

# SUPPLEMENT TO THE 2013 CLAY COUNTY CODE OF ORDINANCES

## Supplement 1 – Amendment to:

County General Relief Ordinance, No. 1.4-Section 5 Level of Benefits- # 7 Burial Amendment

### Resolution 2015-10

Passed Mtg 11-March 3, 2015

**WHEREAS**, the Clay County Central Point Coordinator and Veteran Affairs Director have made recommendations in relation to the Clay County General Relief Ordinance, No. 1.4-Section 5 Level of Benefits- # 7 Burial Amendment, and

**WHEREAS**, the Board of Supervisors has considered the proposed amendments and has held public hearing thereon the 17<sup>th</sup> day of February, 2015 and the 3rd day of March, 2015; and

**WHEREAS**, the Board of Supervisors elect to waive the requirement for three successive reading and votes pursuant to Iowa Code Chapter 331.302(5); and

**WHEREAS**, the Clay County Board of Supervisors supports the adoption of the proposed amendment;

**NOW THEREFORE BE IT RESOLVED** that the Clay County Board of Supervisors amends the Clay County General Relief Ordinance, No. 1.4-Section 5 Level of Benefits- # 7 Burial Amendment.

### **Proposed Clay County General Relief Ordinance, No. 1.4 Section 5 Level of Benefits- # 7 Burial Amendment**

7. Burial- Clay County may provide burial benefits for a deceased Clay County legal resident. An application for county assistance with the Clay County Community Services office/Veterans' Affairs office must be made at the time of death and prior to the burial when possible and no later than five (5) days after the date of death to determine income and resource eligibility. The deceased person's income must not exceed the current year's 100% (Veterans' 110%) Federal Poverty Guideline and their estate must not have resources over \$500 for eligibility for Clay County General Assistance, according to resource guidelines. The ability of the deceased's family and other interested parties to assist with the funding of the funeral/burial arrangements or at the time of application for county assistance by the Clay County Community Services or Clay County Veterans' Affairs office.

Should the income of the deceased exceed the 100% (Veterans 110%) Federal Poverty Guideline or resources of the deceased and/or the deceased's spouse or guardian/conservator be over \$500 but not to exceed \$1,800 any of these resources can be applied in conjunction with the Clay County's maximum rate of reimbursement of \$1,800 for a county-assisted burial as approved by the Clay County Community Services' office, the Clay County Veterans' Affairs office, and the mortuary. These income eligibility exceptions to policy and payment arrangements must be reviewed and approved by the Clay County Board of Supervisors or the Clay County Veterans' Affairs Commission.

If the deceased is deemed eligible for county burial and has burial benefits, such as money derived from life insurance or a death benefits, which may include but not be limited to those from Railroad, and Veteran's etc. as well as cash from the sale of vehicles, real estate or any another asset shall be paid to Clay County up to the maximum amount of assistance or \$1,800. If these burial benefits are present, they will be identified in a signed repayment agreement with the balance owed for the amount of county assistance remaining. The Social Security Administration's standard death benefit may be applied for with two (2) years of death. When received, this benefit amount is applied to discretionary burial expenses listed below.

Failure to sign the repayment agreement at the time of application will result in lack of county assistance. If the deceased's estate and/or assets revert to another family member and/or interested party, a lien will be placed on these assets/resources to assure reimbursement of the party so the amount owed returns to Clay County at a future time.

Burial benefits of \$1,800 include cremation services which will be paid by Clay County to the mortuary. County assisted burial includes: 1) limited professional services of Funeral Director and Staff; 2) transportation of the deceased's remains from the place of death to the funeral home within a 25 mile radius. 3) sanitary care of an unembalmed body; and 4) alternative cardboard cremation container. The mortuary will bill the county for the Medical Examiner's permit for a county funded burial.

The deceased's family and/or other interested parties may provide up to an additional \$500 (Veterans \$800) to the mortuary for discretionary expenses such as clergyman, music, flowers, guest register, transportation costs for distances exceeding the 25 mile radius of the funeral home at a rate of \$1.20 per mile (\$200 maximum), and an urn or permanent container for the deceased's remains. Any other amenities or charges for the burial/funeral, etc. will be offered at the discretion of the mortuary and will not be subject to billing to Clay County, the deceased's family and/or other interested parties when the deceased s deemed eligible for a county-assisted burial.

This ordinance will be reviewed for usage and costs by the Clay County Board of Supervisors, the Clay County Community Services office, the Clay County Veteran's Affairs Commission and Clay County Veterans' Affairs office and the mortuaries providing services to Clay County legal residents every other calendar year to adjust rates as needed.

The above and foregoing resolution was adopted by the Board of Supervisors of Clay County, Iowa, this 3rd day of March, 2015 and the vote thereon being as follows: Ayes: Anderson, Brockshus, Matthews, Skow and Swanson. Nays: None. Abstentions: None.

Clay County, Iowa  
Board of Supervisors  
/s/Linda K. Swanson, Chairperson

ATTEST: /s/Marjorie A. Pitts, County Auditor

**Supplement 2:**

**Ordinance No. 5.1**

**Clay County Ordinance for Operation of All-Terrain and Off-Road Utility Vehicles**

**An ordinance to designate that portion of county highways upon which All-Terrain Vehicles and Utilities Vehicles may be operated during a specified period, to specify said period, and to establish regulations regarding such operation.**

**Resolution 2015-27**

**Passed Mtg 29-September 15, 2015**

**WHEREAS**, the Clay County Board of Supervisors deems it necessary for the purposes of promoting the health, safety, and general welfare of Clay County, Iowa and its citizens to enact this ordinance, and

**WHEREAS**, the Clay County Board of Supervisors have made recommendations in relation to the Clay County Ordinance for Operation of All-Terrain and Off-Road Utility Vehicles, and

**WHEREAS**, the Board of Supervisors has considered the proposed ordinance and has held public hearings thereon the 1<sup>st</sup> day of September, 2015 and the 15<sup>th</sup> day of September 2015; and

**WHEREAS**, the Clay County Board of Supervisors supports the adoption of the proposed ordinance;

**NOW THEREFORE BE IT ENACTED AND ORDAINED:**

**Ordinance No. 5.1**

**Clay County Ordinance for Operation of All-Terrain and Off-Road Utility Vehicles**

**An ordinance to designate that portion of county highways upon which All-Terrain Vehicles and Utilities Vehicles may be operated during a specified period, to specify said period, and to establish regulations regarding such operation.**

PURPOSE:

The purpose of this Resolution is to designate that portion of county highways upon which All-Terrain Vehicles and Utility Vehicles may be operated during a specified period, to specify said period, and to establish regulations regarding such operation.

DEFINITIONS:

- (1) "All-terrain vehicle," as defined by Iowa Code Section 321I.1(1)(a), means a motorized vehicle with not less than three and not more than six non-highway tires that is limited in engine displacement to less than one thousand cubic centimeters and in total dry weight to less than one thousand two hundred pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.
- (2) "Off-Road Utility Vehicle", as defined in Iowa Code Section 321I.1(17), means a motorized flotation-tire vehicle with not less than four and not more than eight low-pressure tires that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has a seat of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control.

- (3) "Roadway", as defined in Iowa Code Section 321I.1(26), means that portion of a highway improved, designed, or ordinarily used for vehicular travel.

OPERATION ON ROADWAYS:

If an All-Terrain or Off-Road Utility Vehicle is properly registered pursuant to Iowa Code Section 321I.3, the same may be operated on any Clay County, Iowa, roadway, such operation limited to roadways lying outside the city limits of any incorporated city which does not have an ordinance or other regulation in effect allowing such operation, and such operation further limited to the hours from official sunrise to official sunset of the same day, as established by the National Weather Service.

UNLAWFUL OPERATIONS:

- (1) A person shall not drive or operate an All-Terrain or Off-Road Utility Vehicle:
- a. At a rate of speed in excess of the posted speed limit, nor greater than reasonable or proper under all existing circumstances.
  - b. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.
  - c. While under the influence of an alcoholic beverage or controlled substance.
  - d. Without a lighted headlight and taillight.
  - e. In any tree nursery or planting in a manner which damages or destroys growing stock.
  - f. On any public land, ice, or snow, in violation of official signs of the commission prohibiting such operation in the interest of safety for persons, property, or the environment. Any officer appointed by the commission may post an official sign in an emergency for the protection of persons, property, or the environment.
  - g. In any park, wildlife area, preserve, refuge, game management area, or any portion of a meandered stream, or any portion of the bed of a non-meandered stream, which has been identified as a navigable stream or river by rule adopted by the Department of Natural Resources and which is covered by water, except on designated riding areas and designated riding trails. This paragraph does not prohibit the use of ford crossing of public roads or any other ford crossing when used for agricultural purposes; the operation of construction vehicles engaged in lawful construction, repair, or maintenance in a streambed; or the operation of all-terrain vehicles on ice.
  - h. With more persons on the vehicle than it was designated to carry, except that this subsection shall not apply to a person who operates an All-Terrain or Off-Road Utility Vehicle as part of a farm operation as defined in Iowa Code section 352.2.
  - i. While in possession of a firearm in violation of the laws of the State of Iowa, including but not limited to Iowa Code Chapter 724.
  - j. Upon an operating railroad right-of-way. An All-Terrain or Off-Road Utility Vehicle may be driven directly across a railroad right-of-way only at an established crossing and, notwithstanding any other provisions of law, may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic. This paragraph does not apply to a law enforcement officer's or employee's duties or to an employee of a utility with authority to enter upon the railroad right-of-way in the lawful performance of the employee's duties.
  - k. Upon a designated riding area or designated trail unless the riding area or trail is signed as open to Off-Road Utility Vehicle operation.

- (2) A person shall not operate an All-Terrain or Off-Road Utility Vehicle unless the operator has a valid Driver's License, pursuant to the laws of the State of Iowa, including but not limited to Iowa Code section 321.174.
- (3) A person shall not operate an All-Terrain or Off-Road Utility Vehicle unless the vehicle is duly registered, pursuant to the laws of the State of Iowa, including but not limited to Iowa Code sections 321.18 and 321.20. This subsection shall not apply to All-Terrain or Off-Road Utility Vehicles used exclusively to conduct agricultural operations pursuant to Iowa Code section 321.9(3).
- (4) A person shall not operate an All-Terrain or Off-Road Utility Vehicle unless the operator has proof of insurance in compliance with the laws of the State of Iowa, including but not limited to Iowa Code Sections 321.20B and 321A.21.

**PENALTIES:**

Violation of this Ordinance shall constitute a SIMPLE MISDEMEANOR punishable by a fine and/or jail sentence, in addition to applicable surcharges and court costs, as provided by the laws of the State of Iowa, including but not limited to Iowa Code section 903.1(a).

**JURISDICTION:**

The provisions of this Ordinance shall apply throughout Clay County, Iowa, including municipalities which have not enacted a municipal ordinance dealing with similar subject matter.

**REPEALER:**

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SEVERABILITY CLAUSE:**

If any section, provision, or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole, or any section, provision or part thereof not adjudged invalid or unconstitutional.

**EFFECTIVE DATE:**

This ordinance shall become in effect following its final passage, approval and publication as provided by law.

The above and foregoing resolution was adopted by the Board of Supervisors of Clay County, Iowa, 15<sup>th</sup> day of September, 2015 and the vote thereon being as follows: Ayes: Anderson, Brockshus, Matthews, and Skow. Nays: None. Abstentions: None. Absent: Swanson.

ATTEST:/s/Marjorie A. Pitts, County Auditor  
/s/Joe Skow, Chairperson

**Supplement 3:**

**Ordinance 5.2**

**ORDINANCE PROHIBITING THE UNLAWFUL USE OF ENGINE AND COMPRESSION BRAKES**

**("JAKE BRAKE ORDINANCE")**

**Resolution 2016-21**

**Passed Mtg 22-July 19, 2016**

**WHEREAS**, the Clay County Board of Supervisors deems it necessary for the purposes of promoting the health, safety, and general welfare of Clay County, Iowa and its citizens to enact this ordinance, and

**WHEREAS**, the Clay County Board of Supervisors have made recommendations in relation to the Clay County Ordinance Prohibiting the Unlawful Use of Engine and Compression Brakes, and

**WHEREAS**, the Board of Supervisors has considered the proposed ordinance and has held public hearings thereon the 21<sup>st</sup> day of June, 2016, the 5<sup>th</sup> day of July 2016; and the 19<sup>th</sup> day of July 2016 and

**WHEREAS**, the Clay County Board of Supervisors supports the adoption of the proposed ordinance;

**NOW THEREFORE BE IT ENACTED AND ORDAINED:**

**Ordinance 5.2**

**ORDINANCE PROHIBITING THE UNLAWFUL USE OF ENGINE AND COMPRESSION BRAKES**

**("JAKE BRAKE ORDINANCE")**

**SECTION 1.** The purpose of this ordinance is to prohibit the excessive, loud, unusual or explosive use of engine and compressed air-braking devices within designated areas in Clay County.

**SECTION 2.** For the purposes of this ordinance the following words and phrases are defined as follows:

1. "Engine retarding brake" means a "Dynamic Brake," "Jake Brake," "Jacobs Brake," "C-Brake," "Paccar Brake," transmission brake or any other engine retarding brake system that alters the normal compression of the engine and subsequently releases that compression.

**SECTION 3.** It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within designated areas in the unincorporated areas of the County of Clay State of Iowa, any engine brake, Compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle, unless such use is necessary to avoid imminent danger. Such prohibition shall be applicable only to those public highways or portions specifically below:

- a. 240<sup>th</sup> Avenue, Spencer (Highway 71 bypass)
- b. State Highway 10 and 125<sup>th</sup> Avenue, Peterson
- c. 440<sup>th</sup> Street and 430<sup>th</sup> Street, Gillett Grove.

**SECTION 4.** Signs stating “VEHICLE NOISE LAWS ENFORCED” or “ENGINE BRAKE ORDINANCE ENFORCED” may be installed at locations deemed appropriate by the Board of Supervisors to advise motorists of the prohibitions contained in this ordinance, except that no sign stating “VEHICLE NOISE LAWS ENFORCED” or “ENGINE BRAKE ORDINANCE ENFORCED” shall be installed on a state highway without a permit from the Iowa Department of Transportation. The provisions of this ordinance shall be in full force and effect even if no signs are installed.

**SECTION 5.** Emergency vehicles shall be exempt from the application of this ordinance.

**SECTION 6.** This ordinance is deemed to be a county infraction. It shall be enforced pursuant to Chapter 1 of Clay County’s Code of Ordinances.

**SECTION 7.** Should any part of this ordinance be held invalid, the remaining part shall be severable and shall continue to be in full force and effect.

**SECTION 8.** If any section, part or provision of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole, or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 9.** This ordinance shall take effect and be in full force and effect after its passage and publication as required by law.

The above and foregoing resolution was adopted by the Board of Supervisors of Clay County, Iowa, 19th day of July, 2016 and the vote thereon being as follows: Ayes: Supervisors Matthews, Brockshus, Swanson, Skow, and Anderson. Nays: None. Abstentions: None.

/s/Barry Anderson, Chairperson of Clay County Board of Supervisors

ATTEST: /s/Marjorie A. Pitts, County Auditor

## **Supplement #4**

### **Resolution 2016-29**

#### **Clay County Board of Supervisor Support for the Adoption of the Pioneer Cemetery Ordinance No. 1.8**

**WHEREAS**, the Clay County Board of Supervisors deems it necessary for the purposes of promoting the health, safety, and general welfare of Clay County, Iowa and its citizens to enact this ordinance, and

**WHEREAS**, the Clay County Board of Supervisors have made recommendations in relation to the Clay County Ordinance establishing a Pioneer Cemetery Commission to assume jurisdiction and management of pioneer cemeteries in Clay County, Iowa. , and

**WHEREAS**, the Board of Supervisors has considered the proposed ordinance and has held public hearings thereon the 27<sup>st</sup> day of September, 2016 and the 11<sup>th</sup> day of October 2016; and

**WHEREAS**, the Clay County Board of Supervisors supports the adoption of the proposed ordinance;

**NOW THEREFORE BE IT ENACTED AND ORDAINED:**

#### **Ordinance No. 1.8**

##### **Establishing a Pioneer Cemetery Commission**

1. Pursuant to Iowa Code Section 331.325, a Pioneer Cemetery Commission is hereby established to assume jurisdiction and management of all pioneer cemeteries in Clay County, Iowa, except for those cemeteries that are managed and/or regulated pursuant to Chapters 566 and 566A of Iowa Code.
2. The Commission shall consist of five persons, residents of Clay County, Iowa, appointed by the Board of Supervisors as follows: Two of the members shall be appointed for the term expiring December 31, 2017, two for a term expiring December 31, 2018, and one for a term expiring December 31, 2019. Their successors in all cases shall be appointed for a term of three years, and all appointments to fill vacancies shall be for the unexpired term.
3. The Commission shall select a Chairman, Vice Chairman, Secretary, Treasurer and such other officers, as the Commission shall deem necessary.



4. The Commission shall have authority to propose such rules and regulations governing its organization and procedures as it shall deem necessary. These rules and regulations shall become effective upon approval by the Clay County Board of Supervisors.
5. The Commission shall submit a proposed budget including the amount of available funds and proposed expenditures to the Clay County Auditor no later than January 31 of each year.
6. The Commissioners shall receive no compensation for their services as such, but may be reimbursed for necessary expenses incurred in the performance of their duties.

**Repealer.** All ordinances or parts of ordinance in conflict with this ordinance or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

**Severability Clause.** If any section, part or provision of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole, or any section, provision or part thereof not adjudged invalid or unconstitutional.

**Effective Date.** This Ordinance shall be in full force and effect after its passage and publication as provided by law.

The above and foregoing resolution was adopted by the Board of Supervisors of Clay County, Iowa, 11<sup>th</sup> day of October, 2016 and the vote thereon being as follows:

Ayes: Supervisors Anderson, Brockshus, Matthews, Skow and Swanson

Nays: None.

Abstentions: None.

/s/ Barry A. Anderson, Chairperson

ATTEST: /s/Marjorie A. Pitts, County Auditor

**Supplement 5 – Amendment to:**

**Ordinance 5.2-PROHIBITING THE UNLAWFUL USE OF ENGINE AND COMPRESSION BRAKES  
("JAKE BRAKE ORDINANCE")**

**Resolution 2017-07**

**Passed Mtg 3-January 17, 2017**

**WHEREAS**, the Clay County Board of Supervisors deems it necessary for the purposes of promoting the health, safety, and general welfare of Clay County, Iowa and its citizens to enact this ordinance, and

**WHEREAS**, the Clay County Board of Supervisors have made recommendations in relation to the Amendment to the Clay County Ordinance Prohibiting the Unlawful Use of Engine and Compression Brakes, and

**WHEREAS**, the Board of Supervisors has considered the proposed ordinance and has held public hearings thereon the 3rd day of January, 2017 and the 17<sup>th</sup> day of January 2017; and

**WHEREAS**, the Clay County Board of Supervisors supports the adoption of the proposed amendment to the ordinance;

**NOW THEREFORE BE IT ENACTED AND ORDAINED:**

**Supplement No. #5 Amendment to Ordinance No. 5.2**

**CLAY COUNTY ORDINANCE PROHIBITING THE UNLAWFUL USE OF ENGINE AND COMPRESSION BRAKES**

**("Jake Brake Ordinance")**

SECTION 1. The purpose of this ordinance is to prohibit the excessive, loud, unusual or explosive use of engine and compressed air-braking devices within designated areas in Clay County.

SECTION 2. For the purposes of this ordinance the following words and phrases are defined as follows:

1. "Engine retarding brake" means a "Dynamic Brake," "Jake Brake," "Jacobs Brake," "C-Brake," "Paccar Brake," transmission brake or any other engine retarding brake system that alters the normal compression of the engine and subsequently releases that compression.

SECTION 3. It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within designated areas in the unincorporated areas of the County of Clay State of Iowa, any engine brake, Compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle, unless such use is necessary to avoid imminent danger. Such prohibition shall be applicable only to those public highways or portions specifically below:

- a. 240<sup>th</sup> Avenue, Spencer (Highway 71 bypass)
- b. State Highway 10 and 125<sup>th</sup> Avenue, Peterson
- c. 440<sup>th</sup> Street and 430<sup>th</sup> Street, Gillet Grove.
- d. 365<sup>th</sup> Street between M38 & Hwy 71 to city limits of Spencer
- e. 200<sup>th</sup> Avenue from 365<sup>th</sup> Street North to B24

SECTION 4. Signs stating “VEHICLE NOISE LAWS ENFORCED” or “ENGINE BRAKE ORDINANCE ENFORCED” may be installed at locations deemed appropriate by the Board of Supervisors to advise motorists of the prohibitions contained in this ordinance, except that no sign stating “VEHICLE NOISE LAWS ENFORCED” or “ENGINE BRAKE ORDINANCE ENFORCED” shall be installed on a state highway without a permit from the Iowa Department of Transportation. The provisions of this ordinance shall be in full force and effect even if no signs are installed.

SECTION 5. Emergency vehicles shall be exempt from the application of this ordinance.

SECTION 6. This ordinance is deemed to be a county infraction. It shall be enforced pursuant to Chapter 1 of Clay County’s Code of Ordinances.

SECTION 7. Should any part of this ordinance be held invalid, the remaining part shall be severable and shall continue to be in full force and effect.

SECTION 8. If any section, part or provision of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole, or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 9. This ordinance shall take effect and be in full force and effect after its passage and publication as required by law.

The above and foregoing resolution was adopted by the Board of Supervisors of Clay County, Iowa, 17th day of January, 2017 and the vote thereon being as follows: Ayes: Anderson, Matthews, Skow and Swanson. Nays: None. Abstentions: None.

/s/ Burlin H. Matthews, Chairperson

ATTEST: /s/Marjorie A. Pitts, County Auditor