

Mayor
NELSON P.
CRABB

March 30, 2012

City
Administrator
SCOTT
FLORY

HONORABLE MAYOR & CITY COUNCIL MEMBERS:

The next meeting of the Clear Lake City Council is scheduled for Monday, **April 2, 2012**, at 6:30 p.m., in the Council Chambers, at City Hall. Please refer to the enclosed agenda for the items discussed below.

COUNCIL
MEMBERS

DANA
BRANT
Ward 1

TONY J.
NELSON
Ward 2

JIM
BOEHNKE
Ward 3

MIKE
CALLANAN
At Large

TERRY
UNSWORTH
At Large

ITEM #6A. Industrial Park 3rd Addition Storm Sewer Project. The City staff and consulting engineer conducted a competitive quotation opening process, which was held on March 28th, at 2:00 p.m., which was the date and time previously established by the Council. Sealed quotes were received from four (4) competing construction companies. Charlson Excavating, Clear Lake, Iowa, submitted the lowest overall responsive responsible quote. The quote from Charlson was \$52,035, which was 12.4% below the engineer's estimate of the probable cost of construction, which was \$59,390. The low bidder and second low bidder were separated by only 3.4% in price.

It is anticipated the "Notice to Proceed" will be issued towards the middle of April. The Project is to be substantially complete by May 28th.

ITEM #6B. 2012 7th Avenue N. Storm Sewer (Willow Creek) Outlet Project. The Project bid letting was conducted on March 28th at 11:00 a.m., the date and time previously established by the Council. Sealed bids were received from five (5) competing construction companies. Nettleton Excavating, Joice, Iowa, submitted the lowest overall responsive responsible bid. The bid from Nettleton was \$127,901.75, which is 7% below the engineer's opinion of the probable cost of construction, which was \$137,508. The low bidder and second low bidder were separated by only 0.15% in price.

It is anticipated the "Notice to Proceed" will be issued towards the middle of April. The Project is to be substantially complete by May 25th and ready for final acceptance not later than June 22nd.

ITEM #6C. Municipal Water System Improvements & 3rd Ave S. Street Right-of-Way Restoration – Lincoln Village. The Council previously authorized and directed City staff to proceed with the preparation of preliminary design plans & specifications for certain construction improvements related, primarily, to the City's municipal water system and 3rd Avenue S. street right-of-



way restoration. The proposed construction activities include, but are not limited to:

1. The restoration of 3rd Ave S. to a typical City street cross-section, by removing the additional perpendicular street parking area on the south side, which was constructed for the school's faculty and visitors, and backfilling and seeding the area and constructing a typical street curb & gutter section.
2. Relocating the City's existing 10" raw water line, which serves Municipal Well #2, and transports water to the treatment plant.
3. Abandonment of an existing 4" water line and construction of a new 8" water main between 4th Ave S. and 3rd Ave S., with fire hydrants on 3rd Ave S. to improve deficient fire flows in the area.

It is proposed to set the date & time for the Project bid letting as Wednesday, April 25th, at 2:00 p.m. and, further, to establish the date & time for a public hearing on the proposed final plans & specifications for Monday April 30th (***which would require the Council to conduct a special City Council meeting***) at 6:30 p.m.. The Project substantial completion date is proposed as June 29, 2012, with final acceptance by the City Council in mid-July.

Please feel free to contact me if you have questions about any of the agenda items.

Scott Flory
City Administrator

Cc: Jennifer Larsen, City Clerk (with attachments)
Joe Weigel, Public Works Director (with attachments)
Linda Nelson, Finance Officer (with attachments)
Greg Peterson, Chief of Police (with attachments)
Charlie Biebesheimer, City Attorney (with attachments)

TENTATIVE AGENDA
CLEAR LAKE CITY COUNCIL
CITY HALL – 15 N. 6TH STREET
MONDAY, APRIL 2, 2012
CITY HALL – COUNCIL CHAMBERS
6:30 P.M.

1. Call To Order by Mayor Nelson P. Crabb.
2. Approval of Agenda.
3. Consent Agenda:
 - A. Minutes – March 19, 2012.
 - B. Approval of the bills & claims.
 - C. Licenses & Permits:
 - **Liquor Licenses:** Class “B” Beer Permit, with outdoor service and Sunday sales, Oak Hills Par 30; Class “B” liquor license with outdoor service and Sunday sales, *Best Western Holiday Motor Lodge*; Class “B” native wine permit, *Tara Shea’s Massage Therapy*; and Class “B” wine permit, Class “C” Beer Permit, Class “E” liquor license, with Sunday sales, *Lake Liquor Wine & Spirits* (renewals).
 - **Excavator’s License:** Dean Snyder Construction (Clear Lake); Jennings Excavating (Clear Lake); and JIREH LLC (Clear Lake) (renewals).
 - **Peddler’s License:** Perry’s Sweet Treats (Clear Lake) (renewal).
 - **Farmer’s Market:** Request to utilize City Hall parking lot on Saturday mornings, beginning May 12th and through October 27th
4. Citizen’s opportunity to address the Council on items not on the agenda:
 - In conformance with the City Council’s Rules of Procedure, no action can occur on items presented during the Citizens Forum.
 - Please walk to the lectern, state your name (spell last name), address, and subject of your discussion.
 - Speakers are limited to a maximum of five (5) minutes per person.
5. Unfinished Business:
6. New Business:
 - A. Industrial Park 3rd Addition Storm Sewer Improvement Project:
 - Introduction by Scott Flory, City Administrator.
 - Review of 3/28/12 competitive quote opening, Mike Danburg, P.E., Yaggy Colby Associates.
 - **Motion to approve Resolution #12-19, “A Resolution Making an Award of Contract.”**

- Discussion and consideration of **Motion** by City Council.

B. 2012 7th Avenue N. Storm Sewer Outlet (Willow Creek) Improvement Project:

- Introduction by Scott Flory, City Administrator.
- Review of 3/28/12 bid opening, Jason Petersburg, P.E., Veenstra & Kimm.
- Public Hearing
- **Motion** to approve **Resolution #12-20**, "A Resolution approving plans, specifications, form of contract, and estimate of cost for the '2012 7th Avenue N. Storm Sewer Outlet (Willow Creek) Improvement Project'".
- Discussion and consideration of **Motion** by City Council.
- **Motion** to approve **Resolution #12-21**, "A Resolution Making an Award of Contract."
- Discussion and consideration of **Motion** by City Council.

C. Municipal water system improvements & street right-of-way restoration – Lincoln Village Project:

- Introduction by Scott Flory, City Administrator.
- Review of proposed final plans & specifications, Mike Danburg, P.E., Yaggy Colby Associates.
- **Motion** to approve **Resolution #12-22**, "A Resolution setting the date for a hearing and letting."
- Discussion and consideration of **Motion** by City Council.
- **Motion** to approve setting the date for a special City Council meeting for 6:30 p.m., April 30th
- Discussion and consideration of **Motion** by City Council.

D. North Iowa Corridor EDC Quarterly Report:

- Quarterly update from Brent Willett, Executive Director.
- Discussion by City Council.

E. Annual Spring Large Item Pick-up:

- **Motion** to set dates for collection as: April 9, 10, & 11.
- Discussion and consideration of **Motion** by City Council.

F. Annual Report from Alliant Energy:

- Review of Annual Report, Jim Collins, Key Account Manager.
- Discussion by City Council.

G. Flood Plain Management Ordinance Update:

- Introduction by Charlie Biebesheimer, City Attorney.
- Review and recommendation from Planning & Zoning Commission, John Marino, Building Official.
- **Motion** to set the date for a public hearing for April 16th, at 6:30 p.m.

7. Chief of Police's Report:

8. Mayor's Report:

9. Public Works Director's Report:

- Review of CDBG Sanitary Sewer Collection System Improvement Project (Phase 2).

10. City Administrator's Report:

11. City Attorney's Report:

12. Other Business:

13. Adjournment.

NEXT REGULAR MEETING – APRIL 16, 2012

RESOLUTION NO. _____

A RESOLUTION MAKING AN AWARD OF CONTRACT FOR THE INDUSTRIAL
PARK 3RD ADDITION STORM SEWER IMPROVEMENT PROJECT

WHEREAS, Sections 26.3 and 26.12 of the *Code of Iowa* exempt the governing body from advertisement for sealed bids and holding a public hearing on the proposed plans, specifications, form of contract, and estimated cost of the improvement when the Engineer's estimated cost for the improvement is less than the competitive bid threshold established in Section 314.1B of the *Code of Iowa*; and

WHEREAS, the Engineer's estimated cost of constructing the public improvements is \$59,390, which is less than the amount established by Section 314.1B of the Code of Iowa; and

WHEREAS, the City's consulting engineer, Yaggy Colby Associates, has prepared plans, specifications, form of contract documents, and estimate for the construction of the following improvement:

Industrial Park 3rd Addition Storm Sewer Project

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEAR LAKE, IOWA:

Section 1. That the following "competitive quote" for construction of certain public improvements, described in general as: "The Industrial Park 3rd Addition Storm Sewer Project" and work incidental thereto, described in plans & specifications heretofore directed to be prepared by this Council is hereby accepted, the same being the lowest responsive responsible sealed quotation received for said work, as follows:

Contractor:	Charlson Excavating of Clear Lake, Iowa.
Amount of Sealed Quotation:	\$52,035

Section 2. That the Mayor & City Clerk are hereby directed and authorized to execute a contract for the construction of said public improvements, contingent upon the satisfactory review of the Contract and bonds by the City Administrator, Public Works Director, and Project consulting engineer, said Contract and bonds to be considered for passage and approval at a subsequent meeting of the Clear Lake City Council.

PASSED AND APPROVED this 2nd day of April, 2012.

Nelson P. Crabb, Mayor

Attest:

Jennifer Larsen, City Clerk

RESOLUTION No. _____

A RESOLUTION MAKING AN AWARD OF CONSTRUCTION CONTRACT FOR
THE CLEAR LAKE CLINIC STORM SEWER IMPROVEMENTS

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEAR
LAKE, IOWA:

Section 1. That the following bid for construction of certain public improvements described in general as the Clear Lake Clinic Storm Sewer Improvements, and work incidental thereto, described in the plans and specifications heretofore adopted by this Council on April 2, 2012, be and is hereby accepted, the same being the lowest responsible bid received for said work, as follows:

Contractor: Charlson Excavating, Clear Lake, Iowa
Amount of Bid: \$52,035.00

Section 2. That the Mayor and Clerk are hereby directed to execute a contract with the contractor for the construction of said public improvements, and contingent on the approval of the contract and bonds by the City Administrator, Public Works Director, & project engineer, the contract shall be deemed approved by the Council and binding on the City.

PASSED AND APPROVED this 2nd day of April, 2012

Nelson P. Crabb, Mayor

ATTEST:

Jennifer Larsen, City Clerk

COMPETITIVE QUOTATION TABULATION
CLEAR LAKE CLINIC STORM SEWER IMPROVEMENTS
CLEAR LAKE, IOWA

DATE OF LETTING: March 28, 2012
 TIME OF LETTING: 2:00 p.m.



11635-11

ENGINEER'S ESTIMATE

Charlson Excavating Co.
Clear Lake, Iowa

John Co. DBA The Excavating Co
Clear Lake, Iowa

Brian Nettleton Exc. Inc.
Joice, Iowa

McKiness Excavating, Inc.
Mason City, Iowa

ITEM NO.	ITEM	QUANTITY	UNIT	UNIT PRICE	AMOUNT								
1	Mobilization	1	LS	\$5,000.00	\$5,000.00	\$500.00	\$500.00	\$1,000.00	\$1,000.00	\$2,000.00	\$2,000.00	\$1,000.00	\$1,000.00
2	Traffic Control	1	LS	\$1,000.00	\$1,000.00	\$1,250.00	\$1,250.00	\$600.00	\$600.00	\$2,500.00	\$2,500.00	\$1,500.00	\$1,500.00
3	Remove Pavement	80	SY	\$8.00	\$640.00	\$9.50	\$760.00	\$10.00	\$800.00	\$10.00	\$800.00	\$10.00	\$800.00
4	PCC Pavement, 8" CL M	80	SY	\$45.00	\$3,600.00	\$55.00	\$4,400.00	\$50.00	\$4,000.00	\$60.00	\$4,800.00	\$75.00	\$6,000.00
5	Remove Existing Storm Sewer Manhole	1	EA	\$500.00	\$500.00	\$500.00	\$500.00	\$1,200.00	\$1,200.00	\$500.00	\$500.00	\$500.00	\$500.00
6	Remove Existing Storm Sewer Intake	1	EA	\$400.00	\$400.00	\$750.00	\$750.00	\$1,200.00	\$1,200.00	\$350.00	\$350.00	\$500.00	\$500.00
7	Connect to Existing Storm Sewer Manhole	1	EA	\$1,000.00	\$1,000.00	\$750.00	\$750.00	\$1,000.00	\$1,000.00	\$1,500.00	\$1,500.00	\$1,000.00	\$1,000.00
8	Storm Sewer, 18" RCP, Cl. 4	20	LF	\$50.00	\$1,000.00	\$45.00	\$900.00	\$58.00	\$1,160.00	\$50.00	\$1,000.00	\$80.00	\$1,600.00
9	Storm Sewer, 30" RCP, Cl. 3	50	LF	\$85.00	\$4,250.00	\$52.50	\$2,625.00	\$68.00	\$3,400.00	\$90.00	\$4,500.00	\$90.00	\$4,500.00
10	Storm Sewer, 12" HDPE	15	LF	\$30.00	\$450.00	\$12.50	\$187.50	\$48.00	\$720.00	\$30.00	\$450.00	\$45.00	\$675.00
11	Storm Sewer, 24" HDPE	180	LF	\$45.00	\$8,100.00	\$32.50	\$5,850.00	\$50.00	\$9,000.00	\$34.00	\$6,120.00	\$50.00	\$9,000.00
12	Storm Sewer, 30" HDPE	185	LF	\$65.00	\$12,025.00	\$40.00	\$7,400.00	\$60.00	\$11,100.00	\$48.00	\$8,880.00	\$65.00	\$12,025.00
13	Storm Sewer Manhole, SW-402	1	EA	\$4,500.00	\$4,500.00	\$4,500.00	\$4,500.00	\$2,600.00	\$2,600.00	\$3,500.00	\$3,500.00	\$4,500.00	\$4,500.00
14	Storm Sewer Intake, SW-505	1	EA	\$4,000.00	\$4,000.00	\$6,500.00	\$6,500.00	\$3,200.00	\$3,200.00	\$5,000.00	\$5,000.00	\$7,500.00	\$7,500.00
15	Storm Sewer Drain Basin, 30"	3	EA	\$2,250.00	\$6,750.00	\$3,100.00	\$9,300.00	\$3,000.00	\$9,000.00	\$2,740.00	\$8,220.00	\$2,750.00	\$8,250.00
16	Storm Sewer Inline Drain, 24"	1	EA	\$1,800.00	\$1,800.00	\$1,500.00	\$1,500.00	\$1,000.00	\$1,000.00	\$2,000.00	\$2,000.00	\$1,500.00	\$1,500.00
17	Special Backfill Material	125	TON	\$16.00	\$2,000.00	\$15.00	\$1,875.00	\$7.50	\$937.50	\$1.00	\$125.00	\$18.00	\$2,250.00
18	Turf Restoration	75	SQ	\$25.00	\$1,875.00	\$26.50	\$1,987.50	\$18.00	\$1,350.00	\$15.00	\$1,125.00	\$30.00	\$2,250.00
19	Lateral Connection	1	EA	\$500.00	\$500.00	\$500.00	\$500.00	\$580.00	\$580.00	\$500.00	\$500.00	\$550.00	\$550.00
TOTAL PROJECT					\$59,390.00		\$52,035.00		\$53,847.50		\$53,870.00		\$65,900.00

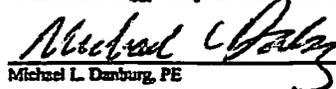
Comments

A total of 4 quotes were received. All quotes appear to be responsible and responsive. The lowest bidder was Charlson Excavating Co., Inc. of Clear Lake, Iowa at \$52,035.00 which is \$7,355.00 (12%) below the Engineer's Opinion of Probable Cost.

Remarks

Yaggy Colby Associates recommends awarding the construction contract to Charlson Excavating Co., Inc. of Clear Lake, Iowa in the amount of \$52,035.00. The contract documents require the bids to remain valid for 30 days following the bid opening.

To the best of Yaggy Colby Associates' knowledge, the above is a true and correct tabulation of the bids opened at 2:00 p.m. on March 28, 2012.


 Michael L. Danburg, PE

3/29/12
 Date

26 March 2012

Mr. Scott Flory
Administrator
City of Clear Lake
P.O. Box 185
Clear Lake, Iowa 50428

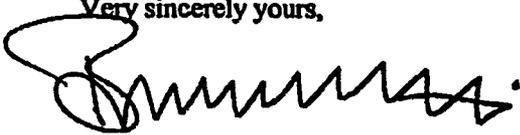
Dear Scott,

The North Iowa Corridor Executive Committee has voted to recommend to the Board of Directors an expenditure of ten per cent [10%] of total project cost not to exceed \$5,939.00 to share in the cost of the installation of storm sewer service at the Clear Lake Business Park, payable to the City of Clear Lake upon the completion of the project. The Corridor board will formally hear this recommendation during its April 3 meeting.

We wish to extend our thanks and gratitude to the City of Clear Lake for its commitment to the installation of critical storm sewer infrastructure to the business park in 2012. Installation of this infrastructure removes a significant impediment to the development suitability of these parcels. We hope and expect that the recent construction of the Gabrielson Clinic, which will be served by this storm sewer project, will serve as an example for near future development in the park. We are pleased to partner with the City of Clear Lake on this project.

Thank you and please let me know if you have any questions or concerns.

Very sincerely yours,



Brent M. Willett
Executive Director



RESOLUTION NO. _____

A RESOLUTION APPROVING PLANS, SPECIFICATIONS, FORM OF CONTRACT AND ESTIMATE OF COST FOR THE "2012 7TH AVENUE N. STORM SEWER OUTLET (WILLOW CREEK) IMPROVEMENT PROJECT"

WHEREAS, detailed plans, specifications, form of contract and estimate of cost for the "2012 7th Avenue N. Storm Sewer Outlet (Willow Creek) Improvement Project" have been prepared by the City's consulting engineer and examined by the City Council; and

WHEREAS, notice of public hearing was published in a newspaper of local circulation and said hearing has been held and no objections have been filed,

NOW, THEREFORE, BE IT RESOLVED by the Clear Lake City Council that the plans, specifications, form of contract and estimate of cost for the "2012 7th Avenue N. Storm Sewer Outlet (Willow Creek) Improvement Project" are hereby approved.

BE IT FURTHER RESOLVED that all resolutions, or parts of resolutions, in conflict herewith are hereby repealed to the extent of such conflict.

PASSED and APPROVED this 2nd day of April, 2012.

CITY OF CLEAR LAKE

By: _____
Nelson P. Crabb, Mayor

Attest:

Jennifer Larsen, City Clerk



VEENSTRA & KIMM, INC.

2800 Fourth Street SW, Suite 9 • Mason City, Iowa 50401-1596
641-421-8008 • 641-380-0313(FAX) • 877-241-8008(WATS)

BID TABULATION

7th AVENUE STORM SEWER OUTLET TO WILLOW CREEK PROJECT

CLEAR LAKE, IOWA
#383103

DATE OF LETTING: March 28, 2012
TIME OF LETTING: 11:00 a.m.
TABULATED: Patti Jass-Heifner
CHECKED: Jason Petersburg, P.E.

DATE: March 28, 2012
DATE: March 28, 2012

SUMMARY OF BIDS

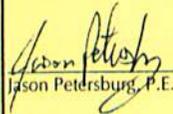
NAME OF BIDDER	BID SECURITY	ADDENDUMS	UNIT PRICE BASE BID	PERCENTAGE ABOVE / BELOW ENGINEERS OPINION OF PROBABLE COST
<i>Engineer's Opinion of Probable Cost</i>	N/A	N/A	\$ 137,508	N/A
Brian Nettleton Excavating, Inc. Joice, IA	5%	N/A	\$ 127,901.75	-6.99%
YohnCo Inc. dba The Excavating Company Clear Lake, IA	5%	N/A	\$ 128,097.50	-6.84%
Navratil Excavating, Inc. Mason City, IA	5%	N/A	\$ 149,700.00	8.87%
Charlson Excavating Co., Inc. Clear Lake, IA	5%	N/A	\$ 166,199.50	20.87%
McKiness Excavating, Inc. Mason City, IA	5%	N/A	\$ 176,872.50	28.63%

- Comments:**
- Five (5) bids were received from the nine (9) contractors holding plans and specifications.
 - Bids received were -6.99% less to 28.63% more than the Engineer's Opinion of Probable Cost.
 - Council has three options regarding contract award:
 - Award Contract
 - Reject All Bids
 - Table Contract Award to Later Date
 - Veenstra & Kimm, Inc. has worked with Brian Nettleton Excavating, Inc. on any previous projects

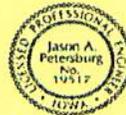
Recommendations:

- Veenstra & Kimm, Inc. recommends awarding contract to low bidder, Brian Nettleton Excavating, Inc.

I hereby certify that this is a true tabulation of bids received on March 28, 2012 by the City of Clear Lake, Clear Lake, Iowa.


Jason Petersburg, P.E.

3/28/12
Date



Iowa License No. 19517
My License renewal date is December 31, 2012.

7th Avenue Storm Sewer Outlet to Willow Creek; #383103

48" RCP with RCP Outlet to Willow Creek

NO.	ITEM	UNITS	QUANTITY	Engineer's Opinion of Probable Cost		Brian Nettleton Excavating, Inc. Joice, IA		YohnCo Inc. dba The Excavating Company Clear Lake, IA		Navratil Excavating, Inc. Mason City, IA		Charlson Excavating Co., Inc. Clear Lake, IA		McKiness Excavating, Inc. Mason City, IA	
				UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
1	Mobilization	LS	1	XXXX	\$ 4,000	XXXX	\$ 4,000.00	XXXX	\$ 6,250.00	XXXX	\$ 4,350.00	XXXX	\$ 7,500.00	XXXX	\$ 4,000.00
2	Traffic Control	LS	1	XXXX	\$ 2,500	XXXX	\$ 2,500.00	XXXX	\$ 2,550.00	XXXX	\$ 3,000.00	XXXX	\$ 3,500.00	XXXX	\$ 2,000.00
3	Silt Fence	LF	80	\$ 3.00	\$ 240	\$ 4.00	\$ 320.00	\$ 4.00	\$ 320.00	\$ 5.00	\$ 400.00	\$ 3.25	\$ 260.00	\$ 5.00	\$ 400.00
4	Intake Filter	EA	1	\$ 250.00	\$ 250	\$ 250.00	\$ 250.00	\$ 360.00	\$ 360.00	\$ 250.00	\$ 250.00	\$ 250.00	\$ 250.00	\$ 300.00	\$ 300.00
5	Storm Sewer Structure Removal	EA	3	\$ 500.00	\$ 1,500	\$ 350.00	\$ 1,050.00	\$2,000.00	\$ 6,000.00	\$ 500.00	\$ 1,500.00	\$ 1,500.00	\$ 4,500.00	\$ 500.00	\$ 1,500.00
6	Pavement Removal & Disposal	SY	460	\$ 6.00	\$ 2,760	\$ 5.00	\$ 2,300.00	\$ 4.00	\$ 1,840.00	\$ 9.00	\$ 4,140.00	\$ 7.00	\$ 3,220.00	\$ 7.00	\$ 3,220.00
7	Circular Storm Sewer Manhole														
	a. 96" Diameter	EA	1	\$ 8,500.00	\$ 8,500	\$7,650.00	\$ 7,650.00	\$7,800.00	\$ 7,800.00	\$8,500.00	\$ 8,500.00	\$12,250.00	\$ 12,250.00	\$9,500.00	\$ 9,500.00
8	Flared End Section														
	a. 48" RCEP	EA	1	\$ 2,200.00	\$ 2,200	\$1,800.00	\$ 1,800.00	\$1,610.00	\$ 1,610.00	\$2,000.00	\$ 2,000.00	\$ 2,250.00	\$ 2,250.00	\$4,500.00	\$ 4,500.00
	b. 48" RCP w/PCC Footing	EA	1	\$ 4,000.00	\$ 4,000	\$2,100.00	\$ 2,100.00	\$1,760.00	\$ 1,760.00	\$4,000.00	\$ 4,000.00	\$ 4,500.00	\$ 4,500.00	\$5,500.00	\$ 5,500.00
9	Reinforced Concrete Storm Sewer Pipe														
	a. 48" Equivalent Elliptical Pipe	LF	93	\$ 200.00	\$ 18,600	\$ 172.00	\$ 15,996.00	\$ 170.00	\$ 15,810.00	\$ 180.00	\$ 16,740.00	\$ 180.00	\$ 16,740.00	\$ 250.00	\$ 23,250.00
	b. 48" Diameter	LF	180	\$ 160.00	\$ 28,800	\$ 140.00	\$ 25,200.00	\$ 135.00	\$ 24,300.00	\$ 150.00	\$ 27,000.00	\$ 155.00	\$ 27,900.00	\$ 160.00	\$ 28,800.00
	c. 15" Diameter	LF	5	\$ 50.00	\$ 250	\$ 50.00	\$ 250.00	\$ 80.00	\$ 400.00	\$ 100.00	\$ 500.00	\$ 50.00	\$ 250.00	\$ 55.00	\$ 275.00
10	Single Grate Intake	EA	1	\$ 3,000.00	\$ 3,000	\$2,000.00	\$ 2,000.00	\$3,225.00	\$ 3,225.00	\$2,200.00	\$ 2,200.00	\$ 4,500.00	\$ 4,500.00	\$3,200.00	\$ 3,200.00
11	PC-Type Connection	EA	1	\$ 500.00	\$ 500	\$ 500.00	\$ 500.00	\$ 800.00	\$ 800.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00
12	HDPE Storm Sewer Pipe														
	a. 12" Diameter Pipe	LF	12	\$ 40.00	\$ 480	\$ 40.00	\$ 480.00	\$ 22.00	\$ 264.00	\$ 40.00	\$ 480.00	\$ 15.00	\$ 180.00	\$ 40.00	\$ 480.00
13	HDPE Pipe Bend, 12" Diameter	EA	1	\$ 200.00	\$ 200	\$ 350.00	\$ 350.00	\$ 80.00	\$ 80.00	\$ 200.00	\$ 200.00	\$ 450.00	\$ 450.00	\$ 200.00	\$ 200.00
14	Excavation	CY	200	\$ 10.00	\$ 2,000	\$ 8.00	\$ 1,600.00	\$ 5.00	\$ 1,000.00	\$ 10.00	\$ 2,000.00	\$ 12.00	\$ 2,400.00	\$ 12.00	\$ 2,400.00
15	Aggregate Base Course	TON	358	\$ 16.00	\$ 5,728	\$ 18.00	\$ 6,444.00	\$ 13.00	\$ 4,654.00	\$ 18.00	\$ 6,444.00	\$ 22.00	\$ 7,876.00	\$ 27.50	\$ 9,845.00
16	HMA Pavement, 6" Thick	SY	500	\$ 33.00	\$ 16,500	\$ 36.50	\$ 18,250.00	\$ 36.50	\$ 18,250.00	\$ 41.00	\$ 20,500.00	\$ 48.35	\$ 24,175.00	\$ 48.00	\$ 24,000.00
17	PCC Pavement, 8" Thick	SY	543	\$ 45.00	\$ 24,435	\$ 44.75	\$ 24,299.25	\$ 41.00	\$ 22,263.00	\$ 62.00	\$ 33,666.00	\$ 55.00	\$ 29,865.00	\$ 75.00	\$ 40,725.00
18	PCC Curb & Gutter, 6" Thick	LF	65	\$ 25.00	\$ 1,625	\$ 22.50	\$ 1,462.50	\$ 17.00	\$ 1,105.00	\$ 25.00	\$ 1,625.00	\$ 25.90	\$ 1,683.50	\$ 35.00	\$ 2,275.00
19	Aggregate Surface Course	TON	90	\$ 16.00	\$ 1,440	\$ 15.00	\$ 1,350.00	\$ 12.85	\$ 1,156.50	\$ 17.00	\$ 1,530.00	\$ 17.50	\$ 1,575.00	\$ 25.00	\$ 2,250.00
20	Surface Restoration - Seeding														
	a. Seeding, Fertilizing, & Mulching Urban	ACRE	0.2	\$ 4,500.00	\$ 900	\$7,500.00	\$ 1,500.00	\$7,500.00	\$ 1,500.00	\$7,500.00	\$ 1,500.00	\$10,000.00	\$ 2,000.00	\$8,250.00	\$ 1,650.00
	b. Seeding and Temporary Rolled Erosion Control Mat	SY	350	\$ 10.00	\$ 3,500	\$ 3.50	\$ 1,225.00	\$ 3.50	\$ 1,225.00	\$ 5.00	\$ 1,750.00	\$ 4.00	\$ 1,400.00	\$ 3.85	\$ 1,347.50
21	Construction Staking	LS	1	XXXX	\$ 800	XXXX	\$ 1,000.00	XXXX	\$ 1,000.00	XXXX	\$ 1,000.00	XXXX	\$ 1,350.00	XXXX	\$ 880.00
22	Stabilizing Material	TON	25	\$ 18.00	\$ 450	\$ 15.00	\$ 375.00	\$ 15.00	\$ 375.00	\$ 17.00	\$ 425.00	\$ 25.00	\$ 625.00	\$ 25.00	\$ 625.00
23	Rip Rap Revetment	TON	50	\$ 35.00	\$ 1,750	\$ 43.00	\$ 2,150.00	\$ 22.00	\$ 1,100.00	\$ 40.00	\$ 2,000.00	\$ 50.00	\$ 2,500.00	\$ 35.00	\$ 1,750.00
24	Testing	LS	1	XXXX	\$ 600	XXXX	\$ 1,500.00	XXXX	\$ 1,100.00	XXXX	\$ 1,500.00	XXXX	\$ 2,000.00	XXXX	\$ 1,500.00
TOTAL BID (Items 1.1 - 1.24)					\$ 137,508		\$ 127,901.75		\$ 128,097.50		\$ 149,700.00		\$ 166,199.50		\$ 176,872.50

RESOLUTION NO. _____

A RESOLUTION FIXING THE DATE FOR A PUBLIC HEARING ON PLANS, SPECIFICATIONS, FORM OF CONTRACT & ESTIMATE OF COST, AND SETTING THE DATE FOR A BID LETTING ON THE PROPOSED MUNICIPAL WATER SYSTEM AND 3RD AVE S. STREET RIGHT-OF-WAY RESTORATION IMPROVEMENT PROJECT

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEAR LAKE, IOWA:

That the "Municipal Water System & 3rd Ave S. Street Right-of-Way Restoration Improvement Project" (hereinafter referred to as the "Project") is hereby ordered to be advertised for bids of construction.

BE IT FURTHER RESOLVED, that the detailed plans & specifications, as submitted for the Project, by Yaggy Colby Associates, for the construction of the Project and the Form of Contract and Notice to Bidders, as approved by the Attorney, be and the same are hereby approved, subject to hearing thereon, and are hereby ordered placed on file in the Office of the City Clerk for public inspection.

BE IT FURTHER RESOLVED, that the amount of security to accompany each bid shall be in an amount, which shall conform to the provisions of the notice to bidders hereby approved as part of said specifications.

BE IT FURTHER RESOLVED, that the Clerk be and is hereby empowered and directed to publish notice to bidders once in the "Clear Lake Mirror Reporter", a legal newspaper, printed wholly in the English language, published at least once weekly, and having a general publication in this City. In accordance with Section 384.96 of the Code of Iowa, publication shall be not less than four (4) nor more than forty-five (45) clear days prior to April 25, 2012, which date is hereby fixed as the date for receiving bids. Said bids are to be filed prior to 2:00 p.m. on said date.

In accordance with Section 384.100 of the Code of Iowa, bids shall be received and opened as provided in the public notice and the results of said bids shall be considered at the meeting of this City Council on April 30, 2011, at 6:30 p.m.

BE IT FURTHER RESOLVED, that, in accordance with Section 384.102 of the Code of Iowa, the Clerk is hereby empowered and directed to publish notice of hearing once in said newspaper, said publication to be not less than four (4) nor more than twenty (20) clear days prior to the date hereinafter fixed as the date for the public hearing on the plans, specifications, form of contract and estimate of costs for said project, said hearing to be held at 6:30 p.m. on April 30, 2012.

PASSED, APPROVED AND ADOPTED this 2nd day of April, 2012.

CITY OF CLEAR LAKE, IOWA

Nelson P. Crabb, Mayor

ATTEST:

Jennifer Larsen, City Clerk

PUBLIC IMPROVEMENT PROJECT
 LINCOLN SCHOOL SITE
 CLEAR LAKE, IOWA
 PROPOSED TIME SCHEDULE

11676
 03/28/12

ITEM NO.	DESCRIPTION	BY	SCHEDULED DATE	PHASE
1	PREPARE FINAL PLANS AND SPECIFICATIONS	YCA	BY 04/02/12	D
2	ADOPT RESOLUTION SETTING BID OPENING, HEARING DATES & ORDERING CLERK TO PUBLISH NOTICE	CITY	04/02/12	B
3	MAIL NOTICE TO CONTRACTORS & PLAN ROOMS	YCA	BY 04/03/12	B
4	PUBLISH NOTICE OF HEARING AND LETTING	CITY	04/11/12 or 04/18/12	B
5	BID OPENING	CITY/YCA	04/25/12	B
6	PUBLIC HEARING: RESOLUTION ADOPTING PLANS, SPECIFICATIONS, & FORM OF CONTRACT	CITY	04/30/12 SPECIAL MEETING	B
7	AWARD OF CONTRACT BY RESOLUTION	CITY	04/30/12 SPECIAL MEETING	B
8	APPROVAL OF CONTRACT & BOND	CITY	05/07/12	C
9	BEGIN CONSTRUCTION	CONTRACTOR	BY 05/18/12	C
10	END CONSTRUCTION	CONTRACTOR	BY 07/13/12	C

LEGEND OF PHASES
 B = BIDDING
 C = CONSTRUCTION
 D = DESIGN

**NOTICE OF HEARING AND LETTING
NOTICE TO BIDDERS**

Public notice is hereby given that sealed bids will be received by the City of Clear Lake, at City Hall, 15 North 6th Street, Clear Lake, Iowa, 50428 until 2:00 p.m. on the 25th day of April, 2012, for the construction of the Public Improvement Project, Lincoln School Site, Clear Lake, Iowa, as described in plans and specifications thereof now on file with the City Clerk in City Hall. Bids will be opened at 2:00 p.m. at the Clear Lake City Hall.

Bids will be considered by the Clear Lake City Council at a meeting to be held in City Hall, Clear Lake, Iowa, at 6:30 p.m., on the 30th day of April, 2012, and will be acted upon at such time and place or at such later time and place as may then be fixed. At said time and place, a public hearing will also be held on the proposed plans, specifications, and proposed form of contract for construction, and at said hearing any interested person may appear and file objections thereto or to cost of said improvements.

The construction proposed consists of, but is not limited to the following work items:

Base Bid

Water Main	385 LF
Raw Water Main	395 LF
Fire Hydrant	3 EA
Flushing Hydrant	1 EA
Gate Valve and Box	8 EA
Storm Sewer Intake	1 EA
Clear and Grub Tree	97 UNITS
Pavement and Sidewalk Removal	1160 SY
Curb and Gutter	450 LF
PCC Sidewalk	2810 SF
PCC and HMA Pavement Restoration	95 SY

Add Alternate Bid #1

Sidewalk Removal	150 SY
PCC Sidewalk	2300 SF

Add Alternate Bid #2

Pavement Removal	10 SY
HMA Pavement Restoration	10 SY
Sanitary Sewer Service Pipe	70 LF
Sanitary Sewer Service Cleanout	2 EA
Sanitary Sewer Service Wye	2 EA

Method of construction shall be by contract, and all work is to be done in strict compliance with Plans and Specifications prepared by Yaggy Colby Associates, 215 North Adams, Mason City, Iowa, which have heretofore been approved by the City Council, City of Clear Lake and are now on file for public examination in City Hall. Bid Form, Plans, and Specifications may be obtained from Yaggy Colby Associates, 215 North Adams, Mason City, Iowa 50401.

A refundable deposit of \$25 will be required for the Plans and Project Manual. In order to receive a refund, both Plans and Project Manual must be returned in complete and re-useable condition. In addition, they must be returned in said condition within fourteen days after award of the project. Failure to comply with either requirements will result in forfeiture of the deposit.

Work under the proposed contract shall commence within 10 days after Notice to Proceed. Work under the proposed contract shall be substantially completed by June 29 2012. All work shall be completed and ready for final acceptance by July 13, 2012.

Substantial completion is defined as follows: All work is complete except for finish grading of turf restoration areas, seeding and minor cleanup.

The kinds of materials proposed to be used and approximate amounts are as set out in the "Bid Form" which by this reference is made a part of this notice.

Each bid must be made out on a Bid Form furnished in the Bidding Documents Manual obtained from Yaggy Colby Associates or on a computerized Bid Form furnished by the bidder. Bid Forms furnished by the bidder shall replicate the Bid Form furnished in the Bidding Documents Manual.

Each bid shall be sealed in an envelope marked "Bid for Public Improvement Project, Lincoln School Site, Clear Lake, Iowa." Each bid must be accompanied in a separate envelope by a bidding check or bid bond in an amount equal to five percent (5%) of the bid price, said check being either a certified or cashier's check, drawn on a bank in Iowa, or a bank chartered under the laws of the United States, or a Certified share draft drawn on a credit union in Iowa or chartered under the laws of the United States, and made payable to the City of Clear Lake, Iowa, as security that the bidder will furnish the required bonds and enter into a contract within ten (10) working days, excluding Saturday, Sunday, and holidays, after the award of the contract to him.

Bidders shall not be permitted to withdraw their bids for a period of thirty (30) days after the same are opened.

By virtue of statutory authority, preference will be given to products of and provisions grown within the State of Iowa and to Iowa domestic labor.

Pursuant to Chapter 73 of the Code of Iowa, out-of-state bidders are hereby advised of the Iowa Bidding Preference Law extending to Iowa firms any preference which may be (a) strict preference, (b) reciprocal preference, or (c) combination preference and reciprocal. Application of such preference will be extended from any "public improvement" as defined in Chapter 73A of the Code of Iowa.

Bidders shall be expected to comply with Chapters 91C and 103A of the Code of Iowa concerning the registration and bonding of construction contractors and the successful bidder shall be required to supply the City of Clear Lake with proof of said compliance.

Payment for said " Public Improvement Project, Lincoln School Site, Clear Lake, Iowa," will be made from the General Fund of the City of Clear Lake or from such other funds as may be legally used for such purposes. Monthly estimates will be made by the ENGINEER and payment will be made to the CONTRACTOR in the amount of ninety-five percent (95%) of said estimate on or about the tenth of the following month. Final payment will be made not sooner than thirty (30) days following final acceptance of the work by the City of Clear Lake in accordance with Iowa Code chapters 26 and 573, as applicable.

The bidder's attention is called to the prompt payment to the subcontractors under Chapter 573.12 of the Code of Iowa.

Plans and specifications governing the construction of the proposed improvements have been prepared by Yaggy Colby Associates, 215 North Adams, Mason City, Iowa, which plans and specifications, and also prior proceedings of the City of Clear Lake referring to and defining said proposed improvements, are hereby made a part of this notice and the proposed contract by reference, and the proposed contract shall be executed in compliance therewith.

Copies of said plans and specifications are now on file in the office of the Clear Lake City Clerk (City Hall), for examination by bidders.

All bids shall NOT include Iowa Sales Tax for materials used in the project. Upon award, the successful bidder shall immediately provide a listing of subcontractors and associated Federal ID or Social Security Numbers for both the contractor and subcontractors. The City will register the contractor and subcontractors with the Iowa Department of Revenue and will provide appropriate certificates to the contractor for distribution and use.

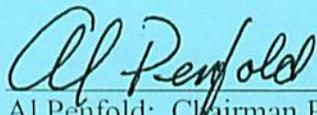
The City of Clear Lake reserves the right to reject any and all bids and to waive technicalities and irregularities.

Published upon order of the City of Clear Lake, Iowa.

Jennifer Larson, City Clerk
Clear Lake, Iowa

Honorable, Mayor and City Council

The Planning and Zoning Commission at its Meeting of March 13th, 2012 reviewed and accepted the changes and updates to the Citys Ordinances covering the Flood Plain Management. The Commission now forwards the recommendation to adopt those changes to our present ordinance.

 
Al Penfold: Chairman Planning and Zoning

165.53 FLOOD PLAIN MANAGEMENT.

It is the purpose of this section 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: (i) reserve sufficient flood plain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially; (ii) 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; (iii) require that uses vulnerable to floods, including public utilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement; (iv) protect individuals from buying lands which may not be suited for intended purposes because of flood hazard; and (v) assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

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

A. "Base flood" means the flood having one percent (1%) chance of being equaled or exceeded in any given year. (See 100-year flood.)

B. "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."

C. "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.

D. "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."

E. "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.

F. "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).

G. "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.

H. "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.

I. "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.

J. "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.

K. "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.

L. "Flood Insurance Study" means a study initiated, funded, and published by the Federal Insurance Administration for the purpose of evaluating in detail the existence and severity of flood hazards; providing the City with the necessary information for adopting a floodplain management program.

M. "Flood plain" means any land area susceptible to being inundated by water as a result of a flood.

N. "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.

O. "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.

P. "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 foot.

Q. "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.

R. "Historic structure" means any structure that is:

(1) 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;

(2) 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;

(3) 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,

(4) 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.

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

(1) The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of subparagraph (10)(D)(1) of this section; and

(2) 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

(3) Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot above the 100-year flood level; and

(4) The enclosed area is not a "basement" as defined in this section.

In cases where the lowest enclosed area satisfies criteria (1), (2), (3) and (4) above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

T. "Minor Projects" means small development activities(except for filling, grading and excavating) valued at less than \$500.00

U. "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.

V. "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.

W. "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.

X. "Recreational vehicle" means a vehicle which is:

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

Z. "Routine Maintenance of Existing Buildings/Facilities" means the repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

- (1) Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
- (2) Exterior and interior painting, papering, tiling, carpeting, cabinets, countertops and similar finish work;
- (3) Basement sealing
- (4) Repairing/replacing damaged or broken window panes;
- (5) Repairing plumbing systems, electrical systems, heating or air conditioning systems.

AA. "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.

BB. "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.

CC. "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.

DD. "Substantial damage" means damage of any origin sustained by a structure where by 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.

CC. "Substantial improvement" means 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 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."

(2) 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.

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

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

2. Lands To Which Chapter Applies. The provisions of this section shall apply to all lands within the jurisdiction of the City 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. The flood profiles and all explanatory material contained with the Flood Insurance Study and the Flood Insurance Rate Maps are also declared to be a part of this section.

3. 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 Zoning Administrator 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 Administrator in the enforcement or administration of this section.

4. 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 section and other applicable regulations which apply to uses within the jurisdiction of this section.

5. Abrogation and Greater Restrictions. It is not intended by this section to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this section imposes greater restrictions, the provision of this section shall prevail. Any ordinances inconsistent with this section are hereby repealed to the extent of the inconsistency only.

6. Interpretation. In their interpretation and application, the provisions of this section 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.

7. Warning and Disclaimer Of Liability. The standards required by this section are considered reasonable for regulatory purposes. This section does not imply that areas outside the designated Flood Plain (Overlay) District areas will be free from flooding or flood damages. This section 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 section or any administrative decision lawfully made thereunder.

8. Establishment of Zoning (Overlay) Districts. The flood plain areas within the jurisdiction of this section are hereby divided into the following districts:

- A. Floodway District (FW)
- B. Floodway Fringe District (FF)
- C. General Flood Plain District (FP)
- D. Shallow Flooding District (SF).

The boundaries are 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 section is granted after due consideration by the Board of Adjustment.

9. 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 subsection 18 of this section. 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 paragraph A and in this paragraph which are consistent with the provisions of paragraph C and the general spirit and purpose of this section.

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 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.

(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.

10. Floodway Fringe (Overlay) District - FF. 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. All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards.

A. All structures shall:

(1) Be adequately anchored to prevent flotation, collapse or lateral movement of the structure.

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

(3) Use construction methods and practices that will minimize flood damage.

B. Residential Buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one 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 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.

C. Nonresidential Buildings. All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one foot above the 100-year flood level, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the 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 floodproofed shall be maintained by the Administrator.

D. All new and substantially improved structures.

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

- (a) A minimum of two 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.
- (b) The bottom of all openings shall be no higher than one foot above grade.
- (c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

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

(2) 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.

(3) 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.

E. Factory-built Homes.

(1) 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.

(2) 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.

F. Utility and Sanitary Systems.

(1) On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

(2) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one foot above the 100-year flood elevation.

(3) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one foot above the 100-year flood elevation.

(4) Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

G. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one 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.

H. 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.

I. 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.

J. 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 section. 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.

K. Accessory Structures.

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

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

(2) 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.

L. Recreational Vehicles.

(1) Recreational vehicles are exempt from the requirements of paragraph (10)(E) of this section regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

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

(2) Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of paragraph (10)(E) of this section regarding anchoring and elevation of factory-built homes.

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

11. 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, and airport landing strips.

(3) Private and public recreation 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 use which involves placement of structures, factory-built homes, fill or other obstructions; the 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 subsection 18 of this section. 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 (subsection 9).

(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 standards of the Floodway Fringe (Overlay) District (subsection 10).

12. Shallow Flooding (Overlay) District - SF. 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. 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:

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

B. In shallow flooding areas designated as an AH Zone on the Flood Insurance Rate Map, the minimum floodproofing/flood protection elevation shall be equal to the elevation as specified on the Flood Insurance Rate Map.

13. Administration. The Zoning Administrator shall administer and enforce this section and will herein be referred to as the Administrator. The duties and responsibilities of the Administrator include, but are not necessarily limited to, the following:

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

B. Review all flood plain development permit applications to assure that all necessary permits have been obtained from Federal, State or 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 North American 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 floodproofed.

D. Notify adjacent communities and/or countries 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 section.

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 section and advise the Council of potential conflicts.

14. 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 or 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.

15. 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.

A. Description of the work to be covered by the permit for which application is to be made.

B. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.

C. Indication of the use or occupancy for which the proposed work is intended.

D. Elevation of the 100-year flood.

E. 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 floodproofed.

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 section.

16. 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 section 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 Board of Adjustment.

17. 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 section. 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, floodproofing or other flood protection measures were accomplished in

compliance with the provisions of this section, prior to the use or occupancy of any structure.

18. Conditional Uses, Appeals and Variances. The Zoning Board of Adjustment shall hear and decide (i) applications for conditional uses upon which the Board is authorized to pass under this section, (ii) appeals, and (iii) requests for variances to the provisions of this section; and shall take any other action which is required of the Board.

A. 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 by the Board of Adjustment.

B. 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 section, 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.

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

(1) 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) 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.

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

(4) In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this section, 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.

(5) All variances granted shall have the concurrence or approval of the Department of Natural Resources.

D. Hearings and Decisions of the Board of Adjustment.

(1) 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.

(2) 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 section, 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 section and may prescribe such conditions as contained in subsection 20.

19. Factors Upon Which the Decision to Grant Variances Is Based. In passing upon applications for variances, the Board shall consider all relevant factors specified in other sections of this section 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 service provided by the proposed facility to the City.

F. The requirements of the facility for a flood plain location.

- G. The availability of alternate locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- J. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- K. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
- L. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
- M. Such other factors which are relevant to the purpose of this section.

20. 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 section. Such conditions may include, but not necessarily be limited to:

- A. Modification of waste disposal and water supply facilities.
 - B. Limitation on 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 section.
 - E. Floodproofing measures designed to be 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 floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.
21. 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 illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the Board.

22. Nonconforming Uses.

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

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

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

B. Except as provided in subparagraph (2) above, any use which has been permitted as a conditional use or variance shall be considered a conforming use.

23. Amendments. The regulations and standards set forth in this section 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.