

**BUCHANAN COUNTY ZONING CODE OF ORDINANCES  
2008**

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**TITLE VI – PROPERTY AND LAND USE**

Chapter 51 – Flood Plain Management

## CHAPTER 51

### FLOOD PLAIN MANAGEMENT

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#### 51.01 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.

1. The Legislature of the State of Iowa has, in Chapter 335, Code of Iowa, as amended, delegated the power to counties to enact zoning regulations to secure safety from flood and to promote health and the general welfare.
2. Findings of Fact:
  - a. The flood hazard areas of Buchanan County are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare of the community.
  - b. These flood losses, hazards, and related adverse effects are caused by 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 the cumulative effect of obstructions on the flood plain causing increases in flood heights and velocities.
3. Statement of Purpose. It is the purpose of this ordinance to protect and preserve the rights, privileges and property of Buchanan County 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 51.01(2)(a) of this ordinance with provisions designed to:
  - a. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.
  - b. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
  - c. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

#### 51.02 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.

1. 100-YEAR FLOOD – (See BASE FLOOD)

2. AREA OF SPECIAL FLOOD HAZARD – The land in the flood plain within a community subject to a one (1) percent or greater chance of flooding in any given year.
3. BASE FLOOD – The flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-YEAR FLOOD).
4. BASEMENT – Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. (See LOWEST FLOOR).
5. DEVELOPMENT – Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
6. EXISTING CONSTRUCTION – For the purposes of determining rates, structures for which the “Start of Construction” commenced before the effective date of the community’s Flood Insurance Rate Map (FIRM), or before January 1, 1975, for FIRM’s effective before that date. May also be referred to as “existing structures.”
7. EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION – A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured 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 floodplain management regulations adopted by a community.
8. EXPANSION TO AN EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION – The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
9. FLOOD or FLOODING – A general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland and/or (2) unusual and rapid accumulation or runoff of surface waters from any source.
10. FLOOD HAZARD BOUNDARY MAP (FHBM) – An official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.
11. FLOOD INSURANCE RATE MAP (FIRM) – An official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.
12. FLOODPLAIN or FLOOD-PRONE AREA – Any land area susceptible to being inundated by water from any source (See FLOODING).
13. FLOODPLAIN MANAGEMENT – The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not

limited to emergency preparedness plans, flood control works, floodplain management regulations.

14. FLOODPROOFING – Any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.
15. 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 on 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 either by (1) an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.
16. LOWEST FLOOR – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, **provided** that such enclosure is not built so as to render the structure in violation of the applicable flood-proofing design requirements of this ordinance.
17. MANUFACTURED HOME – A structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “*manufactured home*” **does not include** a “*recreational vehicle*.”
18. NEW CONSTRUCTION – For the purposes of determining insurance rates, structures for which the “Start of Construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “*new construction*” means structures for which the “Start of Construction” commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.
19. NEW FACTORY-BUILT HOME PARK OR SUBDIVISION – A manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured 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 floodplain management regulations adopted by the community.

20. 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.
21. SPECIAL FLOOD HAZARD AREA – See AREA OF SPECIAL FLOOD HAZARD.
22. SPECIAL HAZARD AREA – An area having special flood hazards and shown on an FHBM or FIRM as zones (unnumbered or numbered) A Zones or AE Zones.
23. START OF CONSTRUCTION – Includes substantial improvements, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements, were within 180 days of the permit date. The **actual start** means either the first placement of permanent construction of a structure on a site, such as pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; the installation of streets and/or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms, not 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 a building, whether or not that alteration affects the external dimensions of the building.
24. STRUCTURE – For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a Manufactured Home. “*Structure*” for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a Manufactured Home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.
25. SUBSTANTIAL DAMAGE – Damage of any origin sustained by a Structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.
26. SUBSTANTIAL IMPROVEMENT – Any reconstruction, rehabilitation, addition, or other improvements of a Structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either before Start of Construction of the improvement. This term includes structures which have incurred Substantial Damage, regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a

structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a Historic Structure.

27. VARIANCE – A grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.
28. VIOLATION – The failure of a Structure or other development to be fully compliant with the community's floodplain management regulations. A Structure or other Development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

### **51.03 GENERAL PROVISIONS.**

1. Lands to Which Ordinance Apply. The provisions of the ordinance shall apply to all lands within the jurisdiction of the County of Buchanan which are located within the boundaries of the Flood Plain District as established in Section 51.04.
2. Rules for Interpretation of Flood Plain (Overlay) District. The boundaries of the Flood Plain District areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Buchanan County Zoning Administrator shall make the necessary interpretation. The Buchanan County Board of Adjustment appeal board 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 Ordinance.
3. Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of the ordinance and other applicable regulations which apply to uses within the jurisdiction of this ordinance.
4. 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.
5. 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.
6. 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 District areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Buchanan County or any officer or employee thereof for any flood damages that from reliance on this Ordinance or any administrative decision lawfully made thereunder.

7. 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.

**51.04 ESTABLISHMENT OF FLOOD PLAIN DISTRICT.** The areas within the jurisdiction of Buchanan County having special flood hazards are hereby designated as a Flood Plain District and shall be subject to the standards of the Flood Plain District (as well as those for the underlying zoning district). The Flood Plain District boundaries shall be as shown on the Flood Insurance Rate Map (FIRM) for Buchanan County dated July 21, 1999, and subsequent revisions.

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

1. All development within the Flood Plain District shall be consistent with the need to minimize flood damage, use construction methods and practices that will minimize flood damage, use construction materials and utility equipment that are resistant to flood damage, and obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. Residential buildings – All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 feet 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 County Zoning Administrator, 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 registered in 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 (NGVD) to which any structures are flood-proofed shall be maintained by the Zoning 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:

- i. 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.
  - ii. The bottom of all openings shall be no higher than one foot above grade.
- b. 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.
  - c. 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.
  - d. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-built homes:

- a. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.
- b. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

6. Utility and Sanitary Systems:

- a. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
- b. All new and replacement sanitary sewage systems shall be designed to minimize and 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 not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.
8. Flood control structural works such as levees, flood walls, etc., shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Iowa 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 Iowa 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.
    - i. The structure shall not be used for human habitation.
    - ii. The structure shall be designed to have low flood damage potential.
    - iii. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
    - iv. The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
    - v. 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/Structures.

- a. Recreational vehicles/structures are exempt from the requirements of Section 51.05(5) of this ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
  - i. The vehicle/structure shall not be used for permanent human habitation.
  - ii. The vehicle/structure can and shall be removed from the flood plain prior to or during times of high water.
- 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.

13. Undetermined Special Flood Hazard Areas (Zone D).

When the Administrator has indicated the presence of Zone D on the FIRM but has not provided sufficient data to identify the special flood hazard areas in these zones and the community has indicated the presence of such hazard areas by submitting an application to participate in the Program, the community shall:

- a. Require permits for all proposed construction or other development in the community, including the placement of factory-built homes, so that it may determine whether such construction or other development is proposed within flood-prone areas.
- b. If the construction or development is determined to be in a flood-prone area, then the requirements of Section 51.05 must be met.

**51.06 ADMINISTRATION.**

1. Appointment, Duties and Responsibilities of Zoning Administrator.

- a. The Zoning Administrator is hereby appointed to implement and administer the provisions of this ordinance and will herein be referred to as the Administrator.
- b. Duties of the Administrator shall include, but not necessarily be limited to the following:
  - i. Review all flood plain development permit applications to assure that the provisions of this ordinance will be satisfied.
  - ii. 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 Iowa Department of Natural Resources (DNR) for flood plain construction.
  - iii. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all

new or substantially improved structures in the Flood Plain (Overlay) District for which DNR permits have been issued.

- iv. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) to which all new or substantially improved structures have been flood-proofed and DNR permits have been issued.
- v. Notify adjacent communities/counties and the DNR prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the United States Federal Emergency Management Agency.
- vi. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this ordinance.

**2. Flood Plain Development Permit.**

- a. 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.
- b. Application for Permit – Application shall be made on forms furnished by the Administrator and shall include the following:
  - i. Description of the work to be covered by the permit for which application is to be made.
  - ii. 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.
  - iii. Indication of the use or occupancy for which the proposed work is intended.
  - iv. For buildings being improved or rebuilt, the estimated cost of improvements and assessed value of the building prior to the improvements.
  - v. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this ordinance.
- c. Action on Permit Application – The Administrator shall, within a reasonable time, make a determination as to whether the proposed 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 County Board of Adjustment.
- d. 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.

3. Variance.

- a. The County 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.
  - i. Variances shall only be granted upon: (A) a showing of good and sufficient cause, (B) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (C) 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.
  - ii. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - iii. 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: (A) 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 (B) such construction increases risks to life and property.
- b. 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:
  - i. The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - ii. The danger that materials may be swept on to other land or downstream to the injury of others.
  - iii. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
  - iv. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the owner.
  - v. The importance of the services provided by the proposed facility to the county.

- vi. The requirements of the facility for a flood plain location.
  - vii. The availability of alternative locations not subject to flooding.
  - viii. The compatibility of the proposed use with existing and anticipated development in the foreseeable future.
  - ix. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
  - x. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - xi. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwater expected at the site.
  - xii. 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.
  - xiii. Such other factors which are relevant to the purpose of this ordinance.
- c. 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:
- i. Modification of waste disposal and water supply facilities.
  - ii. Limitation of periods of use and operation.
  - iii. Imposition of operational controls, sureties, and deed restrictions.
  - iv. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the DNR and are deemed the only practical alternative to achieving the purpose of this ordinance.
  - v. Flood-proofing measures.

**51.07 NONCONFORMING USES.**

1. 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:
  - a. If such use is discontinued for six (6) consecutive months, any future use of this building premises shall conform to this ordinance.
  - b. Uses or adjuncts thereof that are, or become nuisances, shall be entitled to continue as nonconforming uses.
2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the

assessed value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

**51.08 PENALTIES FOR VIOLATION.**

Violations of the provisions of this ordinance or failure to comply with any of the requirements 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 \$750 or imprisoned for not more than 45 days. Any violation of this ordinance may be prosecuted as a County infraction pursuant to Section 331.307, Code of Iowa.

**51.09 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.