

# Legal Notices

**ORDINANCE NO. 670**  
**AN ORDINANCE FOR AN AMENDMENT TO WINTERSET MUNICIPAL CODE TITLE IV, CHAPTER 16, SECTIONS 4.1601 THROUGH 4.16010 FLOOD PLAIN MANAGEMENT**

**BE IT ENACTED** by the City Council of the City of Winterset, Iowa as follows:

**WHEREAS**, the flood hazard areas of the City are subject to periodic inundation which can cause loss of life and property, health and safety hazards, disruption of commerce and governmental services, and impairment of the tax base, all of which adversely affect the public welfare; and

**WHEREAS**, the Iowa Department of Natural Resources has recommended that the City repeal its existing Floodplain Management ordinance and adopt updated regulations in order to remain compliant with state and federal requirements, including the National Flood Insurance Program; and

**WHEREAS**, the City Council finds it necessary and in the public interest to adopt regulations ensuring that new development contributes to the availability and quality of recreational and open space opportunities for the community;

**NOW THEREFORE**, be it ordained by the City Council of Winterset, Iowa as follows:

**Section 1. Amendment.** Current Sections 4.1601 through 4.1606 of the Winterset Municipal Code shall be repealed and replaced with the following updated sections 4.1601 through 4.1610 and shall read as follows:

\*4.1601. 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.

APPURTENANT STRUCTURE - A structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

BASE FLOOD - The flood having one (1) percent chance of being equaled or exceeded in any given year. (Also commonly referred to as the "100-year flood").

BASE FLOOD ELEVATION (BFE) - The elevation floodwaters would reach at a particular site during the occurrence of a base flood event.

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

DEVELOPMENT - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. "Development" does not include "minor projects" or "routine maintenance of existing buildings and facilities" as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.

ENCLOSED AREA BELOW LOWEST FLOOR - The floor of the lowest enclosed area in a building when all the following criteria are met:

- A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of 4.1606.2.D.1 of this Ordinance, and
- B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
- C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the base flood elevation, and
- D. The enclosed area is not a "basement" as defined in this section.

EXISTING CONSTRUCTION - Any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the community.

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

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

FACTORY-BUILT HOME - Any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this Ordinance factory-built homes include mobile homes, manufactured homes, and modular homes; and also include "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

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

FIVE HUNDRED (500) YEAR FLOOD - A flood, the magnitude of which has a two-tenths (0.2) percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every five hundred (500) years.

FLOOD - A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

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

FLOOD INSURANCE STUDY (FIS) - A report published by FEMA for a community issued along with the community's Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.

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

FLOODPLAIN MANAGEMENT - An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.

FLOODPROOFING - Any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

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

FLOODWAY FRINGE - Those portions of the Special Flood Hazard Area outside the floodway.

HIGHEST ADJACENT GRADE - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - Any structure that is:

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

LOWEST FLOOR - The floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of Enclosed Area below Lowest Floor are met.

MAXIMUM DAMAGE POTENTIAL DEVELOPMENT - Hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.

MINOR PROJECTS - Small development activities (except for filling, grading and excavating) valued at less than \$500.

NEW CONSTRUCTION - (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.

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

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.

ROUTINE MAINTENANCE OF EXISTING BUILDINGS AND FACILITIES - Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
- B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
- C. Basement sealing;
- D. Repairing or replacing damaged or broken window panes;
- E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

SPECIAL FLOOD HAZARD AREA (SFHA) - The land within a community subject to the "base flood". This land is identified on the community's Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.

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.

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

SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.

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

- A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (i) before the "start of construction" of the improvement, or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code

enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of an "historic structure", provided the alteration will not preclude the structure's designation as an "historic structure".

- B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

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

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

4.1602. STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.

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

It is the purpose of this Ordinance to protect and preserve the rights, privileges and property of the City of Winterset 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 4.1602.2.A of this Ordinance with provisions designed to:

  - A. Reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.
  - B. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.
  - C. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
  - D. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
  - E. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

4.1603. GENERAL PROVISIONS.

- 1. Lands to Which Ordinance Apply

The provisions of this Ordinance shall apply to all lands within the jurisdiction of the City of Winterset which are located within the boundaries of the Floodplain (Overlay) District as established in 4.1605.
- 2. Establishment of Official Floodplain Zoning Map

The Flood Insurance Rate Map (FIRM) for Madison County and Incorporated Areas, City of Winterset, Panels 19121C0150D, 19121C0175D, 19121C0231D, 19121C0232D, 19121C0233D, 19121C0234D, 19121C0251D, 19121C0253D, dated 6-21-2017, which were prepared as part of the Flood Insurance Study for Madison County, is (are) hereby adopted by reference and declared to be the Official Floodplain Zoning Map. The Madison County Flood Insurance Study is hereby adopted by reference and is made a part of this ordinance for the purpose of administering floodplain management regulations.
- 3. Rules for Interpretation of Floodplain (Overlay) District

The boundaries of the Floodplain (Overlay) 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 City Administrator or designee shall make the necessary interpretation. The 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 City Administrator or designee in the enforcement or administration of this Ordinance.
- 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 Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance.
- 5. 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.
- 6. 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.
- 7. 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 Floodplain (Overlay) District areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Winterset or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.
- 8. 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.

4.1604. ADMINISTRATION

- 1. Appointment, Duties and Responsibilities of Local Official
  - A. The City Administrator is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator.
  - B. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:
    - 1) Review all floodplain development permit applications to assure that the provisions of this Ordinance will be satisfied.
    - 2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.
    - 3) Record and maintain a record of (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures or (ii) the elevation to which new or substantially improved structures have been floodproofed.
    - 4) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
    - 5) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.
    - 6) 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.
    - 7) Notify the Federal Insurance Administrator of any annexations or modifications to the community's boundaries.
    - 8) Review subdivision proposals to ensure such proposals are consistent with the purpose of this ordinance and advise the Board of Adjustment of potential conflict.
    - 9) Maintain the accuracy of the community's Flood Insurance Rate Maps when;
      - a. Development placed within the floodway results in any of the following:
        - (i) An increase in the Base Flood Elevations, or
        - (ii) Alteration to the floodway boundary
      - b. Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base elevation; or
      - c. Development relocates or alters the channel.Within 6 months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.
    - 10) Perform site inspections to ensure compliance with the standards of this Ordinance.
    - 11) Forward all requests for Variances to the Board of Adjustment for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the Board of Adjustment.
- 2. Floodplain Development Permit
  - A. Permit Required - A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, storage of materials and equipment, excavation or drilling operations), including the placement of factory-built homes.
  - B. Application for Permit - Application shall be made on forms furnished by the Administrator and shall include the following:
    - 1) Description of the work to be covered by the permit for which application is to be made.
    - 2) Description of the land on which the proposed work is to be done (e.g., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
    - 3) Location and dimensions of all structures and additions.
    - 4) Indication of the use or occupancy for which the proposed work is intended.
    - 5) Elevation of the base flood.
    - 6) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of structures or of the level to which a structure is to be floodproofed.
    - 7) For structures being improved or rebuilt, the estimated cost of improvements and market value of the structure prior to the improvements.
    - 8) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this Ordinance.
  - C. Action on Permit Application - The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this 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 Board of Adjustment.
  - D. Construction and Use to be as Provided in Application and Plans - Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this 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, structure floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.