

**SECTION 18
SPECIAL AND OVERLAY DISTRICTS**

1801 Purpose

Special and Overlay Districts are established as base districts for innovative developments or unique development areas. They are designed to encourage innovative design of mixed-use projects, to capitalize on the special characteristics and visibility of unique areas in the city, and to integrate special projects into the surrounding environment.

1802 Establishment of Districts

The following special districts are hereby established.

- MU** Mixed Use District
- PUD** Planned Unit Development Overlay District
- W** Water-Oriented/Open Space Development Overlay District
- FP** Floodplain Overlay District

SECTION 19

MU MIXED USE DISTRICT

1901 Purpose

The MU Mixed Use District is intended to accommodate projects that combine several compatible land uses into an integrated development. The MU District may also be used to pre-designate parts of the city that are appropriate for a mixture of residential, commercial, office, and accessory uses. The District permits mixing residential areas with workplaces and services. Development in the MU District must accommodate transportation systems, pedestrian and bicycle movement, and surrounding environments.

1902 Permitted Uses

Each ordinance establishing an MU District establishes the use types permitted within its boundaries.

1903 Site Development Regulations

- a. The minimum area of any MU District is one acre.
- b. Prior to the issuance of any building permits or other authorization, all projects in the MU District shall receive approval by the City Council, following a recommendation by the Planning Board. This approval may be granted for a specific plan for the development of an MU District in lieu of a plan for individual projects, provided that any subsequent developments are consistent with the specific plan.
- c. Applications for approval must contain at a minimum the following information:
 1. A detailed site map, including:
 - (a) a boundary survey
 - (b) site dimensions
 - (c) contour lines at no greater than five foot intervals
 - (d) adjacent public rights of way, transportation routes, and pedestrian or bicycle systems
 - (e) description of adjacent land uses
 - (f) utility service to the site and easements through the site
 - (g) description of other site features, including drainage, soils, or other considerations that may affect development.
 2. A development plan, including:
 - (a) a site layout, including the location of proposed buildings, parking, open space, and other facilities
 - (b) location, capacity, and conceptual design of parking facilities
 - (c) description of the use of individual buildings

Special and Overlay Districts

- (d) description of all use types to be included in the project or area, and maximum floor area devoted to each general use
 - (e) maximum height of buildings
 - (f) schematic location and design of open space on the site, including a landscaping plan
 - (g) vehicular and pedestrian circulation plan, including relationship to external transportation systems
 - (h) schematic building elevations and sections if required to describe the project
 - (i) grading plans
 - (j) proposed sewer and utility improvements
 - (k) location, sizes, and types of all proposed signage.
3. Specific proposed development regulations for the project, including:
- (a) the specific use types permitted within the proposed district
 - (b) maximum floor area ratios
 - (c) front, side, and rear yard setbacks
 - (d) maximum height
 - (e) maximum building and impervious coverage
 - (f) design standards applicable to the project.
4. A traffic impact analysis, if required by the City.

1904 Adoption of District

- a. The Planning Board and City Council shall review and evaluate each Mixed Use District application. The City may impose reasonable conditions, as deemed necessary to ensure that a Mixed Use Development shall be compatible with adjacent land uses, will not overburden public services and facilities and will not be detrimental to public health, safety and welfare.
- b. The Planning Board after proper notice shall hold a public hearing and act upon each application.
- c. The Planning Board may recommend amendments to MU district applications.
- d. The recommendation of the Planning Board shall be transmitted to the City Council for final action.
- e. The City Council, after proper notice, shall hold a public hearing and act upon any ordinance establishing a MU Mixed Use District. Proper notice shall mean the same notice established for any other zoning amendment.

Special and Overlay Districts

f. An ordinance adopting a Mixed Use District shall require a favorable simple majority of the City Council for approval.

g. Upon approval by the City Council, the Development Plan shall become a part of the ordinance creating or amending the MU District. All approved plans shall be filed with the City Clerk.

1905 Amendments

Any amendment to these provisions shall be submitted to the Planning Board and City Council for action.

SECTION 20

PUD PLANNED UNIT DEVELOPMENT DISTRICT

2001 Purpose

The PUD Planned Unit Development Overlay District is intended to provide flexibility in the design of planned projects; to permit innovation in project design that incorporates open space and other amenities; and to insure compatibility of developments with the surrounding urban environment. The PUD District may be used in combination with any base district specified in this ordinance. The PUD District, which is adopted by the City Council with the recommendation of the Planning Board, assures specific development standards for each designated project.

2002 Permitted Uses

Uses permitted in a PUD Overlay District are those permitted in the underlying base district. A PUD also may be combined with an MU Mixed Use District to allow a combination of use types not anticipated by conventional base districts.

2003 Site Development Regulations

Site Development Regulations are developed individually for each Planned Unit Development District, but must comply with the minimum or maximum standards established for the base district, with the following exceptions:

- a. Lot area and lot width are not restricted, provided that the maximum density allowed for each base district is not exceeded.
- b. Maximum building coverage shall be the smaller of the allowed building coverage in the base district, or 60 percent.
- c. Setback requirements may be varied according to the specific Planned Unit Development plan.

2004 Access to Public Streets

Each PUD District must abut a public street or other public right-of-way for at least 100 feet and allow access from that street.

2005 Application Process

The application for a Planned Unit Development District shall include the following information:

1. A detailed site map, including:
 - (a) a boundary survey
 - (b) site dimensions
 - (c) contour lines at no greater than one foot intervals
 - (d) adjacent public rights of way, transportation routes, and pedestrian or bicycle systems

Special and Overlay Districts

- (e) description of adjacent land uses
 - (f) utility service to the site and easements through the site
 - (g) description of other site features, including drainage, soils, or other considerations that may affect development.
2. A development plan, including:
- (a) A land use plan designating specific uses for the site and establishing site development regulations, including setback, height, building coverage, impervious coverage, density, and floor area ratio requirements.
 - (b) a site layout, including the location of proposed buildings, parking, open space, and other facilities
 - (c) location, capacity, and conceptual design of parking facilities
 - (d) description of the use of individual buildings
 - (e) schematic architectural plans and elevations sufficient to indicate a building height, bulk, materials, and general architectural design.
 - (f) a site development and landscaping plan, showing building locations, or building envelopes; site improvements; public or common open spaces; community facilities; significant visual features; and typical landscape plans.
 - (g) vehicular and pedestrian circulation plan, including relationship to external transportation systems
 - (h) schematic building elevations and sections if required to describe the project
 - (i) grading plans
 - (j) proposed sewer and utility improvements
 - (k) location, sizes, and types of all proposed signage.
3. A statistical summary of the project, including gross site area, net site area, number of housing units by type, gross floor area of other uses, total amount of parking, and building and impervious surface percentages.

2006 Adoption of District

- a. The Planning Board and City Council shall review and evaluate each Planned Unit Development application. The City may impose reasonable conditions, as deemed necessary to ensure that a PUD shall be compatible with adjacent land uses, will not overburden public services and facilities and will not be detrimental to public health, safety and welfare.
- b. The Planning Board, after proper notice, shall hold a public hearing and act upon each application.
- c. The Planning Board may recommend amendments to PUD district applications.

Special and Overlay Districts

- d. The recommendation of the Planning Board shall be transmitted to the City Council for final action.
- e. The City Council, after proper notice, shall hold a public hearing and act upon any ordinance establishing a PUD Planned Unit Development Overlay District. Proper notice shall mean the same notice established for any other zoning amendment.
- f. An ordinance adopting a Planned Unit Development Overlay Zoning District shall require a favorable simple majority of the City Council for approval.
- g. Upon approval by the City Council, the Development Plan shall become a part of the ordinance creating or amending the PUD District. All approved plans shall be filed with the City Clerk.

2007 Amendment Procedure

Major amendments to the Development Plan must be approved according to the same procedure set forth in Section 2904.

2008 Building Permits

The City shall not issue a building permit, certificate of occupancy, or other permit for a building, structure, or use within a PUD District unless it is in compliance with the approved Development Plan and any approved amendments.

2009 Termination of PUD District

If no substantial development has taken place in a Planned Unit Development District for three years following approval of the District, the Planning Board shall reconsider the zoning of the property and may, on its own motion, initiate an application for rezoning the property.

SECTION 21

W WATER-ORIENTED/OPEN SPACE DEVELOPMENT OVERLAY DISTRICT

2101 Purpose

The W Water-Oriented/Open Space Development Overlay District is intended to require development design standards and techniques in developments that incorporate significant water features such as canals or ponds, or other common open space. It allows for lot clustering and lot size reductions, if the overall gross density of the development is consistent with the underlying zoning district. For this section the term water is taken to mean privately owned bodies of water.

2102 Process

Subdivisions in a W Overlay district generally follow the approval procedures outlined in Section 30, establishing the process for preliminary and final plat approval. Projects that do not require subdivision follow approval procedures appropriate to the specific project, including conditional use permits, zoning amendments, site plan review, or other applicable measures. The requirements and standards included in this section are in addition to those established procedures.

2103 Permitted Land Uses

Land uses permitted in a W District are the same as those permitted in the underlying base district.

2104 Permitted Yield

Developments in W Overlay districts are permitted the same density on developable area as would be allowed to conventional residential development in the underlying zoning district. Yield in housing units (Y) is calculated by the formula:

$$Y = \frac{.90(TA)}{SA}$$

where:

TA = Total parcel area

.90 = an allowance for the typical percentage of land available after deducting the area of public streets and right-of-ways serving a low-density residential development.

SA = Minimum site area per unit required by the underlying zoning district.

2105 Minimum Percentage of Water Area or Open Space

- a. The minimum percentage of land that shall be designated as permanent water area or open space, not to be further subdivided, shall be a minimum of 25% of the Net Developable Area, defined as $.90(TA-UA)$
- b. The above areas shall generally be designated as undivided open space, to facilitate easement monitoring and enforcement, and to promote appropriate management by a single entity according to approved land management standards.
- c. All undivided open space and any lot capable of further subdivision shall be restricted from further subdivision through a permanent conservation easement, in a form acceptable to the City and duly recorded with the Pottawattamie County Recorder.

d. Storm water management ponds or basins may be included as part of the minimum required open space, as may land within the rights-of-way for underground pipelines. However, land within the rights-of-way of high tension power lines shall not be included as comprising part of the minimum required open space.

2106 Location Standards for Open Space

a. Access to Residential Lots

Undivided open space shall be directly accessible to the largest practicable number of lots within a water-oriented development. To achieve this, the majority of house lots should abut undivided open space in order to provide direct views and access.

2107 Ownership and Maintenance of Common Open Space

Developments in the W Overlay District shall provide for ownership and maintenance of water areas or common open space. Common open space within a development shall be owned, administered, and maintained by any of the following methods, either individually or in combination, and subject to approval by the City.

a. Dedication

Water or open space areas may be dedicated to the City of Carter Lake if such dedication is consistent with the parks and open space component of the city's comprehensive plan. Dedication shall take the form of a fee simple ownership. Alternatively, a public agency may accept an easement, subject to the above conditions.

b. Homeowners Association

The undivided water or open space and associated facilities may be held in common ownership by a homeowners' association. The association shall be formed and operated under the following provisions:

1. The developer shall provide to the City Clerk a description of the association, including its bylaws and methods for maintaining the open space.
2. The association shall be organized by the developer and shall be operated with financial assistance from the developer, before the sale of any lots within the development.
3. Membership in the association is automatic (mandatory) for all purchasers of homes therein and their successors. The conditions and timing of transferring control of the association from developer to homeowners shall be identified.
4. The association shall be responsible for maintenance of insurance and taxes on water area or undivided open space.
5. The members of the association shall share equitably the costs of maintaining and developing such water area or undivided open space. Shares shall be defined within the association bylaws.

Special and Overlay Districts

6. In the event of a proposed transfer, within the methods here permitted, of water area or undivided open space land by the homeowners' association, or of the assumption of maintenance of water area or undivided open space land by a public agency, notice of such action shall be given to all property owners within the development.
7. The homeowners' association may lease open space lands to any other qualified person or corporation for their operation and maintenance.

c. Condominiums

The undivided open space and associated facilities may be controlled through the use of condominium agreements. Such agreements shall be in conformance with the state statute. All undivided open space land shall be held as a "common element."

d. Transfer of Easements to a Private Conservation Organization

An owner may transfer easements to a private, nonprofit organization, among whose purposes it is to conserve open space and /or natural resources, provided that:

1. The organization is acceptable to the City and is a bona fide conservation organization with perpetual existence;
2. The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions; and
3. A maintenance agreement acceptable to the board is entered into by the developer and the organization.

2108 Maintenance Standards

a. Financial Responsibility

The ultimate owner of the open space (typically a homeowners' association) shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space through annual dues, special assessments, etc. The homeowners' association shall be authorized under its bylaws to place liens on the property of residents who fall delinquent in payment of such dues or assessments.

b. Maintenance Enforcement

1. In the event that the association or any successor organization shall, at any time after establishment of a development containing undivided open space, fail to maintain the undivided open space in reasonable order and condition in accordance with the development plan, the City may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the undivided open space in reasonable condition.
2. Failure to adequately maintain the undivided open space in reasonable order and condition constitutes a violation of this ordinance.

Special and Overlay Districts

3. Should any bill or bills for maintenance of undivided open space by the City or County be unpaid, a late fee of fifteen percent shall be added to such bills and a lien shall be filed against the premises in the same manner as other municipal claims.

SECTION 22

FP/FW FLOODPLAIN/FLOODWAY OVERLAY DISTRICT

2201 Statutory Authority, Findings of Fact and Purpose

A. 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.

B. Findings of Fact

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

C. Statement of Purpose

It is the purpose of this Ordinance to protect and preserve the rights, privileges and property of Carter Lake and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Section 2201 – B – 1 of this Ordinance with provisions designed to:

1. Reserve sufficient flood plain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.
2. 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.
3. 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.
4. Protect individuals from buying lands, which may not be suited for intended purposes because of flood hazard.
5. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

2202 General Provisions

A. Lands to Which Ordinance Apply

The provisions of this Ordinance shall apply to all lands within the jurisdiction of the city of Carter Lake shown on the Official Flood Plain Zoning Map as being within the boundaries of the Floodway, Floodway Fringe, General Flood Plain and Shallow Flooding (Overlay) Districts, as established in Section 2203.

B. Establishment of Official Flood Plain Zoning Map

The *Flood Boundary and Floodway Map(s) prepared as part of the Flood Insurance Study for the city of Carter Lake, dated February 4, 2005 is (are) hereby adopted by reference and declared to be the Official Flood Plain Zoning Map. The flood profiles and all explanatory material contained with the Flood Insurance Study are also declared to be a part of this ordinance.

* (Replace "Flood Boundary and Floodway Map(s)" with "Flood Insurance Rate Map(s) (FIRM)" for communities where the FBFW maps were not printed separately)

C. Rules for Interpretation of District Boundaries

The boundaries of the zoning district areas shall be determined by scaling distances on the Official Flood Plain Zoning Map. When an interpretation is needed as to the exact location of a boundary, the Building Inspector shall make the necessary interpretation. The Planning Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Building Inspector in the enforcement or administration of this Ordinance.

D. 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 Ordinance and other applicable regulations, which apply to uses within the jurisdiction of this Ordinance.

E. Abrogation and Greater Restrictions

It is not intended by this Ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provision of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

F. Interpretation

In their interpretation and application, the provisions of this Ordinance 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.

G. Warning and Disclaimer of Liability

The standards required by this Ordinance are considered reasonable for regulatory purposes. This Ordinance does not imply that areas outside the designated Flood Plain (Overlay) District areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of Carter Lake or any officer or employee thereof for any flood damages that from reliance on this Ordinance or any administrative decision lawfully made thereunder.

H. Severability

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

2203 Establishment of Zoning (Overlay) Districts

The flood plain areas within the jurisdiction of this ordinance are hereby divided into the following districts; (i) Floodway District (FW), (ii) Floodway Fringe District (FF), (iv) General Flood Plain District (FP) and (v) Shallow Flooding District (SF). The boundaries shall be as shown on the Official Flood Plain Zoning Map. Within these districts, all uses not allowed as Permitted Uses or permissible as Conditional Uses are prohibited unless a variance to the terms of this ordinance is granted after due consideration by the Planning Board.

2204 Floodway (Overlay) District (FW)

A. Permitted Uses

The following uses shall be permitted within the Floodway District to the extent they are not prohibited by any other ordinance (or underlying zoning district) and provided they do not include placement of structures, factory-built homes, fill or other obstruction, the storage of material or equipment, excavation or alteration of a watercourse.

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.
2. Industrial-commercial uses such as loading areas, parking areas, airport landing strips.
3. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.
4. Residential uses such as lawns, gardens, parking areas and play areas.
5. Such other open-space uses similar in nature to the above uses.

B. Conditional Uses

The following uses which involve structures (temporary or permanent), fill, storage of materials or equipment, excavation or alteration of a watercourse may be permitted only upon issuance of a Conditional Use Permit by the Board of Adjustment as provided for in

Special and Overlay Districts

Section 2208 - C. Such uses must also meet the applicable provisions of the Floodway District Performance Standards.

1. Uses or structures accessory to open-space uses.
2. Circuses, carnivals, and similar transient amusement enterprises.
3. Drive-in theaters, new and used car lots, roadside stands, signs and billboards.
4. Extraction of sands, gravel and other materials.
5. Marinas, boat rentals, docks, piers and wharves.
6. Utility transmission lines and underground pipelines.
7. Other uses similar in nature to uses described in Section 2204 - A or B, which are consistent with the provisions of Section 2204 - C and the general spirit and purpose of this ordinance.

C. Performance Standards

All Floodway District uses allowed as a Permitted or Conditional Use shall meet the following standards.

1. No use shall be permitted in the Floodway District that would result in any increase in the 100-year flood level. 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.
2. All uses within the Floodway District 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.
3. No use 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.
4. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable performance standards of the Floodway Fringe District and shall be constructed or aligned to present the minimum possible resistance to flood flows.
5. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.
6. 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 District within the time available after flood warning.

Special and Overlay Districts

7. 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.
8. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.
9. 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.

2205 Floodway Fringe (Overlay) District FF

A. Permitted Uses

All uses within the Floodway Fringe District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet applicable performance standards of the Floodway Fringe District.

B. Performance Standards

All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards.

1. All structures shall:

- a. Be adequately anchored to prevent flotation, collapse or lateral movement of the structure.
- b. Use construction methods and practices that will minimize flood damage.
- c. Use construction materials and utility equipment that are resistant to flood damage.

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 1.0 ft. 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 Board of Adjustment, 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. Non-residential buildings - All new or substantially improved non-residential 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 flood proofing is utilized, a professional engineer

Special and Overlay Districts

registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to National Geodetic 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 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:

Special and Overlay Districts

- 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 floodwaters into the system as well as the discharge of effluent into floodwaters. 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 floodwaters 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 ft. 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 Ordinance. 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 Flood Plain (Overlay) District.
 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.

Special and Overlay Districts

- (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 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 2204 – B - 5 of this Ordinance 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 IV B5 of this Ordinance 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.

2206 General Flood Plain (Overlay) District FP

A. Permitted Uses

The following uses shall be permitted within the General Flood Plain District to the extent they are not prohibited by any other ordinance (or underlying zoning district) and provided they do not include placement of structures, factory-built homes, fill or other obstructions, the storage of materials or equipment, excavation or alteration of a watercourse.

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.
2. Industrial-commercial uses such as loading areas, parking areas, airport landing strips.

Special and Overlay Districts

3. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.
4. Residential uses such as lawns, gardens, parking areas and play areas.

B. Conditional Uses

Any uses which involve placement of structures, factory-built homes, fill or other obstructions, storage of materials or equipment, excavation or alteration of a watercourse may be allowed only upon issuance of a Conditional Use Permit by the Board of Adjustment as provided for in Section 2208 - C. All such uses shall be reviewed by the Department of Natural Resources to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the 100 year flood level. The applicant shall be responsible for providing the Department of Natural Resources with sufficient technical information to make the determination.

C. Performance Standards

1. All conditional uses, or portions thereof, to be located in the floodway as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway (Overlay) District (Section 2204).
2. All conditional uses, or portions thereof, to be located in the floodway fringe as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway Fringe (Overlay) District (Section 2205).

2207 Shallow Flooding (Overlay) District (SF)

A. Permitted Uses

All uses within the Shallow Flooding District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet the applicable performance standards of the Shallow Flooding District.

B. Performance Standards

The performance standards for the Shallow Flooding District shall be the same as the performance standards for the Floodway Fringe District with the following exceptions:

1. In shallow flooding areas designated as an AO Zone on the Flood Insurance Rate Map, the minimum flood proofing/flood protection elevation shall be equal to the number of feet as specified on the FIRM (or a minimum of 2.0 ft. if no number is specified) above the highest natural grade adjacent to the structure.
2. In shallow flooding areas designated as an AH Zone on the Flood Insurance Rate Map, the minimum flood proofing/flood protection elevation shall be equal to the elevation as specified on the FIRM.

2208 Administration

A. Appointment, Duties and Responsibilities of Zoning Administrator

1. The Building Inspector is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator.
2. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:
 - a. Review all flood plain development permit applications to assure that the provisions of this Ordinance will be satisfied.
 - b. Review flood plain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.
 - c. Record and maintain a record of (i) the elevation (in relation to National Geodetic Vertical Datum) 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 flood proofed.
 - d. 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.
 - e. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.
 - f. Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.
 - g. Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.
 - h. Review subdivision proposals to insure such proposals are consistent with the purpose of this ordinance and advise the City Council of potential conflict.

B. Flood Plain Development Permit

1. Permit Required - A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any man-made change to 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.
2. Application for Permit - Application shall be made on forms furnished by the Administrator and shall include the following:

Special and Overlay Districts

- a. Description of the work to be covered by the permit for which application is to be made.
 - b. Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
 - c. Indication of the use or occupancy for which the proposed work is intended.
 - d. Elevation of the 100-year flood.
 - e. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood proofed.
 - f. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
 - g. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this Ordinance.
3. Action on Permit Application - The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this Ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the City Board of Adjustment.
 4. Construction and Use to be as Provided in Application and Plans - Flood Plain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, flood proofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.

C. Conditional Uses, Appeals and Variances

1. Appointment and Duties of Board of Adjustment - A Board of Adjustment is hereby established which shall hear and decide (i) applications for Conditional Uses upon which the Board is authorized to pass under this ordinance, (ii) appeals, and (iii) requests for variances to the provisions of this ordinance, and shall take any other action which is required of the Board.
2. Conditional Uses - Requests for Conditional Uses shall be submitted to the Administrator, who shall forward such to the Board of Adjustment for consideration. Such requests shall include information ordinarily submitted with applications as well as any additional information deemed necessary to the Board of Adjustment.

Special and Overlay Districts

3. Appeals - Where it is alleged there is any error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance, the aggrieved party may appeal such action. The notice of appeal shall be filed with the Board of Adjustment and with the official from whom the appeal is taken and shall set forth the specific reason for the appeal. The official from whom the appeal is taken shall transmit to the Board of Adjustment all the documents constituting the record upon which the action appealed from was taken.
4. Variance - The Board of Adjustment 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 100-year flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
 - c. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - d. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this 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.
5. Hearings and Decisions of the Board of Adjustment
 - a. Hearings. Upon the filing with the Board of Adjustment of an Appeal, an application for a Conditional Use or a request for a Variance, the Board shall hold a public hearing. The Board shall fix a reasonable time for the hearing and give public notice thereof, as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request the technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Department of Natural Resources.

Special and Overlay Districts

b. Decisions. The Board shall arrive at a decision on an Appeal, Conditional Use or Variance within a reasonable time. In passing upon an Appeal, the Board may, so long as such action is in conformity with the provisions of this ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision, or determination appealed from, and it shall make its decision, in writing, setting forth the findings of fact and the reasons for its decision. In granting a Conditional Use or Variance, the board shall consider such factors as contained in this section and all other relevant sections of this ordinance and may prescribe such conditions as contained in Section 2208 – C – 5 – b - (2).

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

- (a) The danger to life and property due to increased flood heights or velocities caused by encroachments.
- (b) The danger that materials may be swept on to other land or downstream to the injury of others.
- (c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
- (d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (e) The importance of the services provided by the proposed facility to the City.
- (f) The requirements of the facility for a flood plain location.
- (g) The availability of alternative locations not subject to flooding for the proposed use.
- (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (i) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- (j) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (k) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwater 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.

Special and Overlay Districts

- (2) Conditions Attached to Variances - Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:
 - (a) Modification of waste disposal and water supply facilities.
 - (b) Limitation of periods of use and operation.
 - (c) Imposition of operational controls, sureties, and deed restrictions.
 - (d) Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.
 - (e) Flood proofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Board of Adjustment 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.
6. Appeals to the Court - Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the Board.

2209 Nonconforming Uses

- A. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:
 1. If such use is discontinued for 24 consecutive months, any future use of the building premises shall conform to this Ordinance.
 2. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
 3. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this Ordinance.
- B. Except as provided in Section 2209 – A - 2, any use, which has been permitted, as a Conditional Use or Variance shall be considered a conforming use

2210 Penalties for Violation

Violations of the provisions of this Ordinance or failure to comply with any of the requirements (including violations of conditions and safeguards established in connection with grants of Conditional Uses or Variances) shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100.00 or imprisoned for not more than 30 days. Each day such violation continues shall be considered a separate offense. Nothing herein contained prevent the City of Carter Lake from taking such other lawful action as is necessary to prevent or remedy violation.

2211 Amendments

The regulations and standards set forth in this Ordinance 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.

2212 Definitions

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

A

B

BASE FLOOD - The flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood).

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

C

D

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

E

EXISTING CONSTRUCTION - 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".

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

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

F

FACTORY-BUILT HOME - 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 Ordinance 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.

FACTORY-BUILT HOME PARK - A parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

FLOOD - 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.

FLOOD ELEVATION - 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.

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

FLOOD PLAIN - Any land area susceptible to being inundated by water as a result of a flood.

FLOOD PLAIN MANAGEMENT - 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, flood proofing and flood plain management regulations.

FLOODPROOFING - 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.

FLOODWAY - 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.

FLOODWAY FRINGE - Those portions of the flood plain, other than the floodway, which can be filled, levied, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

G

H

HISTORIC STRUCTURE - Any structure that is:

- a. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either i) an approved state program as determined by the Secretary of the Interior or ii) directly by the Secretary of the Interior in states without approved programs.

I

I

K

L

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

- a. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section VI B4(a) of this Ordinance and
- b. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
- c. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (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.

M

N

Special and Overlay Districts

NEW CONSTRUCTION - (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.

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

Q

ONE HUNDRED (100) YEAR FLOOD - A flood, the magnitude of which has a one (1) percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded a least once every one hundred (100) years.

P

Q

R

RECREATIONAL VEHICLE - A vehicle, which is:

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

S

SPECIAL FLOOD HAZARD AREA - The land within a community subject to the "100-year flood". This land is identified as Zone A on the community's Flood Insurance Rate Map.

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,

Special and Overlay Districts

floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

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

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

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

1. Any repair, reconstruction, or improvement of a structure, the 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 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".
2. Any addition, which increases the original floor area of a building by 25 percent or more. All additions constructed after February 4, 2005 shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

I

U

V

VARIANCE - A grant of relief by a community from the terms of the flood plain management regulations.

VIOLATION - The failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

W

X

Y

Z