

165.22 FLOODPLAIN MANAGEMENT. 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:

1. Findings of Fact.
 - A. The flood hazard areas of the City of Clarion 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.
2. Statement of Purpose. It is the purpose of this section to protect and preserve the rights, privileges and property of the City of Clarion 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 1(A) of this section 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. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard;
 - D. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.
3. Lands to Which Section Applies. The provisions of this section shall apply to all lands within the jurisdiction of the City of Clarion which are located within the boundaries of the Floodplain Overlay District as established in subsection 9 of this section.
4. 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 Zoning Administrative Officer 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 Zoning Administrative Officer in the enforcement or administration of this section.

5. 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.

6. 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. All other ordinances inconsistent with this section are hereby repealed to the extent of the inconsistency only.

7. 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.

8. 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 Floodplain Overlay District areas will be free from flooding or flood damages. This section shall not create liability on the part of the City of Clarion or any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made there under.

9. Establishment of Floodplain Overlay District. The areas within the jurisdiction of the City of Clarion having special flood hazards are hereby designated as a Floodplain Overlay District and shall be subject to the standards of the Floodplain Overlay District (as well as those for the underlying zoning district). The Floodplain Overlay District boundaries shall be as shown on the Flood Insurance Rate Map (FIRM) for Wright County and Incorporated Areas, City of Clarion, Panels 19197C0235C, 0255C, dated February 20, 2013.

10. Standards for Floodplain Overlay District. All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where 100-year flood elevations and floodway data have 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:

- A. All development within the Floodplain Overlay District shall:
 - (1) Be consistent with the need to minimize flood damage.
 - (2) Use construction methods and practices that will minimize flood damage.
 - (3) Use construction materials and utility equipment that are resistant to flood damage.
 - (4) Obtain all other necessary permits from Federal, State and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
- B. Residential buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall

be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed subject to favorable consideration by the Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

C. 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 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 1988) 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. Mobile homes:

(1) All mobile homes, including those placed in existing mobile 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 mobile homes, including those placed in existing mobile 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 (1) 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 (1) 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 ft. of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

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 mobile 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 Floodplain 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 subsection 10(E) of this section regarding anchoring and elevation of mobile 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 subsection 10(E) of this section regarding anchoring and elevation of factory-built homes.

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

11. Administration

A. Appointment. Duties and Responsibilities of Zoning Administrative Officer.

(1) The Zoning Administrative Officer is hereby appointed to implement and administer the provisions of this section and will herein be referred to as the Administrator.

(2) Duties of the Administrator shall include, but not necessarily be limited to the following:

(a) Review all floodplain development permit applications to assure that the provisions of this section will be satisfied.

(b) 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.

(c) Record and maintain a record of the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures in the Floodplain Overlay District.

(d) Record and maintain a record of the elevation (in relation to North American Vertical Datum 1988) to which all new or substantially improved structures have been floodproofed.

(e) 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.

(f) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

B. Floodplain Development Permit.

(1) 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, excavation or drilling operations), including the placement of factory-built homes.

(2) Application for Permit. Application shall be made on forms furnished by the Administrator and shall include the following:

- (a) Description of the work to be covered by the permit for which application is to be made.
- (b) Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
- (c) Indication of the use or occupancy for which the proposed work is intended.
- (d) Elevation of the 100-year flood.
- (e) Elevation (in relation to North American Vertical Datum 1988) 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 chapter.

(3) 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 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.

(4) 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 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.

C. Variance.

(1) 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.

(a) Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

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

(c) 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 \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

(2) Factors Upon Which the Decision of the Board of Adjustment Shall Be Based. In passing upon applications for variances under the terms of this section, 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 services provided by the proposed facility to the City.

(f) The requirements of the facility for a floodplain location.

(g) The availability of alternative locations not subject to flooding for the proposed use.

(h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(i) The relationship of the proposed use to the comprehensive plan and floodplain 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.
- (3) 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 of periods of use and operation.
 - (c) Imposition of operational controls, sureties, and deed restrictions.
 - (d) Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this section.
 - (e) Floodproofing measures.
12. 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 (6) 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.
- B. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this section. 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.

13. Penalties for Violation. Violations of the provisions of this section or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this section or fails to comply with any of its requirements shall upon conviction thereof be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than thirty (30) days. Nothing herein contained prevent the City of Clarion from taking such other lawful action as is necessary to prevent or remedy violation.

(Sec. 165.22 - Ord. 548 – May 13 Supp.)

165.23 DRIVEWAYS IN RESIDENTIAL ZONES. The regulations proscribed in this section apply to all residential zoned districts and residential real properties, regardless of zone, within the city. Any person, corporation, or legal entity who is the owner, whether the legal or equitable title holder, of a residential lot shall be responsible for any violation of this section.

1. Definitions. The following words, terms, and phrases, when used in Section 69.19, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

A. “Curb drop” means a cut made through the street curb that has previously been authorized and approved by the City.

B. “Dwelling” means any portion of a building that is designed or used for residential living purposes, not including any attached garage portion.

C. “Entrance” means a portion of the driveway that is the approved exit from a street or alley onto private property, which has previously been authorized and approved by the City.

D. “Front yard” for a corner lot means any yard of a corner lot adjacent to a street. For any other lot, “front yard” means any yard adjacent to a street.

All other words and terms, not enumerated in subsection 1 of this section, shall be defined as provided in the Zoning Ordinance, any amendments thereto or any future zoning ordinances enacted by the City.

2. Driveways. Under this section, a driveway and entrance shall be an improved surface constructed of concrete, asphalt, seal coat, solid bricks, gravel or crushed stone, constructed and maintained in quality, quantity and size to prevent the creation of ruts in or deterioration or damage to the driveway or soil beneath from the operation or parking of vehicles thereon. Gravel or crushed stone must be maintained so as to be free from weeds and grass, and shall be bordered alongside unimproved surfaces so as to prevent the gradual spread of said gravel or crushed stone. The location of driveway or parking areas are as follows:

A. Front Yard: Only one driveway shall be allowed in a front yard per street frontage, except that a duplex with each unit having its own garage shall be permitted a driveway for each garage subject to subsection 3. No driveway shall be located in front of a dwelling, except for the following:

- (1) Any dwelling area portions attached to and located above or behind a garage;
- (2) A driveway extension as defined in subsection 4 of this section.
- (3) Driveways in front of a dwelling which has no attached garage.

3. Width of driveway. A driveway shall be no wider than as follows:
 - A. If there is a one vehicle-stall wide garage facing the front yard, or no garage: 12 feet
 - B. If there is a two vehicle-stall wide garage: 24 feet
 - C. If there is a three vehicle-stall wide garage: 36 feet
4. Driveway extensions. One driveway extension with a maximum width of 12 feet can be added to the maximum width designated in subsection 3 above subject to the following requirements:
 - A. One driveway extension no wider than twelve feet in width shall be permitted in any one front yard; and
 - B. A driveway extension must be contiguous and parallel to the driveway, although a driveway that curves into a driveway expansion for the purpose of maintaining or creating a minimal curb drop is allowed; and
 - C. A driveway extension that is created on or after this ordinance takes effect must be located between the driveway and the side property line in the direction away from the dwelling, if there is sufficient space for placement between the driveway and that side property line; and
 - D. The surface of a driveway extension must be an improved surface constructed of concrete, asphalt, seal coat, solid bricks, gravel or crushed stone, and constructed and maintained in quality, quantity and size to prevent the creation of ruts in or the deterioration or damage to the driveway extension or soil beneath from the operation or parking of vehicles thereon.

(Ord. 570 – May 17 Supp.)

165.24 PERMIT REQUIRED. No person shall reconstruct or install a driveway or driveway extension unless such person has obtained a permit from the City and has agreed in writing that said reconstruction or installation will comply with all ordinances and requirements of the City for such work. If in conjunction with another permit, no fee shall apply. All other circumstances shall require a \$30 fee paid prior to approval by the Zoning Administrator. Any driveway or driveway extension which is reconstructed or installed subsequent to the effective date of this ordinance may be subject to reconstruction or removal if it does not conform to the standards set forth in this chapter.

1. Investigation. The Zoning Administrator shall investigate each application so filed and within seven (7) calendar days make a determination as to whether the application is allowed under the City's Zoning Ordinance.
2. Grounds for Denial. If after such investigation of the application, it is determined by the Zoning Administrator that the proposed driveway or driveway extension does not conform to the general appearances or allowable uses of this chapter, the application shall be denied.
3. Conditions for Approval. As a condition to approving an application, the Zoning Administrator may require changes in the material, design, or plan of the project contemplated or its location upon the property described.
4. Suspension or Revocation of Permits. The Zoning Administrator may, for cause, suspend or revoke any permit issued by serving notice thereof on the permit holder and in such event all work and operations under the permit shall immediately

cease until the cause of suspension or revocation has been adjusted. The permit holder shall have no claim against the Zoning Administrator or the City in damages for such suspension or revocation.

5. In the event the application for permit is denied by the Zoning Administrator, the applicant may appeal that denial to the Board of Adjustment.

6. Cost of Appeals. Should an applicant wish to appeal any decision of the Zoning Administrator to the Board of Adjustment, the Appeal shall be in writing, filed with the Clerk, and a fee of two-hundred (\$200.00) shall be paid.

7. Council Approval. All permits approved by the Zoning Administrator and special exceptions and/or variances approved by the Board of Adjustment shall be submitted to the Council for final approval. No such permit, special exception, variance or rezoning shall take effect until such Council approval.

8. Time Limits. Work for which driveway or driveway extension permits are issued under the provisions of this chapter must begin within six (6) months of the date said permit is approved and said work must be completed within one (1) year. Extensions of the time limits can only be approved by the Council.

9. Liability. The fact that the City issues said driveway or driveway extension permit in no way makes the City, or its representatives, liable in the event the applicant fails to comply with any other rules or regulations that may apply to such construction, change or remodeling.

(Ord. 570 – May 17 Supp.)

EDITOR'S NOTE			
The following ordinances have been adopted amending the Official Zoning Map described in Section 165.02 of this chapter and have not been included as a part of this Code of Ordinances but have been specifically saved from repeal and are in full force and effect.			
ORDINANCE NO.	DATE ADOPTED	ORDINANCE NO.	DATE ADOPTED
391	May 6, 1996	579	July 17, 2017
409	October 19, 1998	589	July 16, 2018
424	October 1, 2001		
500	November 6, 2006		
520	May 3, 2010		
532	April 4, 2011		
533	June 6, 2011		
541	February 20, 2012		
549	May 20, 2013		

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