within the term of any franchise, license or lease, developments within the field for which the grant was made offer to the holder thereof the opportunity to effectively, efficiently and economically serve its customers through use of a substance or material other than those for which the grant was originally made, then the holder of the franchise, license or lease may petition the Council, which, with such requirements or limitation as it deems necessary to protect public health, safety and welfare, may allow the use of such substances under the terms and conditions of the franchise, license or lease.

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CHAPTER 157

OUTDOOR FURNACES

157.01 Purpose
157.02 Definitions
157.03 Permit Required
157.04 Existing Outdoor Furnaces

157.05 Specific Requirements
157.06 Permit Application and Issuance
157.07 Enforcement and Violations

157.01 PURPOSE. The Council finds that odors and emissions resulting from the use of outdoor furnaces can be detrimental to public health and deprive neighboring residents of the enjoyment of their property. The purpose of this chapter is to establish and impose restrictions on the installation, construction and operation of outdoor furnaces within the City in order to secure and promote public health, comfort, convenience, safety and welfare.

157.02 DEFINITIONS. For purposes of this chapter, unless the context otherwise requires, the following definitions shall apply:

1. “Outdoor furnace” means any equipment, device or apparatus which is installed, affixed or situated outdoors or within another structure for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat or hot water to any other structure.
2. “Stack” or “Chimney” means any vertical structure enclosing a flue or flues that carry off smoke, exhaust and other emissions from an outdoor furnace.

157.03 PERMIT REQUIRED. No person shall cause, allow or maintain the use of an outdoor furnace or install, construct or relocate an outdoor furnace within the City without first having obtained an outdoor furnace permit from the City Zoning Administrator, or cause, allow or maintain the use of an outdoor furnace after the expiration or revocation of any permit issued for such outdoor furnace. A permit shall be valid only for a specific outdoor furnace at a specific location and shall automatically expire if use of the outdoor furnace ceases for a continuous period of two years or more. A permit is transferable to subsequent owners of the lot on which the outdoor furnace is located.

157.04 EXISTING OUTDOOR FURNACES. Any outdoor furnace in existence on the effective date of this chapter shall be permitted to remain, subject to the following requirements:

1. **Permit Requirement.** The owner of any outdoor furnace in existence on the effective date of this chapter shall apply for and receive an outdoor furnace permit from the City Zoning Administrator within six months of the effective date of this chapter. If a permit for an existing outdoor furnace is not applied for within six months from the effective date of this chapter, the outdoor furnace shall be removed.
2. **Temporary Exemption.** Outdoor furnaces in existence on the effective date of this chapter shall be exempt from the provisions of this chapter for a maximum period of six months from the effective date. After six months all provisions shall be applicable except as provided in subsection 3, below. In order to obtain a permit for an existing outdoor furnace, the furnace must be in compliance with all the provisions of this chapter and all provisions shall continue to apply to an outdoor furnace after a permit has been issued for it, except as provided in subsection 3, below.
3. **Setback Exemption.** The provisions of subsection 2 of Section 157.05 of this chapter shall not apply to any outdoor furnace in existence on the effective date of this chapter; provided, however, that no existing furnace shall thereafter be moved to or replaced by a new furnace at any location which is not in compliance with the setback requirement.
4. **Definition.** “Existing” or “in existence” means the outdoor furnace is in place on a lot.

157.05 SPECIFIC REQUIREMENTS. All outdoor furnaces shall comply with the following rules and regulations:

1. **Manufacturer’s Instructions.** All outdoor furnaces shall be installed, operated and maintained in accordance with the manufacturer’s instructions. All new outdoor furnaces shall be laboratory tested and listed to appropriate safety standards such as UL, ANSI or other applicable safety standards.
2. **Setbacks.** Outdoor furnaces shall not be located less than ten (10) feet from the nearest lot line.
3. **Permitted Fuel.** Only firewood, untreated lumber, fossil fuels, corn and biomass products (excluding leaves and other yard waste) are permitted to be burned in any outdoor furnace. Burning of any and all other materials is prohibited. No outdoor furnace shall be utilized as a waste incinerator.
4. **Starting.** Petroleum products and chemicals shall not be used to start an outdoor furnace.

5. Stack Requirements. Every outdoor furnace shall be equipped with a stack or chimney through which all smoke and other emissions produced by the furnace shall pass. All stacks must be so constructed as to withstand high winds and other weather elements. Stack height shall be in accordance with the following:

A. If located 100 feet or less from any residence or other occupied structure not served by the outdoor furnace, the stack must extend to at least two feet above the eave line of that structure.

B. If located more than 100 feet but not more than 250 feet from any residence or other occupied structure not served by the outdoor furnace, the stack must extend to at least 75% of the height of the eave line of that structure.

C. In no event shall a stack extend less than 16 feet above the ground.

6. Compliance with Other Regulations. All outdoor furnaces shall also comply with any other applicable county, state or federal regulations.

157.06 PERMIT APPLICATION AND ISSUANCE.

1. Applications. An application for an outdoor furnace permit shall be made to the City Zoning Administrator on a form provided by the City and shall contain and have attached thereto the following information:

A. Name, address and telephone number of the applicant.

B. Address of the lot upon which the outdoor furnace is to be installed or constructed.

C. A site plan indicating the proposed location of the outdoor furnace in relation to all lot lines and structure located within 250 feet.

D. The name of the manufacturer and model number for the outdoor furnace, together with a copy of the manufacturer's installation, operation and maintenance instructions.

E. A description of the stack or chimney proposed to be used in connection with the outdoor furnace, including its height and a description of any guy wires or other devices to be used to support or stabilize the stack.

- F. Such other information as the City Zoning Administrator shall require to show full compliance with this chapter and all other ordinances of the City.
2. Permit Fee. The applicant shall file with the outdoor furnace permit application an administration and inspection fee in the amount of \$10.00 which shall be deposited in the City's general fund.
 3. Applicant. The applicant for an outdoor furnace permit shall in all cases be the owner of the lot on which the outdoor furnace is to be located.
 4. Time; Rejections. The City Zoning Administrator shall issue an outdoor furnace permit or deny an outdoor furnace application within 10 days after receipt of an application, provided that the required information is contained in the application and the other conditions set forth in this section have been satisfied by the applicant. The City Zoning Administrator shall deny any application which is not filed in conformity with this section or which proposes an outdoor furnace which would be contrary to the provisions of this chapter. Any denial of an application shall be given in writing with the reasons for such denial stated thereon. If an application is denied, the permit fee shall be refunded to the applicant.
 5. Issuance. An outdoor furnace permit shall be issued by the City Zoning Administrator when the application and the investigation thereof indicate compliance by the applicant with all of the provisions of this chapter and all other applicable laws. The permit shall specify the minimum stack or chimney height that must be used in connection with the outdoor furnace.
 6. Records. A careful record of all permit applications and permits shall be maintained by the City Clerk.

157.07 ENFORCEMENT AND VIOLATIONS.

1. It is the duty of the Mayor, with the aid of the Police Department and the City Attorney, to enforce the provisions of this chapter. The City Zoning Administrator shall promptly report all violations to the City Attorney and the Mayor.
2. Any person who violates, disobeys, neglects or fails to comply with, or who resists the enforcement of, any of the provisions of this chapter or any of the terms and conditions of any permit, regulation, or lawful order of the Zoning Administrator made under the authority of this chapter shall be guilty of a simple misdemeanor and a municipal

infraction. Each day that a violation exists or continues shall constitute a separate offense.

3. If any outdoor furnace regulated under this chapter is installed, constructed, moved, maintained or used in violation of this chapter or in violation of the terms and conditions of any permit or regulations issued or made under the authority of this chapter, the City Attorney, at the direction of the Council, shall, in addition to other remedies, institute any appropriate action or proceedings in any court to prevent such unlawful installation, construction, movement, maintenance or use, to restrain, correct or abate such violation, or to prevent any illegal act, conduct, business, or use relating to such outdoor furnace.

(Ch. 157 - Ord. 357 – Sep. 11 Supp.)

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CHAPTER 160

FLOOD PLAIN REGULATIONS

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160.01 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.

1. Statutory Authority. The Legislature of the State of Iowa has in Chapter 414, Code of Iowa, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.
2. Findings of Fact.
 - A. The flood hazard areas of the City of Wyoming are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.
 - B. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the flood plain causing increases in flood heights and velocities.
 - 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. 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 flood losses with provisions designed to:

- A. **Restrict Use.** Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.
- B. **Vulnerable Uses Protected.** Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
- C. **Unsuitable Land Purchases.** Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
- D. **Flood Insurance.** Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

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

1. “Base flood” means the flood having one percent (1%) chance of being equaled or exceeded in any given year. (See 100-year flood.)
2. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”
3. “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
4. “Existing construction” means any structure for which the “start of construction” commenced before the effective date of the community’s Flood Insurance Rate Map. May also be referred to as “existing structure.”
5. “Existing factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of

concrete pads) was completed before the effective date of these flood plain management regulations.

6. “Expansion of existing factory-built home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

7. “Factory-built home” means any structure designed for residential use which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site. For the purpose of this chapter, factory-built homes include mobile homes, manufactured homes and modular homes and also includes “recreational vehicles” which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

8. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

9. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

10. “Flood elevation” means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of floodwaters related to the occurrence of the 100-year flood.

11. “Flood Insurance Rate Map (FIRM)” means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

12. “Flood plain” means any land area susceptible to being inundated by water as a result of a flood.

13. “Flood plain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.

14. “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, including

utility and sanitary facilities which will reduce or eliminate flood damage to such structures.

15. “Floodway” means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

16. “Floodway fringe” means those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

17. “Historic structure” means any structure that is:

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

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

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

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

18. “Lowest floor” means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 160.09(4)(A); and

B. The enclosed area is unfinished (not carpeted, dry-walled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and

- C. 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; and
- D. The enclosed area is not a “basement” as defined in this section.

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

19. “New construction” (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.

20. “New factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of these flood plain management regulations.

21. “100-Year Flood” means a flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.

22. “Recreational vehicle” means a vehicle which is:

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

23. “Special flood hazard area” means the land within a community subject to the “100-year flood.” This land is identified as Zone A on the Flood Insurance Rate Map.

24. “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.

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

26. "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 fifty percent (50%) of the market value of the structure before the damage occurred.

27. "Substantial improvement" means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either (i) before the "start of construction" of the improvement, or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use. The term also does not include any alteration of an "historic structure," provided the alteration will not preclude the structure's designation as an "historic structure."

B. Any addition which increases the original floor area of a building by twenty-five percent (25%) or more. All additions

constructed after the effective date of the Flood Insurance Rate Map shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty-five percent.

28. “Variance” means a grant of relief by a community from the terms of the flood plain management regulations.

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

160.03 LANDS TO WHICH CHAPTER APPLIES. The provisions of this chapter shall apply to all areas having special flood hazards within the jurisdiction of the City of Wyoming. For the purpose of this chapter, the special flood hazard areas are those areas designated as Zone A on the Flood Insurance Rate Map for Jones County and Incorporated Areas, City of Wyoming, Panel 19105C0259E, 0267E, 0278E, 0286E, dated April 4, 2011, as amended, which is hereby adopted and made a part of this chapter.

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

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

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

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

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

160.09 FLOOD PLAIN MANAGEMENT STANDARDS. All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards. Where 100-year flood data has not been provided on the Flood Insurance Rate Map, the Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. All development within the special flood hazard areas shall:
 - A. Be consistent with the need to minimize flood damage.
 - B. Use construction methods and practices that will minimize flood damage.
 - C. Use construction materials and utility equipment that are resistant to flood damage.
 - D. Obtain all other necessary permits from Federal, State and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. Residential buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one (1) foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

3. Nonresidential buildings. All new or substantially improved nonresidential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be flood-proofed to such a level. When floodproofing is utilized, a professional engineer registered in the State shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum) to which any structures are flood-proofed shall be maintained by the Administrator.

4. All new and substantially improved structures:

A. Fully enclosed areas below the “lowest floor” (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

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

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

C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are

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

5. Factory-built Homes.
 - A. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.
 - B. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
6. Utility and Sanitary Systems.
 - A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
 - B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.
 - C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities other than on-site systems shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.
 - D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood

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

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

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

10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Special Flood Hazard Area.

11. Accessory Structures.

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

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

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

12. Recreational Vehicles.

A. Recreational vehicles are exempt from the requirements of Section 160.09(5) of this chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

(1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and

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

B. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section 160.09(5) of this chapter regarding anchoring and elevation of factory-built homes.

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

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

1. Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.

2. Review all flood plain development permit applications to assure that all necessary permits have been obtained from Federal, State and local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.

3. Record and maintain a record of the elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.

4. Record and maintain a record of the elevation (in relation to North American Vertical Datum) to which all new or substantially improved structures have been flood-proofed.
5. Notify adjacent communities and/or counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
6. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

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

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

1. Work To Be Done. Description of the work to be covered by the permit for which application is to be made.
2. Location. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
3. Use or Occupancy. Indication of the use or occupancy for which the proposed work is intended.
4. Flood Elevation. Elevation of the 100-year flood.
5. Floor Elevation. Elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood-proofed.
6. Cost of Improvement. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
7. Other. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

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

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

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

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

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

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

160.17 CONDITIONS ATTACHED TO VARIANCES. Upon consideration of the factors listed in Section 160.16, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

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

160.18 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:
 - A. If such use is discontinued for six (6) 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 fifty percent (50%) 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.

160.19 PENALTIES FOR VIOLATIONS. 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 six hundred twenty-five dollars (\$625.00). Nothing herein contained prevents the City of Wyoming from taking such other lawful action as is necessary to prevent or remedy violation. *(Ord. 403 – Sep. 18 Supp.)*

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

(Ch. 160 - Ord. 358 – Sep. 11 Supp.)

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