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## ZONING & SUBDIVISION CODE

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## **Chapter 17.01**

## **Development Program**

<b>17.01.01</b>	<b>Title</b>	<b>17.01.06</b>	<b>Amendments</b>
<b>17.01.02</b>	<b>Purpose</b>	<b>17.01.07</b>	<b>Violations</b>
<b>17.01.03</b>	<b>Applicability and Severability</b>	<b>17.01.08</b>	<b>Schedule of Fees</b>
<b>17.01.04</b>	<b>Building Codes</b>	<b>17.01.09</b>	<b>Complaints and Violations</b>
<b>17.01.05</b>	<b>Enforcement</b>		

**17.01.01 Title:** This title shall be known as the "Zoning Code of the City of Burlington, Iowa."

**17.01.02 Purpose:** The purpose of the Zoning Code is to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to regulate the use of land, and to promote the health, safety, morals, comfort, convenience and general welfare in the City of Burlington in conjunction with the current Comprehensive Plan for the City of Burlington and all other plans adopted by the Burlington City Council.

The Development Program herein provides regulations based on the type of use of structures and land. Each chapter and section of this Zoning Code work in conformance with one another to ensure orderly development in the City of Burlington. Should any section or chapter conflict or be found less restrictive than another section or chapter of this Zoning Code, the section or chapter that is more restrictive shall control.

**17.01.03 Applicability and Severability:** The regulations set forth in this chapter shall govern each section and chapter set forth in this Zoning Code.

If any section or provision of this Zoning Code is held invalid by a court of competent jurisdiction, such holding shall not affect the validity of any other provision of this Zoning Code which can be given effect without the invalid portion or portions, and each section and provision of this Zoning Code is severable.

For the purpose of this Zoning Code, certain words or terms shall be interpreted as follows:

1. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
2. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
3. The word "shall" is mandatory; the word "may" is permissive.
4. The words "used" or "occupied" include the words "intended," "designed," or "arranged" to be used or occupied."
5. The word "lot" includes the words "plot" or "parcel."

**17.01.04 Building Codes:** Construction of any structure on land lying within the City of Burlington shall comply with all applicable codes and requirements of the City of Burlington, State of Iowa and agencies of the U.S. Government.

**17.01.05 Enforcement:** All regulations listed in this Zoning Code shall be enforced by the Development Department. All appeals shall be presented to the Zoning Board of Adjustment, and any recourse thereof shall be made to the courts as provided by law and particularly by Chapter 414 of the Code of Iowa.

**17.01.06 Amendments:** In accordance to Chapter 414, Code of Iowa, the City Council may, from time to time, amend, supplement, change, modify, or repeal the regulations, restrictions, and boundaries, provided such action shall first be submitted to the Planning and Zoning Commission. The Planning and Zoning Commission shall, within thirty (30) days, provide the City Council with a report and/or recommendations for approval or disapproval of the action.

A property owner, developer and/or option holder may petition the Council for an amendment to the text or district map of this Zoning Code, provided that before such action is taken by the Commission or City Council, an application and filing fee shall be deposited with the Development Department.

Public hearings shall be held by both the City Council and the Planning and Zoning Commission, provided that notice of the time and place of the public hearings shall be given by a one time publication thereof in a legal newspaper having general circulation within the City at least fifteen (15) days prior to such meeting. The Commission and Council may recess their required public hearings in order to obtain additional information or testimony, or to serve further notice upon other property owners or persons they decide may be interested in the proposed change.

In the case of a written protest against the proposed change or repeal submitted to the City Clerk prior to the public hearing by owners of twenty percent (20%) of the area of the lots included or twenty percent (20%) of the property owners located within two hundred (200) feet of the exterior boundaries of the property for which the change or appeal is proposed, the change or repeal shall not become effective without a favorable vote of at least three-fourths (¾) of all members of the City Council.

**17.01.07 Violations:** Any person or corporation who shall violate any of the provisions of this Zoning Code or fail to comply therewith or with any of the conditions, agreements or requirements thereof, or who shall build, or alter any building shall be deemed guilty of a municipal infraction as provided under Chapter 4 of the City's Code of Ordinances. The owner or owners, corporations, or individuals involved in the construction of any building or any interest holder of property or part thereof where anything in violation of this Zoning Code shall be placed or shall exist shall be deemed guilty of a separate offense.

**17.01.08 Schedule of Fees:** The City Council shall establish a schedule of fees for all applications required by this Zoning Code. No action shall be taken on any application or appeal until such time that all applicable charges and/or expenses have been paid in full.

**17.20.30**

**A-1 AIRPORT DISTRICT**

**17.20.301 Purpose:** The intent of this District is facilitating the safe and structured expansion of the Burlington Municipal Airport. In order to protect specified encroachment areas within the operational area of the Burlington Municipal Airport, the following regulations have been set forth to restrict height, location, and general use of structures.

**17.20.302 General Regulations:** The regulations set forth in this chapter, or set forth elsewhere in this Zoning Code when referred to in this chapter, are the regulations in the A-1 airport district.

USE CATEGORIES	STATUS	APPROVAL REQUIRED	APPROVAL AUTHORITY
<b>RESIDENTIAL USES</b>	N	--	--
<b>LIMITED COMMERCIAL USES</b>	N	--	--
<b>GENERAL COMMERCIAL USES</b>			
Automotive and Marine Craft			
Motor Vehicle rental	Y	BP and/or SP	Staff
<b>LIGHT INDUSTRIAL USES</b>	N	--	--
<b>HEAVY INDUSTRIAL USES</b>	N	--	--
<b>INSTITUTIONAL USES</b>	N	--	--
<b>TRANSPORTATION, COMMUNICATIONS &amp; ESSENTIAL SERVICES USES</b>			
Airport Facilities			
Airport terminals	Y	BP	Staff
Hangers/storage facilities	Y	BP	Staff
Fuel tanks	Y	BP	Staff
Landing strips	Y	SUP	SUP
Heliports	Y	SUP	SUP
Fire stations and training areas	Y	BP	Staff
Aeronautical research facilities	Y	BP	Staff
Manufacturing (specific to airports)	Y	BP	Staff
Sale and Maintenance	Y	BP	Staff
Parks and recreational trails	Y	SP and/or BP	Staff

- Y = Yes: permitted by required approval: subject to supplementary regulations
- N = No: prohibited in this district, unless otherwise specified
- SUP = Special Use Permit: subject to supplementary regulations
- BP = Building permit required: subject to supplementary regulations
- SP = Site plan approval, accessory structures still require a building permit
- ZBA = City of Burlington, Zoning Board of Adjustment
- Staff = City of Burlington, Department of Development

The above listed permitted uses of the A-1 District shall meet all of the requirements of this Title, including the following supplementary requirements before permits will be issued, in order to ensure the health, safety, and general welfare in the City of Burlington, Iowa. These permits are also subject to all State and Federal regulations governing areas within the airport designation.

- Bulk Regulations (height and area): see Section 17.30.20
- Parking regulations see Section 17.30.50
- Accessory use regulations see Section 17.30.202
- Sign regulations see Chapter 17.75
- Special use regulations see Section 17.30.30
- Tower and antenna regulations see Chapter 17.70
- Nonconforming Uses see Section 17.30.10

## **17.30.60 AIRPORT APPROACH REGULATIONS**

**17.30.601 Purpose:** The regulations set forth in this chapter are considered supplements to the A-1 Airport District. All parking, height and area, definitions, and allowable uses are set forth in this chapter and shall be adhered to prior to permit approval.

**17.30.602 Adoption of Plan:** The "Burlington Municipal Airport Approach Plan," numbered B-1 and dated May 1, 1946, on file in the office of the Engineer, is made part of this Zoning Code.

**17.30.603 Definitions:** For the purpose of this chapter, unless otherwise expressly stated, the following terms shall have the meanings indicated in this section:

1. Airport: - The Burlington Municipal Airport.
2. Airport Hazard - Any structure, landscaping or use that obstructs air space required for the flight of aircraft and can be considered hazardous in the approach areas.
3. Airport Hazard Area - Any area of land or water restricting establishment of Airport hazards.
4. Approach Area - Any area on the ground extending the length of the runways and the two-mile area measured from the centerline of the runways in all directions.
5. Horizontal Surface Plane - The invisible surface plane located one hundred fifty (150) feet above the approach area.
6. Landing Area - The area of the airport used for take off, landing or taxiing of the aircraft.
7. Landscaping: - Any object of natural or artificial growth including, but not limited to trees, shrubs or similar object.
8. Nonconforming Use - Any structure, landscaping or use that does not conform to the regulations prescribed in this chapter.
9. Obstruction - Any tangible, inanimate object, that is natural or artificial, protruding above the surface of the ground.
10. Person - Any individual, corporation, stakeholder or similar representative.
11. Structure - Anything constructed or erected which requires location on the ground or attached to something having location on the ground, including signs and billboards.

**17.30.604 Zones Established:** All of the land within the boundaries of the airport and the two-mile approach area are divided into zones designating approach and turning areas. The boundaries of the zones are established and shown on the airport approach plan referred to in Section 17.20.01.

**17.30.605 Height and Area Requirements:** The following regulations shall prescribe all of the building requirements set forth in the Airport District. Except as otherwise provided in this chapter, no structure or landscaping shall be erected, altered, allowed to grow or maintained in any airport approach zone or airport turning zone to a height in excess of the height limit established in this section for such zone.

1. Approach Zone for an Instrument Runway: From each end of the northwest and the southeast runway, and from each end of the north and the south runway, the height limits of obstructions shall not exceed a one-foot raise above the runway and elevation for each forty-foot distance from the runway and until the angle forty to one intercepts a horizontal plane one hundred fifty feet above the airport, a distance approximately six thousand feet from the runway end. The lateral dimensions of the approach zone perpendicular to the extended centerline of the runway shall be one thousand feet at the runway end and four thousand feet at the approach end. (see Instrument Runway Graph)
2. Approach Zone for a Noninstrument Runway: From each end of the northeast and the southwest runway, the height limit of obstructions shall not exceed a one-foot raise above the runway and elevation for each thirty-foot distance from the runway end until the angle thirty to one intercepts a horizontal plane one hundred fifty feet above the airport, a distance of approximately four thousand five hundred feet from the runway end. The lateral dimensions of the approach zone perpendicular to the extended centerline of the runway shall be runway width at the runway end, runway width plus two thousand feet at the approach end, except that in no case shall the width at the runway end be less than five hundred feet and the width at the approach end be less than two thousand five hundred feet. (see Noninstrument Runway Graph)

3. **Airport Turning Zone:** The approach zones and the usable landing area shall be jointed to the horizontal surface by turning zones sloping upward and outward from the approach zones and from the boundaries of the usable landing area in common with the approach area and the slope of these transitional surfaces shall be in the ratio of seven feet of the surface to one foot in elevation until the angle seven to one intercepts a horizontal plane one hundred fifty feet above the airport. (see Airport Turning Zone Graph)
4. The maximum height, notwithstanding the above, is one (1) story or twenty-five (25) feet.
5. The minimum depth for the front yard is twenty-five (25) feet.
6. There is no minimum side yard requirement, except for a lot that abuts a residential district. The side yard in this instance shall be no less than twenty-five (25) feet.
7. The minimum depth for the rear yard requirement is twenty-five (25) feet.

**17.30.606 Certain Uses Prohibited:** Notwithstanding any other provisions of this chapter, no use may be made of land within any airport approach zone or airport turning zone in such a manner which may impair visibility in the vicinity of the airport, create electrical interference with radio communication, make it difficult to distinguish between airport lights, or result in glare for the eyes of flyers endangering the landing, taking off or maneuvering of aircraft.

**17.30.607 Nonconforming Uses and Structures:** The regulations prescribed in Sections 17.30.605 and 17.30.606 shall not be construed to require the removal or alteration of any structure or landscaping not conforming to the regulations as of the effective date of this chapter, or otherwise to interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration or intended use of any structure, in which the construction or alteration has begun prior to the effective date of this chapter.

**17.30.609 Permits:**

1. **Future Uses:** No use shall be made of land other than that use being made on the effective date of this chapter, and no structure shall be erected or otherwise established, and no tree shall be planted in any airport approach zone or airport turning zone unless a permit has been applied for and granted. Each such application shall indicate the purpose for which the permit is desired and shall show sufficient information to allow the determination of whether the resulting use, structure, or landscaping would conform to the regulations herein.
2. **Existing Uses:** Before any existing use of land is altered or replaced so as to result in a greater height of such structure in any airport approach zone or airport turning zone, a permit must be secured, authorizing such change. No such permit shall be granted that would allow the establishment or creation of an airport hazard by virtue of such change, replacement, replanting, alteration, repair or reconstruction or permit a nonconforming use or structure to be made greater hazard to air navigation, than provided in this code.

**17.30.610 Parking and Loading:** The following regulations are the minimum requirements for parking and loading spaces located within the Airport Zoning District.

1. **Off-street parking requirements:** for airport terminals shall be one parking space for each one hundred (100) square feet of floor area.
2. **Off-street loading requirements:** shall be as follows,
  - a. One loading space for the first 25,000 square feet of gross floor area.
  - b. One additional loading space for every 75,00 sq ft of gross floor area over the initial 25,000.
  - c. Long term parking - one space for every three boardings allowed on a daily basis.

**17.30.612 Administrator:** The Airport Manager is charged with the duty of administering and enforcing the regulations prescribed in this chapter, and all amendments hereto. The Airport Manager shall likewise administer and enforce such regulations as may be laid down by the Airport Zoning Commission. The duties of the Airport Manager, as such Administrator, shall include that of hearing and deciding all applications for permits under Section 17.30.609, but shall not have or exercise any of the powers delegated to the Board of Adjustment.

**17.30.613 Applicable Regulations:** Where this chapter imposes a greater or more stringent restriction upon the use of land than is imposed by any other provision of this code, other ordinance or applicable regulation, the provisions of this chapter shall govern.

## **Chapter 17.70**

## **Communication Tower Regulations**

17.70.100	Purpose and General Policy	17.70.109	Application Process
17.70.101	Definitions	17.70.110	Noise and Emission Standards
17.70.102	Telecommunications Act of 1996	17.70.111	Water Towers and Parks
17.70.103	Lease and Fee	17.70.112	Abandonment
17.70.104	Limit on Terms	17.70.113	New Technologies
17.70.105	Priorities	17.70.114	Amateur Radio Exclusion
17.70.106	Placement Requirements	17.70.115	Airport Zoning
17.70.107	Placement on Private Property	17.70.116	Commercial Radio/TV Stations
17.70.108	Height Requirements	17.70.117	Liability and Damage

**17.70.100 Purpose and General Policy:** The City finds that in order to ensure public safety and provide efficient delivery of services by the City and others wishing to utilize wireless communication technologies, in order to protect public and private investments, ensure the health, safety and welfare of the population, to provide for the regulation and administration of the orderly location of antenna arrays and towers and to secure the rights of the City to a return on its investment on public property, it is necessary for the City to establish uniform rules and policies.

**17.70.101 Definitions:** For the purpose of this chapter, all words defined herein are in addition to all words defined in other chapters of the City of Burlington Development Program:

1. Antenna - A device, dish or array used to transmit or receive telecommunications signals.
2. ANSI - The most recently adopted standard of the American National Standards Institute, which establishes guidelines for human exposure to non-ionizing electromagnetic radiation
3. Communications tower - A tower, pole, or similar apparatus or structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, free standing, guyed, or on or in another structure of any kind.
4. Collocation/Site Sharing - Use of a common Wireless Communications Facility or common site by more than one wireless communication license holder or by one wireless license holder for more than one type of communications technology and or placement of a Wireless Communications Facility on a structure owned or operated by a utility or other public entity. All new wireless communications facilities shall be engineered, designed and constructed to be capable of sharing the facility with other providers, to collocate with other existing wireless communications facilities and to accommodate the future collocation of other wireless communications facilities.
5. EIA (Electronics Industries Association) Standard - Structural standards for steel antenna towers and antenna support structures.
6. Equipment Facility - Any structure used to contain ancillary equipment for a Wireless Communications Facility which includes cabinets, shelters, a build out of an existing structure, pedestals, and other similar structures.
7. FAA - Federal Aviation Administration.
8. FCC - Federal Communications Commission.
9. Height - The distance from the base of the tower to the top of the antenna, including all supporting structures.
10. Public Property/Public Real Estate - All the land and buildings owned, leased or controlled by the City of Burlington but would not include land or improvements titled in the name of the City of Burlington that are actually owned and controlled by the Burlington Municipal Waterworks Board of Trustees or the Burlington Public Library Board of Trustees.

**17.70.111 Water Towers and Parks:** The placement and maintenance of communications antennas or towers on certain City-owned real-estate, will be allowed when the following additional requirements are met in lieu of those conditions already stated in Sections 17.70.106 through 17.70.110.

1. **Water Tower Sites** – A city's water towers represent a large public investment in water pressure stabilization, distribution and peak capacity reserves. Therefore, their protection is of prime importance. As access to the City's water storage system increases, so does the potential for contamination of the public water supply.
  - a. The applicant must have written approval from the General Manager of the Water Works or designee each time access to the facility is desired.
  - b. Applicant shall comply with the terms and conditions as established by the policy of the Board of Trustees.
  - c. There is sufficient room on the structure or the grounds to accommodate the applicant's facility.
  - d. The presence of the facility will not appreciably increase the water tower maintenance cost.
  - e. The presence of the facility will not be harmful to the health or safety of the workers maintaining the water tower.
  - f. Fees for application and lease shall be set by the Waterworks Board of Trustees in addition to the fees required for building permit or special use permit review.
2. **Parks** - The presence of certain communications antennas or towers represents a potential conflict with the purpose of certain City-owned parks and recreational facilities. Towers shall be prohibited in designated conservation areas, and communications antennas or towers will be considered only in the following parks and park facilities after the recommendation of the Parks Advisory Committee and approval of the City Council:
  - a. Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use.
  - b. Commercial recreational areas and major ball fields.
  - c. Park maintenance facilities.
  - d. The fees for application and lease shall be set by the City in addition to the fees required for building permit or special use permit review.

**17.70.112 Abandonment:** Any Wireless Communications Facility that is not operated for a continuous period of six (6) months shall be considered abandoned, and the City of Burlington, Iowa, at its election, may require the Wireless Communications Facility owner or the owner of the ground on which the facility is located, or both, to remove the Wireless Communications Facility within 180 days after notice from the City to remove the Wireless Communications Facility. If the abandoned Wireless Communications Facility is not removed in the specified amount of time, the City may remove it and recover its costs from the Wireless Communications Facility owner or owner of the ground.

**17.70.113 New Technologies:** Should new technology present itself within the term of any permit or lease that is more effective, efficient, and economical, the permit holder may petition the City to allow the upgrade, provided the upgrade does not alter the conditions set forth in this chapter.

**17.70.114 Amateur Radio Exclusion:** This chapter shall not govern the installation of any amateur radio facility that is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas. Such installations shall require a special use permit application in any district formed by, and according to, this Zoning Code.

**17.70.115 Airport Zoning:** Any Wireless Communications Facility located or proposed to be located in airport areas governed by the Federal Aviation Administration shall also comply with the provisions of all-applicable local, state, and federal airport regulations.