

CLAY COUNTY IOWA

2011

ZONING ORDINANCE & SUBDIVISION REGULATIONS



*Prepared with Planning Assistance from
Northwest Iowa Planning &
Development Commission
Spencer, Iowa*

CLAY COUNTY IOWA

2011

ZONING ORDINANCE

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ORDINANCE NO. _____

REPLACES ORDINANCE NO. ____
1996 CLAY COUNTY ZONING ORDINANCE
AND AMENDMENTS THERETO

**ZONING ORDINANCE OF
CLAY COUNTY, IOWA**

AN ORDINANCE to regulate and restrict the location and use of buildings, structures, and land for trade, industry, residence, and other purposes; to regulate and restrict the height of buildings and structures, the number and size of buildings and other structures; to establish the size of yards and other open spaces; to establish minimum lot areas; to regulate the density of population and the percentage of lot that may be occupied; to require off-street parking; to regulate the location, size, and number of signs; to divide the county into districts for such purposes; to provide for the administration and enforcement of its provisions; to confirm the Board of Adjustment; and to prescribe penalties for the violation of its provisions, all in accordance with Chapter 335, Code of Iowa; and to be known, and cited as “The Zoning Ordinance of Clay County, Iowa”.

WHEREAS, the Board of Supervisors of Clay County, Iowa deems it necessary to prevent and to lessen congestion in the streets and highways; to secure safety from fire, flood, panic and other dangers; to protect the public health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewer, schools, parks, and other public improvements; to conserve the value of buildings, and encourage the most appropriate use of land throughout the county, all in accordance with the Clay County Comprehensive Land Use Plan.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF CLAY COUNTY, IOWA:

ARTICLE I Basic Provisions

Article 1: Basic Provisions

- Section 1.1. Short Title
- Section 1.2. Jurisdiction
- Section 1.3. Purpose
- Section 1.4. Repeal and Saving Clause
- Section 1.5. Validity and Severability Clause
- Section 1.6. Interpretation of Regulations

1.1. SHORT TITLE.

This ordinance shall be known and may be cited and referenced as the “Zoning Ordinance of Clay County, Iowa”, to the same effect as if the full title were stated.

1.2. JURISDICTION.

In accordance with the provisions of Chapter 335, Code of Iowa, and amendatory acts thereto, this ordinance is adopted by Clay County, Iowa, governing the zoning of all lands and structures located within Clay County, Iowa; but lying outside of the corporate limits of any incorporated city in Clay County, Iowa.

1.3. INTERPRETATION OF REGULATIONS.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements. Where this ordinance imposes a greater restriction than is imposed or required by other provisions of law, other rules, regulations, or ordinances, the provisions of this ordinance shall govern.

This ordinance is not intended to abrogate or annul any easement, covenant or other private agreement provided that where any provision of this ordinance is more restrictive or imposes a higher standard or requirement than such easement, covenant or other private agreement, the provision of this ordinance shall govern.

1.4. VALIDITY AND SEVERABILITY CLAUSE.

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such ruling shall not affect the validity of the ordinance as a whole or any part thereof, not specifically included in said ruling. If any court of competent jurisdiction shall declare invalid the application of any provision of this ordinance to a particular land, parcel, lot, district, use, building or structure, such ruling shall not affect the application of said provision to any other land, parcel, lot, district, use, building or structure not specifically included in said ruling.

1.5. REPEAL AND SAVINGS CLAUSE.

Effective on the effective date of this ordinance, the previous zoning ordinance (the 1996 Clay County Zoning Ordinance) and amendments thereto are hereby repealed. The repeal of said ordinance shall not have the effect to release or relinquish any penalty, forfeiture or liability incurred under said ordinance or any part thereof, and such ordinance and all parts thereof shall

be treated as still remaining in force for the purpose of instituting or sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture or liability.

1.6. PURPOSE.

In accordance with Chapter 335.5, Code of Iowa, the various zoning districts, created by this ordinance and the various articles and sections of this ordinance, are adopted for the purpose of:

1. Regulations shall be made in accordance with the intent and spirit of the Clay County Comprehensive Plan;
2. Designed to preserve the availability of agricultural land and to consider the protection of soils from wind and water erosion;
3. Promote public health, safety, morals, comfort, general welfare, and preserving the natural resources, scenic and historically significant areas of the county;
4. To encourage efficient urban development patterns by promoting the grouping of those activities which have similar needs and are compatible;
5. Encouraging classification of land use and distribution of land development within the county that will facilitate adequate and economic provision of transportation, communication, water, sewer, drainage, education, recreation, and provisions of light and air;
6. Promoting developments that will prevent the overcrowding of land and to avoid undue concentration of population;
7. Promote the conservation of energy resources and to promote reasonable access to solar, wind and other forms of renewable energies;
8. Prohibit the formation or expression of nonconforming uses of land, buildings, and structures which adversely affect the character and value of desirable development in each district;
9. Prevent and minimize the effect of nuisance producing activities;
10. Define the powers and duties of the County Board of Supervisors, Board of Adjustment and the zoning administrator.

ARTICLE II Agricultural Exemption

Article 2: Agricultural Exemption

Section 2.1. Farms Exempt

2.1. FARMS EXEMPT.

In compliance with Chapter 335.2, Code of Iowa, except to the extent required to implement Section 335.27, Code of Iowa, no regulation or restriction adopted under the provisions of this ordinance applies to land, farm houses, farm barns, farm out-buildings, or other buildings or structures, which are primarily adapted, by reason of nature and area, for agricultural purposes, while so used. However, the regulations of this ordinance may apply to any structure, building, dam, obstruction, deposit or excavation in or on the floodplains of any river or stream.

Referred to in § 335.3, 368.26, 414.23

Any farm dwelling, farm building or other agricultural related structure or use intended for permanent human habitation shall comply with the same floodplain zoning regulations as nonfarm dwellings. Buildings or structures located within a floodplain are not exempt from the regulations of this ordinance.

ARTICLE III

Definitions/Use Classifications

Article 3: Definitions/Use Classifications

Section 3.1. Definitions

Section 3.2. Use Classifications

3.1. DEFINITIONS.

For purposes of interpreting this ordinance certain words, terms and expressions are hereby defined.

- Words used in the present tense shall include the future;
 - Singular shall include the plural and the plural includes the singular;
 - The word “may” is discretionary and the word “shall” is always mandatory;
 - The word “person” includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual;
 - The words “used” or “occupied” include the words intended, designed or arranged to be used or occupied;
 - The word “includes” means including but is not limited to.
1. **ACCESSORY USE (OR STRUCTURE):** A use or structure on the same zoning lot with and of a nature customarily incidental and subordinate to and serves the principal building, structure or use; is subordinate in area, extent, or purpose to the principal building or use served; and contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use.
 2. **ABANDONED FARMSTEAD:** A tract of land which has at one time constituted a farm dwelling, farmstead and/or related farm or agricultural outbuildings. To be considered an abandoned farmstead for the purposes of these regulations the tract of land must not have been reclaimed for intensive agricultural (row crop) production. A property may be considered an abandoned farmstead if the property is within the area of an existing grove, windbreak or farmstead boundary established or constructed prior to the adoption of this ordinance; or if minimum evidence exists of a previous farmstead such as a foundation or outbuildings.
 3. **ADDITION:** Any construction which increases the site coverage, height, length, width, or gross floor area of a structure.
 4. **AGRICULTURE:** Any land, farm houses, farm barns, farm out-buildings, or other buildings or structures, which are primarily adapted, by reason of nature and area, for agricultural purposes, while so used.
 5. **ALLEY:** A public or private thoroughfare which affords only a secondary means of access to abutting property, not intended for general traffic circulation.
 6. **ALTERATION (STRUCTURAL):** Any change in the supporting members of a building, such as bearing walls, partitions, columns, beams or girders. The enlargement of the size, in square feet, or height of a building shall be construed to be a structural alteration.

7. **APARTMENT:** A single room or set of rooms occupied as a dwelling unit which is part of a multi-family structure, which contains cooking and housekeeping facilities for each dwelling unit.
8. **ATTACHED:** Having one or more walls common with a principal building, or joined to a principal building by a covered porch or passageway, the roof of which is a part or extension of a principal building.
9. **BASEMENT:** That portion of a building that is either partly or completely below grade. *(Building Officials and Code Administrators (BOCA) Basic/National Building Code)* Basements which are finished living space or utilized for bedroom space shall be counted for purposes of density and parking requirements for the overall property.
10. **BILLBOARD:** As used in this ordinance, billboards shall include all structures, regardless of the material used in the construction of the same that are erected, maintained or used for public display of posters, painted signs, wall signs, whether the structure be placed on the wall or painted on the wall itself, pictures or other pictorial reading material which advertise a business or attraction which is not carried on, manufactured, grown or sold on the premises which said signs or billboards are located.
11. **BLOCK:** That property abutting on one side of a street and lying within the two nearest intercepting or intersecting streets or lying within the nearest intercepting or intersecting streets and unsubdivided acreage or railroad right-of-way.
12. **BOARD OF ADJUSTMENT:** An officially constituted body whose principal duties are to hear appeals on decisions of the zoning administrator, interpret the zoning ordinance and zoning map, and where appropriate grant variances from the strict application of the zoning ordinance.
13. **BUILDABLE AREA:** The portion of a zoning lot or parcel remaining for allowable buildings after required yard setbacks have been provided.
14. **BUILDING:** Any structure having a roof supported by columns or walls which is permanently affixed to a lot or lots, and is intended for the shelter, support, enclosure or protection of persons, animals or property of any kind.
15. **BUILDING, HEIGHT OF:** The vertical distance from the average natural grade at the building line, to the highest point of the roof. Where a dwelling is situated on a lot with more than one grade or level, the measurements shall be taken from the main entrance elevation.
16. **BUILDING, PRINCIPAL:** The building in which the primary use of the lot or parcel is conducted.
17. **BUILDING LINE:** The setback distance from the front property line, rear lot line, and side lot lines as provided in the ordinance.
18. **BUSINESS:** The engaging in the purchase, sale, or exchange of goods or services, or the operation for profit of offices.

19. **CARPORT:** Space for the parking, housing or storage of vehicles of which is enclosed on not more than two sides by affixed or semi-permanent walls. Those structures identified as hoop buildings, portable or foldable buildings, tent buildings or fully enclosed steel buildings shall not be considered a carport for purposes of this ordinance. Carports attached to the principal building are considered a part of the principal building. Freestanding carports are considered an accessory building.
20. **COMMERCIAL USE:** Any activity involving the sale of goods or services for profit.
21. **COMMISSION (OR PLANNING COMMISSION):** The Planning and Zoning Commission of Clay County, Iowa.
22. **COMPREHENSIVE PLAN:** The statement of policy by the Clay County Board of Supervisors relative to the desirable physical pattern of future county development. The plan consists of maps, charts, and written material representing the soundest conception to the county as to how it should grow in order to bring about the very best living conditions.
23. **COTTAGE:** A small single unit structure used for vacation or vacationers occupancy, and not used as a residence for the entire year.
24. **COUNTY:** Clay County, Iowa.
25. **DECK:** An unenclosed, roofless structure adjoined to or freestanding adjacent to the principal building. Decks higher than twelve (12) inches above the average grade of the ground shall also be subject to required yard setbacks.
26. **DETACHED:** Fully separated from any other building. Not attached.
27. **DISTRICT (OR ZONING DISTRICT):** Any part or parts of, zone, or geographic area within Clay County, Iowa, wherein zoning regulations apply.
28. **DRIVEWAY:** A surfaced area providing vehicular access between a street and an off-street parking area or parking structure (i.e. garage or carport).
29. **DWELLING:** Any building or portion thereof which is designed or used exclusively for residential purposes but not including a tent, cabin, trailer, or factory-built home which is not located within a manufactured home subdivision or mobile home park. However, a dwelling shall include any factory-built home constructed to comply with the Iowa State Building Code for modular factory built structures.
30. **DWELLING, MULTIPLE FAMILY:** An apartment house or residence used by, designed for or occupied by three (3) or more families living independently of each other, with separate housekeeping and cooking facilities for each.
31. **DWELLING, SINGLE FAMILY:** A detached building that is arranged, designed for or occupied as the primary residence of one (1) single family, having no party wall in common with an adjacent house or houses and is surrounded by open space or yards.

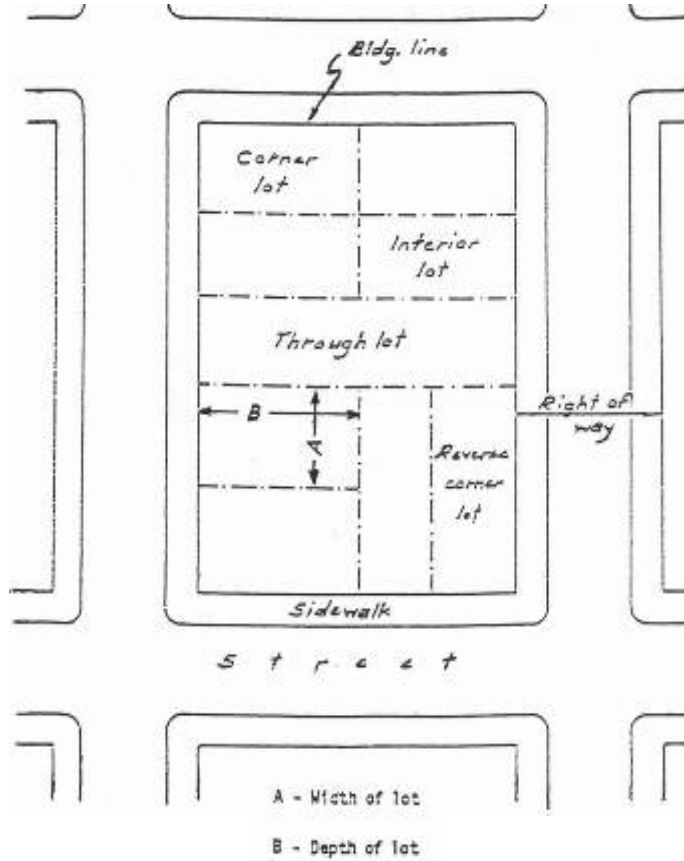
32. DWELLING, TWO FAMILY: A detached building that is arranged, designed for or occupied as the residences of two (2) families only; and living independently of each other with separate housekeeping and cooking facilities for each.
33. DWELLING UNIT: A room or group of rooms which are arranged, designed or used as living quarters for the occupancy of one (1) family for residential purposes and containing independent cooking facilities.
34. EASEMENT: A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.
35. ENCROACHMENT: Any obstruction of, or an illegal or unauthorized intrusion in a delineated floodway, right-of-way or adjacent lands.
36. ENGAGED IN AGRICULTURE: Shall include, but not be limited to any one of the following:
 - 1) Inspect agricultural operations periodically and furnish at least half the direct cost of the operations,
 - 2) Regularly and frequently make or take an important part in making management decisions substantially contributing to or affecting the success of the agricultural operation, or
 - 3) Perform other work which significantly contributes to the agricultural operation.
37. ENGINEER, COUNTY: A duly qualified and/or licensed individual or firm designated by the Clay County Board of Supervisors.
38. ESSENTIAL SERVICES: The erection, construction, alteration or maintenance by developers, public utilities or governmental agencies of underground or overhead gas, electrical, telecommunications, water or wastewater transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in conjunction with and necessary for the furnishing of adequate services by such public or private utilities, governmental agencies and/or for the public health, safety or general welfare, but not including buildings or special exception uses as established by this ordinance.
39. FACTORY BUILT-STRUCTURE: Is any structure, building, component, assembly or system which is of closed construction and which is made or assembled in manufacturing facilities, on or off the building site, for installation or assembly and installation, on the building site. Factory-built structures may also mean, at the option of the manufacturer, any structure or building of open construction, made or assembled in manufacturing facilities away from the building site, for installation, or assembly and installation, on the building site. Factory-built structure also means "factory-built unit".
40. FAMILY: A person living alone, or group of persons related by blood, marriage, adoption, guardianship, or otherwise duly authorized custodial relationship as verified by official public records such as drivers licenses, birth or marriage certificates living together as a single dwelling unit and sharing common living, sleeping, cooking, and eating facilities; or a group of not more than five (5) unrelated persons living together by joint agreement or occupying a single dwelling unit on a nonprofit cost sharing basis.

41. **FARM:** Any land, farm houses, farm barns, farm out-buildings, or other buildings or structures, which are primarily adapted, by reason of nature and area, for agricultural purposes, while so used.
42. **FARMSTEAD (EXISTING):** A tract of land with a farm dwelling and/or related agricultural outbuildings, yards, windbreaks, wells or other improvements which are held and operated in conjunction with agricultural purposes. An existing farmstead shall be defined as the combination of farm dwelling, support dwelling and any farm accessory buildings used or previously used and occupied by a person engaged in agriculture.
43. **FENCE:** Any artificially constructed structure, other than a building, which is a barrier of approved fencing material or combination of materials erected to screen areas of land or means of protection or confinement.
44. **FLOODPLAIN:** The channel and relatively flat area adjoining the channel of a natural stream or river that has been or may be covered by flood waters.
45. **FLOOR AREA:** The square feet of floor space within the outside line of walls, including the total of all space on all floors of a building. Floor area shall not include porches, garages, or space in a basement that is not finished living space.
46. **FRONTAGE:** All the property on one side of a street or highway between two intersecting streets (crossing or terminating) measured along the line of the street or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.
47. **GARAGE:** A building or a portion thereof in which one or more motor vehicles are housed or stored by the occupants of the premises or the leasing of space as provided herein, but in which no business service or industry connected with the motor vehicles is carried on other than leasing of space.
48. **GRADE:** The lowest horizontal elevation of the finished surface of the ground, paving or sidewalk at a point where the height is to be measured.
49. **HOME OCCUPATION:** An accessory business, occupation or profession conducted entirely within a dwelling unit or associated accessory buildings by the inhabitants thereof; and complies with the provisions of Section 17.4 of this ordinance.
50. **HOUSE TRAILER:** See Mobile Home.
51. **HOUSEHOLD:** A family living together in a dwelling unit with common access to all living and eating areas and all facilities within the dwelling unit.
52. **HOUSING UNIT:** See Dwelling Unit.
53. **INCIDENTAL:** Subordinate and minor in significance and bearing a reasonable relationship with the primary use.

54. **INDUSTRY:** Those fields of economic activity including forestry, fishing, hunting, mining, construction, manufacturing, transportation, communication, electric, gas, and sanitary services, distribution, assembly, packaging and wholesale trade activities.
55. **INSTITUTION:** A building or premises occupied by a non-profit corporation or establishment for public use.
56. **JUNK (OR SALVAGE):** Any old scrap copper, brass, or lead; old or discarded rope, rags, batteries, paper, trash, rubber debris, waste or used lumber, or salvaged wood; waste appliances, furniture, equipment, building demolition materials or structural steel materials. This definition shall also include junked, dismantled, or wrecked vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; and iron, steel or other old or scrap ferrous or nonferrous material; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Junk shall also mean waste, yard waste not stored in an approved manner as determined by Clay County, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition.
57. **JUNK VEHICLE OR JUNK MACHINERY:** Any vehicle, other machines or portions thereof not in running condition and/or not licensed for the current year as provided by law, or any other non-operating vehicle or machinery situated in a front yard of any lot or property and located in open view to the public for a period of more than ninety (90) days which, because of its defective or obsolete condition, or rotted, rusted or loose parts or in any other way constitutes a threat to the public health, welfare or safety.
58. **JUNKYARD (or SALVAGE YARD):** Any open area of any lot or parcel where waste, discarded or salvaged materials are bought, sold, exchanged, baled or packed, disassembled, kept, stored or handled, including scrap metals or scrap materials, or the abandonment or dismantling or “wrecking” of automobiles, other motor vehicles, or machinery, or parts thereof. Junkyards will include but not limited to wrecking yards, used lumber yards, and places or yards utilized or intended for storage of salvaged wrecking and structural steel materials and equipment; but not including those areas where such uses are entirely located within a completely enclosed building.
59. **LAND USE:** A description of how land is occupied or utilized.
60. **LANDSCAPED:** An area devoted to or developed predominantly with plant materials or natural features including lawn, gardens, trees, shrubs, and other plant materials; and also including accessory outdoor landscape elements such as pools, fountains, water features, paved or decorated surfaces of rock, stone, brick, block or similar material (excluding driveways, parking, or storage areas), provided that the use of brick, stone or other inorganic materials shall not predominate over the use of natural materials.
61. **LOADING SPACE:** An area used for loading or unloading of goods from a vehicle in connection with the use of the site on which such space is located.

62. LOT: A lot is a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage and area and to provide such yards and other open space as are herein required. Such lot shall front a public road or street and may consist of:

- 1) A single lot of record;
- 2) A portion of a lot of record;
- 3) A combination of complete lots of record; of complete lots of record and portions of lots of record; or of portions of lots of record;
- 4) A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residential lot or parcel be created which does not meet the requirements of this ordinance.



63. LOT OF RECORD: A lot or parcel of land of which is part of a legal subdivision in Clay County, Iowa, the plat, deed or valid contract of sale of which has been recorded in the office of the Clay County Recorder prior to the effective date of this ordinance.

64. LOT, CORNER: A lot fronting on two (2) or more intersecting streets.

65. LOT, INTERIOR: A lot other than a corner lot.

66. LOT, THROUGH: A lot having frontage on two (2) parallel or approximately parallel streets. Also known as a double frontage lot.

67. LOT AREA: The net horizontal area bounded by front, side and rear lot lines excluding any public right-of-way.

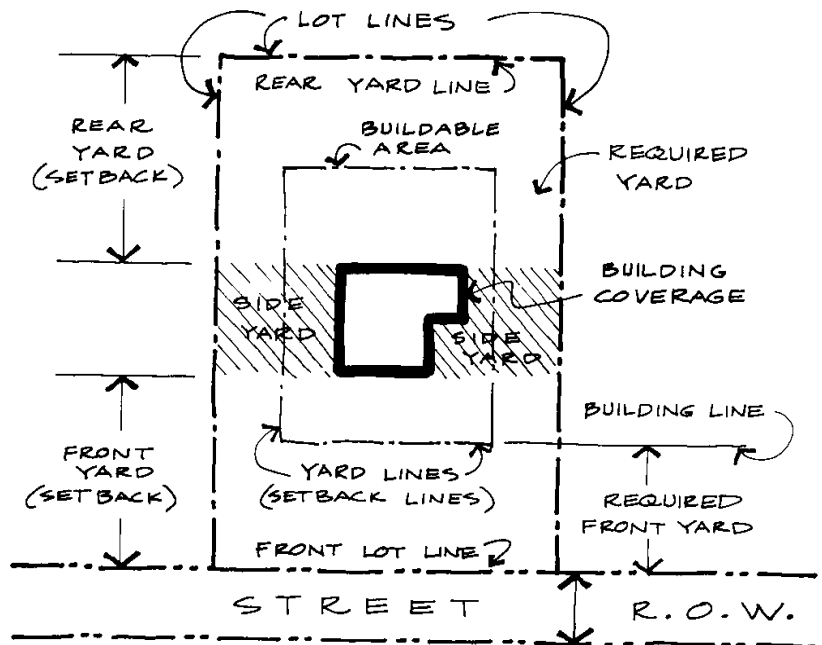


Image Source: *The New Illustrated Book of Development Definitions*, Harvey S. Moskowitz & Carl G. Lindbloom, 1993

68. **LOT (or BUILDING) COVERAGE:** The area of a lot covered by buildings or roofed areas, excluding incidental projecting eaves and gutters, balconies, and similar features; and also excluding ground level paving or decks below twelve inches in height, landscaping, and open recreational facilities.
69. **LOT DEPTH:** The distance between the front and rear lot lines. In the case of a lot of irregular shape, the mean depth shall be the lot depth.
70. **LOT LINES:** The property lines bounding a lot.
71. **LOT WIDTH:** The width of a lot measured at the building line and at right angles to its depth.
72. **MANUFACTURED HOME:** A factory-built structure which is manufactured or built under authority of 42 U.S.C. Sec. 5403, Federal Manufactured Home Construction and Safety Standards, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development certifying that it is in compliance with the Federal Manufactured Housing Construction Act of 1974. (*Code of Iowa, Sec. 435.1*)
73. **MANUFACTURED HOUSING COMMUNITY (OR SUBDIVISION):** Means the same as land-leased community defined in Sections 335.30A and 414.28A *Code of Iowa*. Any site, lot, field or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community. (*Code of Iowa, Sec. 435.1*)

A manufactured home community or mobile home park shall not be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students. The manufactured home community or a mobile home park must be classified as to whether it is a “residential” or “recreational” manufactured home community or mobile home park or both. The manufactured home community or mobile home parks residential landlord and tenant Act, Chapter 562B, *Code of Iowa*, only applies to “residential” manufactured home community or mobile home park. (*Code of Iowa, Sec. 435.1*)

74. **MOBILE OR MANUFACTURED HOUSING CONVERTED TO REAL ESTATE:** A mobile or manufactured home which is located outside a mobile home park or manufactured home subdivisions shall be converted to real estate by being placed on a permanent foundation; and shall be assessed for real estate taxes except in the following cases: (*Code of Iowa, Sec. 435.26 & 435.35*)
- 1) **Retailer’s Stock:** Mobile homes or manufactured housing on private property as part of a retailer’s or manufacturer’s stock not used as a place of human habitation.
 - 2) **Existing Homes:** A taxable mobile home or manufactured housing which is located outside of a manufactured housing community or mobile home park prior to the effective date of this ordinance shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement until the home is relocated.

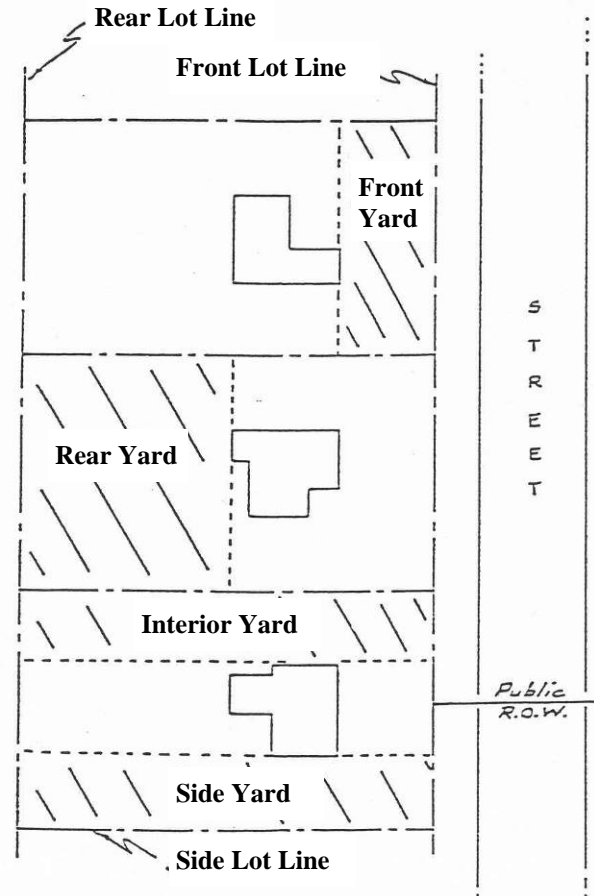
75. **MOBILE HOME:** Any vehicle without motive power used or so manufactured or constructed as to permit it being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation, dwelling or sleeping places by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home is not built to a mandatory building code, contains no state or federal seals, and was built before June 15, 1976. (*Code of Iowa, Sec. 435.1*). All mobile homes shall be located within a mobile home park.
76. **MOBILE HOME PARK:** Any site, lot, field or tract of land upon which two (2) or more mobile homes are parked and operated as a for-profit enterprise with water, sewer, or septic, and electrical services available. (*Code of Iowa, Sec. 435.1*)
77. **MODULAR HOME:** A factory-built structure which is manufactured or constructed to be used as a place of human habitation, and is constructed to comply with the Iowa State Building Code for modular factory-built structures, as adopted pursuant to Section 103A.7 *Code of Iowa*, and must display the seal issued by the state building code commissioner. If a modular home is placed in a manufactured housing community or mobile home park, the home is subject to the annual tax as required by Section 435.22 *Code of Iowa*. If a modular home is placed outside a manufactured housing community or mobile home park, the home shall be considered real property and assessed and taxed as real estate. (*Code of Iowa, Sec. 435.1*)
78. **NON-FARM RESIDENCE:** A residential dwelling in unincorporated areas of Clay County located upon land which is not a farmstead or primarily used for agricultural purposes.
79. **NONCONFORMING USE:** A lawful use of any land, building, or structure, other than a sign, that does not conform with currently applicable use regulations, but which complied with use regulations in effect at the time the use was established.
80. **NONCONFORMING STRUCTURE (OR BUILDING):** A structure or building in size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment to the Clay County Zoning Ordinance, but which fails to conform to present zoning requirements.
81. **OCCUPANCY (or OCCUPIED):** The residing of an individual or individuals overnight in a dwelling unit or the storage or use of equipment, merchandise, or machinery in any public, commercial, or industrial building.
82. **PARKING LOT:** An off-street, ground level unenclosed area intended for the temporary parking of motor vehicles.
83. **PARKING SPACE:** A surfaced area, enclosed or unenclosed, having an area of not less than one hundred eighty (180) square feet (typically a 9' by 20' parking area) plus necessary maneuvering space for the parking of a motor vehicle, and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles. Space required for maneuvering, incidental to parking shall not encroach upon any public right-of-way. Driveways for one and two family structures may be considered as parking spaces.

84. **PERMANENT FOUNDATION** (for manufactured housing or mobile homes): A mobile or manufactured home located outside of a manufactured home subdivision or mobile home park shall be placed on a permanent frost-free foundation which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundations systems of surrounding residential structures. (*Code of Iowa, Sec. 414.28*)
85. **PLANNED UNIT DEVELOPMENT (PUD)**: An area of minimum contiguous size specified in this ordinance developed according to plan as a single entity and containing one or more structures or land uses with appurtenant or adjacent common areas.
86. **PORCH, OPEN**: A roofed structure, open on two (2) or more sides, projecting from the front, side or rear wall of the building.
87. **PRINCIPAL USE**: See Use, Principal.
88. **PROHIBITED USE**: Any use not permitted by right or by special exception in a zoning district.
89. **PROPERTY**: A lot, parcel, or tract of land together with the buildings and structures located thereon.
90. **PUBLIC NOTICE**: The publication of the time and place of any public hearing for zoning purposes being not less than seven (7) days or not more than twenty (20) days prior to the date of said hearing in one newspaper of general circulation in the county.
91. **RESIDENTIAL PURPOSES**: The intent to use and/or the use of a room or group of rooms for the sleeping, living and housekeeping activities for the same person or the same group of persons on a permanent or semi-permanent bases of an intended tenure of one month or more.
92. **RECREATIONAL VEHICLE**: A vehicle or structure so designed and constructed in such a manner as will permit occupancy thereof as sleeping quarters for one or more persons, or for sporting or recreational purposes. A recreational vehicle is so designed that it is or may be mounted on wheels and used as a conveyance on highways or streets, propelled or drawn by its own or other motive power, except a device used exclusively upon stationary rails or tracks. Such a vehicle shall be customarily or ordinarily used for, but not limited to, vacationing, recreational purposes, pick-up campers, camping, motor coaches, trucks or buses.
93. **RECREATIONAL VEHICLE PARK**: Any area providing spaces for two (2) or more travel trailers, motor homes, camping trailers or tent sites for temporary occupancy for revenue purposes.
94. **ROAD OR STREET LINE**: The dividing line between a lot, tract, or parcel of land and the right-of-way line of a contiguous road, street, or alley.
95. **ROADSIDE STAND**: A temporary structure, unenclosed, and so designed and constructed that the structure is easily portable or can be readily moved, and which is adjacent to a road and used for a sale of farm products produced or grown on the premises.

96. SALVAGE YARD: See Junkyard.
97. SETBACK: The minimum required distance between any lot line and the supporting walls or structures of any building or deck more than 12” above grade. When two or more lots under single ownership are used for purposes of one zoning lot, the exterior property lines so grouped shall be used in determining setbacks.
98. SETBACK LINE: A line within a lot parallel to and measured from a corresponding lot line, forming the boundary of a required yard and defining that minimum distance between the building and property line which buildings and structures may not be placed.
99. SITE DEVELOPMENT REGULATIONS: The combinations of controls that establish the maximum size of a building and its location on the lot. Components of bulk regulations include: size and height of building; location of exterior walls at all levels with respect to lot lines, streets, or other buildings; building coverage; gross floor area of building in relation to the lot area; open space; and amount of lot area provided per dwelling unit.
100. SITE PLAN: A plan, prepared to scale, showing accurately and with complete dimensioning, all of the buildings, structures and uses, and the principal site development features including parking, access, and landscaping and screening, proposed for a specific parcel of land.
101. SPOT ZONING: Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding land uses and that does not further the comprehensive plan.
102. STORY: That portion of a building, included between the surface of any floor and the surface of the floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.
103. STORY, HALF: A space under a sloping roof which has the line of intersection of roof decking and wall face not more than four (4) feet above the top floor level.
104. STREET: A public or private thoroughfare that affords the primary means of access to abutting property.
105. STREET, FRONT: The street or public place upon which a plot abuts. If a plot abuts upon more than one street or public place it shall mean the street in front of the primary entrance to the building.
106. STRUCTURE: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, and billboards. Structures do not include such items as fences, utility poles, street light or signs, other public use items or tombstones.
107. SUBSTANDARD LOT (OR NONCONFORMING LOT): A lot of record that does not comply with currently applicable minimum area, width, or depth requirements for the zoning district in which it is located, but which complied or was conforming with applicable requirements when it was placed on record prior to the enactment of this Zoning Ordinance.

108. **TEMPORARY STRUCTURE:** A structure without any foundation or footings and that is removed when the designated time period, activity, or use has ceased.
109. **USE:** The conduct of an activity or the performance of a function or operation, on a site or in a building or facility.
- 1) **Principal Use:** The main use of land or structures as distinguished from an accessory use.
 - 2) **Permitted Use:** Any use permitted as a matter of right when conducted in accord with the regulations established by this ordinance; of which fulfills the primary function of a household, establishment, institution, or other entity.
 - 3) **Special Exception Use:** A use allowable solely on a discretionary and conditional basis subject to a Special Exception use permit, and to all other regulations established by this ordinance.
 - 4) **Accessory Use:** A use or activity that is incidental to and customarily associated with a specific principal use on the same site.
110. **UTILITY, PUBLIC OR PRIVATE:** Any agency that under public franchise or ownership, or under certificate of convenience and necessity, or by grant of authority by a governmental agency, provides the public with electricity, gas, heat, communication, transportation, water, sewer collection or other similar services.
111. **VACANCY:** Any unoccupied land, structure, or part thereof that is available for occupancy.
112. **VALUATION:** The estimated cost to replace a building; based on current cost of replacement.
113. **VARIANCE:** The relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions and peculiarity of the property and not the results of actions of the applicant, a literal enforcement of the zoning regulations would result in an unnecessary and undue hardship. A variance is authorized only for height, area, and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.
114. **YARD:** An open space on the same lot adjoining a lot line, containing buildings, structures, landscaping and other such uses and facilities as may be permitted in this ordinance. In measuring a yard for the purpose of determining the depth of a front yard or rear yard, the least distance between the lot line and the main building shall be used. In measuring a yard for the purpose of determining the width of a side yard, the least distance between the lot line and the nearest permitted building shall be used. A yard shall be measured exclusive of public right-of-ways.

- 1) **Front Yard:** An area of yard extending across the full width of the lot and measured between the front lot line and the building or any projection thereof, exclusive of the usual steps and eaves. In the case of corner lots, the front yard shall be considered as the yard adjacent to the street upon which the lot has its least dimension.
- 2) **Interior Yard:** Any area of yard, not adjacent to a street, which is determined on the basis of an interior lot line.
- 3) **Rear Yard:** An area of yard extending across the full width of a lot and measured between the rear lot line and the building or any other projections other than uncovered steps, unenclosed balconies, or eaves. On both corner lots and interior lots the opposite end of the lot from the front yard shall be considered the rear yard.



- 3) **Side Yard:** An area of yard extending the depth of a lot from the front yard to the rear yard and measured between the side lot lines and the nearest principal building, exclusive of the usual steps and eaves. In the case of a corner lot, the street side yard shall extend from the front yard to the rear lot line.

115. **ZONING:** The delineation of districts and the establishment of regulations governing the use, placement, spacing, and size of land and buildings.

116. **ZONING ADMINISTRATOR:** The individual appointed by the Board of Supervisors to administer and enforce compliance with the provisions of this ordinance and to issue zoning permits.

117. **ZONING PERMIT:** A permit issued and enforced by the zoning administrator, as a condition precedent to the commencement of a use, or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building; acknowledging the proposed use, building, or structure complies with the provisions of the zoning ordinance, special exception or authorized variance.

118. **ZONING MAP:** A map, adopted by the governing body, delineating the boundaries of identified districts referencing the distinction and separation of zoned land uses which, along with the zoning text, comprises the zoning ordinance.

3.2. USE CLASSIFICATIONS.

The purpose of use classifications is to provide a consistent set of terms encompassing and defining those uses permitted by right or special exception in the zoning districts, and to provide a procedure for determination of the applicable use classification of any activity not clearly within any defined use classification.

In event of any question as to the appropriate use classification of any existing or proposed use or activity, the zoning administrator shall have the authority to determine the classification, subject to the right of appeal pursuant to Section 22.9. In making such determinations, the zoning administrator shall consider the characteristics of the use in question, and consider any functional, product, service, or physical requirements common with or similar to uses cited as examples of use classifications.

1) General Description of AGRICULTURE/CONSERVATION USE TYPES:

Agricultural use types include, but not limited to, the following:

- a. *Agriculture Uses:* See Definition No. 4
- b. *Agricultural Animal Husbandry:* The raising of cattle, swine, poultry, horses, sheep, goats or other similar animals for reproductive stock or for slaughter in which such uses are conducted in either confined animal feeding operations or open yards, including pasture.
- c. *Agricultural Seed Sales:* The sale of corn seed or other agricultural commodity seeds from the premises of a farm or farmstead
- d. *Agricultural Storage Buildings:* Buildings or structures used and intended for the housing, storage and maintenance of machinery, equipment, supplies, agricultural products, and vehicles used for agricultural purposes. This does not include the use of storage buildings or other agricultural buildings for rent or profit, or any commercial purposes for non-agricultural related vehicles including recreational vehicles.
- e. *Crop Production:* The raising, harvesting, handling, storage, packaging, processing and transportation of tree crops, row crops, field crops or any other agricultural commodity.
- f. *Critical Area:* A natural feature in need of preservation from encroaching land uses. Such areas may include, but not limited to sensitive or prime agricultural soils as defined by the Natural Resource Conservation Service (NRCS), areas of excessive slope, natural marshes, woodlands, and floodplains as defined by FEMA, land reserved in CRP, buffer strips, terraces, and land involved in other types of conservation or areas with restricted uses.
- g. *Farm:* See Definition No.49
- h. *Farmstead, Abandoned:* See Definition No.2
- i. *Farmstead, Existing:* See Definition No.51
- j. *Farm Dwelling, Principal:* A dwelling located on a farm and occupied by the owner or operator of the farm or renter.
- k. *Farm Dwelling, Support Housing:* The occupancy of living accommodations by agricultural employees and family members on the same property as the principal permitted residence, without regard to duration, but of which at least one of the residents must be engaged in agriculture.

- l. *Floodplain*: The channel and relatively flat area adjoining the channel of a natural stream or river that has historically been or may have the potential to be covered by flood waters.
- m. *Fuel Storage*: Includes the storage and handling of fuels for agricultural and support vehicles and machinery, and not intended for resale or profit.
- n. *Horticulture*: The growing of horticultural and floricultural specialties, such as flowers, shrubs, or trees intended for ornamental or landscaping purposes, but excluding retail sales.
- o. *Pesticide/Fertilizer Storage*: Includes the storage and handling of pesticides, fertilizers and other commonly associated farm or agricultural chemicals used for farm or agricultural purposes, and not intended for any commercial application or for resale or profit.
- p. *Undeveloped or Unimproved Land*: Land in its natural state before development. This use also includes land used for agricultural pasturage and land in agricultural conservation practices.
- q. *Viticulture or Viniculture*: The cultivation of grapes often for the use in production of wine products. Grapes are grown for fresh fruit, dried fruit or for grape juice, which can be used (amongst others) to produce wine. Typical uses include but not limited to vineyards. Note: wine-making or production facilities and associated retail or commercial wineries are not considered an agricultural use.
- r. *Water Control Structures, Irrigation or Retention Basins*: Those man-made structures which are intended to direct and/or control the water flow, drainage and percolation rate to aid in the prevention of flooding or to direct water away from tillable agricultural land.
- s. *Wildlife Refuge/Preserve*: Areas designated for the protection and sustaining of wildlife habitat; in which human activities are limited and the natural environment is protected.

2) **General Description of RESIDENTIAL USE TYPES:**

Residential use types include the occupancy of living accommodations on primarily nontransient basis or institutional living arrangements, but excluding those providing forced residence such as prisons.

- a. *Condominium Residential*: The use of a site for three (3) or more multiple family dwelling units intended for separate ownership, together with common area serving all dwelling units; whereas the structure, common areas and facilities are owned by all of the owners on a proportional, undivided basis.
- b. *Family Home (as per Chapter 414.22 Iowa Code)*: A community based residential home which is licensed as a residential care facility under Chapter 135C of the *Iowa Code* or as a child foster care facility under Chapter 237 of the *Iowa Code* to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight (8) persons with a developmental disability or brain injury and any necessary support personnel. However, family home does not mean an individual foster care family home licensed under Chapter 237.
- c. *Group Residential*: The residential occupancy of living accommodations by groups of more than five (5) persons not defined as a family on a weekly or longer basis. Typical uses include but not limited to fraternity/sorority houses, residence halls or county homes.

- d. *Mobile Home or Manufactured Housing*: See Definitions 88 and 91. The residential occupancy of mobile homes or manufactured housing by families on a weekly or longer basis. Uses include mobile home parks and manufactured housing subdivisions.
 - e. *Multiple Family Residential*: The use of a site for three (3) or more dwelling units within one or more buildings.
 - f. *Relocated Residential*: An existing residential structure, intended for occupancy, which has been moved from one location in the county to another location in the county, or where an existing residential structure has been moved into Clay County from a location outside of Clay County. A relocated residential structure does not include the moving of a new manufactured, modular or mobile home. Relocated residential properties shall submit a route plan, photographs of the building to be moved, and a building permit prior to moving a building or structure in Clay County.
 - g. *Residential Healthcare Facilities*: Any residential care services, intermediate care facility or skilled nursing home.
 - 1) *Residential Care Services*: A use, other than a hospital or convalescent facility, providing care for ambulatory persons in a residential environment, including overnight occupancy or extended care.
 - 2) *Assisted Living Facility*: Residences for primarily senior or retired persons that provide dwellings, housekeeping services, meals, personal care, and supervision of self-administered medication. Assisted living facilities are sometimes combined with other housing such as congregate housing, senior housing, or residential care services.
 - 3) *Skilled Nursing Facility or Convalescent Home*: Any building, structure, institution or facility providing care for a period exceeding twenty-four hours for residency or nursing services, the need for which is certified by a physician to three (3) or more individuals, who by reason of illness, disease, or physical or mental illness require continuous care and medical services.
 - h. *Single Family Residential*: The use of a site for only one (1) single family dwelling unit.
 - i. *Summer Cottage*: A single family dwelling, intended for seasonal or temporary occupancy only, and not used as a family residence during the entire year.
 - j. *Townhouse Residential*: The use of a site for three (3) or more dwelling units, constructed with common or adjacent walls and each located on a separate ground parcel within the total development site.
 - k. *Two Family Residential (duplex or twin home)*: The use of a site for two (2) dwelling units on a single lot or parcel.
- 3) **General Description of COMMERCIAL USE TYPES:**
Commercial use types include the sale, rental, service, and distribution of goods; and the provision of services other than those classified as industrial or civic uses.

- a. *Administrative and Business Offices*: Office of private firms or organizations, which are primarily used for executive, management, or administrative services. Typical uses include but not limited to administrative offices, estate, insurance, property management, investment, personnel, travel, secretarial services, telemarketing, photocopy and reproduction, and offices of public utilities or associations.
- b. *Agricultural Sales and Services*: Establishments or businesses engaged in sale of feed, grain, fertilizers, pesticides and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries, hay, feed and grain stores, and tree service firms.
- c. *Automotive Repair Services*: Repair of automobiles, noncommercial truck, motorcycles, motor homes, and recreational vehicles; including the sale, installation, and servicing of equipment and parts.
- d. *Automotive Sales or Rental*: Sales or rental of automobiles, noncommercial truck, motorcycles, motor homes, and recreational vehicles; including incidental storage, maintenance, and servicing. Typical uses include but not limited to new and used car dealerships, motorcycle dealerships, vehicle trailer and recreational vehicle dealerships.
- e. *Automotive Washing*: Washing and cleaning of automobiles, related light equipment, and trucks. Typical uses include but not limited to car washes or truck washes. Does not include large truck cleanouts or wash outs.
- f. *Building Maintenance/Support Services*: Establishments primarily engaged in the provision of maintenance and custodial services to other businesses, along with businesses engaged in the sale, rental or repair of equipment and supplies used by professional establishments. Typical uses include but not limited to janitorial, maintenance and cleaning services, office equipment supply, business machine repair, or hotel equipment and supply firms.
- g. *Business or Trade School*: A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, or public or private educational facility.
- h. *Cocktail Lounge*: A use engaged in the preparation and retail sales of alcoholic beverages for consumption on premises, including taverns, bars, cocktail lounges, and similar uses.
- i. *Commercial Auction Yards and Barns*: A place or structure where primarily, but not exclusively, livestock, fowl, poultry or other animals are offered for sale for profit to persons who bid in competition with each other.
- j. *Commercial Off-Street Parking*: Parking of motor vehicles on a temporary basis within privately owned off-street parking facility, other than accessory to a principal use. Uses include commercial parking lots or parking garages.
- k. *Commercial Recreation*: Establishments or places primarily engaged in the provision of sports, entertainment, or recreation for participants or spectators. The following are commercial recreation use types:

- 1) *Indoor Entertainment and Recreation*: Uses conducted within an enclosed building. Typical uses include but not limited to bowling alleys, ice and roller skating rinks, arcades, motion picture theatres, dance halls.
 - 2) *Outdoor Entertainment and Recreation*: Uses conducted in open or partially enclosed or screened facilities. Typical uses include but not limited to sporting arena, swimming pools, tennis courts, racquetball courts, racing facilities, go-kart track, amusement park or driving range.
- l. *Commercial Stables*: Any place, area, building or structure where horses or similar species are boarded, housed, bred, cared for fed or trained by other than the owner or occupants of the premises; or any other place, area, building or structure where more than one (1) horse or similar species is kept for purpose of breeding or raising for a fee. Typical uses include but not limited to horse ranches, boarding stables or public stables.
 - m. *Communications Services*: Establishments primarily engaged in the provision of broadcasting and information relay services but exclude those classified as Major Utility Facilities. Typical uses include but not limited to radio, television, cellular and other similar antennas, towers, or structures; and fiber optic lines and transmission facilities.
 - n. *Condominium or Business Storage Unit*: A building or series of buildings in which storage units or floor area is owned independently; but the property is owned by all of the owners on a proportional basis or single ownership. These storage units are designed for indoor storage of RVs, boats, watercrafts, snowmobiles, motorcycles, automobiles, antiques, toys, trailers, record storage or other similar uses. Condominium storage must be designed in a way that each unit maintains a separate entrance.
 - o. *Construction Sales and Services*: Establishments or places of business engaged in construction activities and incidental storage on lots other than construction sites as well as the retail or wholesale of materials used in construction of building or other structures other than retail sale of paint, fixtures and hardware; but excludes those classified as one of the Automotive and Equipment Services use types. Typical uses include but not limited to building materials stores, tool and equipment rental or sales, or contractors.
 - p. *Convenience Storage*: Storage services primarily for personal effects and household goods within enclosed storage areas having individual access, but excluding use as workshops, hobby shops, manufacturing, or commercial activity. Typical uses include but not limited to mini-warehousing.
 - q. *Convenience Store*: Any retail establishment offering for sale engaged in the retail sale of food and household products, including gasoline. The servicing or storage of vehicles shall be prohibited.
 - r. *Equipment Repair Services*: Repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include but not limited to truck repair garages, tractor and farm implement repair services, and machine shops, but exclude dismantling or salvage.

- s. *Equipment Sales*: Sale or rental of trucks, tractors, construction equipment, agricultural implements and similar heavy equipment; including storage, maintenance and servicing. Typical uses include but not limited to heavy truck or construction equipment dealerships.
- t. *Financial Services*: Establishments primarily engaged in the provision of financial and banking services. Typical uses include but not limited to banks, savings and loan institutions, loan and lending activities, and similar services.
- u. *Funeral Services*: Establishments engaged in undertaking services such as preparing the human dead for burial and arranging and managing funerals. Typical uses include but not limited to funeral homes, crematoriums or mortuaries.
- v. *General Retail Sales*: Sale or rental of commonly used goods, and merchandise for personal or household use, but excludes those classified more specifically in this section inclusive. Typical uses include but not limited to department stores, grocery stores, apparel stores, furniture stores; or establishments providing cleaning products, drugs, cards, stationery, books, tobacco, cosmetics, flowers, plants, hobby materials, toys, apparel, fabrics, cameras, photography, electronics, sporting equipment, kitchen supplies, home furnishings, appliances, art supplies, antiques, paint and wallpaper, carpeting and floor covering, decorating services, office supplies, bicycles or automotive parts.
- w. *Golf Course*: Land area and buildings containing golf course, club house, pro shop, restaurant and lounge, swimming pool and tennis courts and other services and buildings typically associated with the operation of a golf course or country club.
- x. *Hospital Services*: A facility providing medical, psychiatric, or surgical services for sick or injured persons primarily on an inpatient and emergency treatment, diagnostic services, research, administration, and services to patients, employees or visitors.
- y. *Kenel, Commercial*: Any establishment where four (4) or more dogs, cats or non-hoofed domesticated animals at least six months of age are kept, housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation. Typical uses include but not limited to boarding kennels, pet motels, or dog training centers.
- z. *Liquor Sales*: Establishments or places of business engaged in retail sale for consumption off the premises of alcoholic beverages. Typical uses include but not limited to liquor stores, bottle shops, or any licensed sales for off-site consumption.
- aa. *Maintenance and Service Facilities*: A facility supporting maintenance, repair, vehicular or equipment servicing, materials storage, and similar activities, including equipment service centers and similar uses having characteristics of commercial services, contracting or industrial activities.
- bb. *Medical Clinics /Offices*: A building or use providing consultation, diagnosis, therapeutic, preventative, or corrective personal treatment services by doctors, dentists, medical and dental laboratories, and similar practitioners licensed for practice by the State of Iowa.
- cc. *Personal Improvement Services*: Establishments primarily engaged in the provision of informational, instructional, personal improvement and similar services. Typical uses include but not limited to photography studios, driving schools, health or physical fitness

- studios, reducing salons, dance studios, handicraft and hobby instruction.
- dd. *Personal Services*: Establishments or places of business primarily engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include but not limited to beauty and barbershops, seamstress, tailor, shoe repair, laundry, linen supply or apparel cleaning services.
 - ee. *Professional Office*: Any building or part thereof used by one (1) or more persons engaged in the practice of law, accounting, architecture, medicine, engineering or other occupation customarily considered as a profession.
 - ff. *Restaurant (Convenience)*: A use engaged in the preparation and retail sale of food and beverages, excluding alcoholic beverages, for on premise consumption. Typical uses include but not limited to soda fountains, ice cream parlors, sandwich shops, cafes, and coffee shops.
 - gg. *Restaurant (General)*: A use engaged in the preparation and retail sales of food and beverages, including sale of alcoholic beverages when conducted as an accessory or secondary feature and producing less than fifty percent (50%) of the gross income. A general restaurant may include live entertainment. Typical uses include but not limited to restaurants, lounges, bar & grills, and other similar establishments.
 - hh. *Service Station*: The provision of automotive fuels, oils, lubricants, parts and other items customarily associated with the sale of such products, but only intended for incidental repair services to motor vehicles.
 - ii. *Stockyards*: Stockyard services involving the temporary keeping of livestock for slaughter, market or shipping. Typical uses include but not limited to animal stockyards, animal sales or crop or animal auction yards.
 - jj. *Transportation Services*: A facility for the loading and unloading of goods and/or freight, as well as the interchange of passengers and baggage between modes of transportation; including but not limited to bus or train terminals, rail stations, airport terminals, transit facilities, and other shipping/receiving facilities.
 - kk. *Vehicle Storage*: Long term storage of operating or non-operating vehicles. Typical uses include but not limited to storage of private parking tow-a-ways or impound yards, but exclude dismantling or salvage.
 - ll. *Veterinary Services*: Veterinary services for animals. Typical uses include but not limited to pet clinics, dog and cat hospitals, and veterinary hospitals.
 - mm. *Visitor Habitation*: Establishments primarily engaged in the provision of lodging on a temporary basis with incidental food, drink and other sales and services intended for the convenience of guests. The following are visitor habitation use types:
 - 1) *Campground*: Facilities or any area of land or portion thereof designed for and providing spaces for two (2) or more occupants of tents, travel trailers, recreational vehicles, camping trailers, or other mobile living facilities, for temporary occupancy with

necessary incidental services, sanitation and recreation facilities to serve the public. Typical uses include but not limited to campgrounds or recreational vehicle parks.

- 2) *Hotel-Motel*: A building or group of buildings, attached or detached, containing guest rooms which provide lodging for compensation to the public. Other such accessory uses associated with a hotel-motel may include a swimming pool, restaurant, cocktail lounge, meeting/ conference rooms, management office and quarters for the use of operating personnel.
- 3) *Bed & Breakfast Inn*: A private, owner-occupied housing unit, or portion thereof where short term lodging and meals are provided for up to six (6) sleeping rooms for rent to the public. Individual units designed as rentals shall contain no cooking facilities.
- 4) *Boarding or Lodging House*: A building, other than a hotel or motel, where for compensation and by arrangement, meals and lodging are provided for three (3) or more persons not defined as a family.
- 5) *Resort Enterprise*: Any building or group of buildings containing guest rooms offered for rent primarily for temporary occupancy (less than 31 days or one month). Such buildings may include quarters for the boarding of employees.
- 6) *Timeshare*: The ownership of any structure by three (3) or more unrelated persons in which occupancy by shared owners occurs at varying times throughout the year.

nn. *Wind Energy Devices*: Wind Energy Conversion Systems (WECS) or other similar wind machines are those devices including but not limited to wind charger, windmill, wind turbine or wind generators which converts wind energy to a form of usable energy.

4) **General Description of INDUSTRIAL USE TYPES:**

Industrial use types include the on-site extraction or production of goods by methods not agricultural, and storage and distribution of products.

- a. *Biotechnology Production and/or Manufacturing*: Facilities, warehouses, and production or assembly plants engaged in the production, manufacturing, packaging, and distribution of products generally associated with the fields of animal or human biotechnology.
- b. *Custom Manufacturing*: Establishments engaged in the on-site production of goods by hand manufacturing which involves the use of hand tools or mechanical equipment and the incidental direct sale of only those goods produced on-site. Typical uses include but not limited to ceramic studios, candle making, glass blowing or custom jewelry.
- c. *Fertilizer or Chemical Storage or Processing*: Those uses which promote the sale, storage, transfer or processing of agricultural, industrial or other chemicals.
- d. *Fuel Storage*: The storage of any fuel source in above or below ground tanks for purposes of distribution, storage or for sale. Such uses may include, but are not limited to gasoline storage facilities, bulk storage, propane storage or natural gas storage sites.
- e. *Heavy Industry*: A use engaged in the processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of or

manufacturing processes using flammable or explosive materials; or manufacturing which involves hazardous or commonly recognized offensive conditions.

- f. *Light Industry*: A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding heavy industrial processing.
- g. *Railroad Facilities*: Including but not limited to rail yards, equipment servicing facilities, loading and unloading facilities and rail terminal facilities.
- h. *Renewable Energy/Renewable Resources Industries*: Those industries/businesses engaged in the use of products that are sustainable in the environment or in harnessing renewable resources for energy purposes. Typical uses include but are not limited to biofuels, biomass, solar energy, hydro power, and geothermal.
- i. *Research and Production Services*: Establishments primarily engaged in research of an industrial or scientific nature, including animal or human products testing. Typical uses include but not limited to animal or human research labs, research and development firms or animal/human pharmaceutical research labs.
- j. *Resource Extraction*: A use involving the on-site extraction of surface mineral products or natural resources. Typical extractive uses are, but not limited to quarries, borrow pits, sand and gravel operations, oil and gas extraction, and mining operations.
- k. *Sanitary Landfill*: An area of land designated for disposal of garbage, refuse, waste, rubbish, and solid or semisolid materials of which are buried between layers of earth.
- l. *Scrap and Salvage Services*: Businesses primarily engaged in storage, sale, dismantling or other processing of used or waste materials which are not intended for reuse. Typical uses include but not limited to scarp or storage yards, junkyards or salvage yards.
- m. *Warehousing and Distribution*: Establishments or places of business primarily engaged in wholesaling, storage, distribution and handling of materials and equipment other than live animals and plants. The following are warehousing use types:
 - 1) *Limited Warehousing and Distribution*: Wholesaling, storage and warehousing services within enclosed structures. Typical uses include but not limited to wholesale distributors, storage warehouses or moving and storage firms.
 - 2) *General Warehousing and Distribution*: Open-air storage, distribution and handling of materials and equipment. Typical uses include but not limited to grain elevators or open storage yards.

5) **General Description of CIVIC USE TYPES:**

Civic use types include the performance of utility, educational, recreational, cultural, medical, protective, governmental, and other uses strongly vested with public or social importance.

- a. *Aviation Facilities*: Landing fields, aircraft parking and service facilities, and related facilities for the operation, service, fueling, repair, storage, charter, or rental of aircraft.

- b. *Cemetery*: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbiums, crematoriums, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.
- c. *Club or Lodge*: A use providing meeting, recreational, or social facilities for private or non-profit associations, primarily for use by members and guests.
- d. *Cultural Services*: A library, museum, art gallery, or other nonprofit use offering display, preservation or exhibition of historical objects or the fine arts and sciences.
- e. *Daycare Center*: A facility, or use of a building or portion thereof, for daytime care of seven (7) or more individuals, or as indicated by the State of Iowa. This term may include day care centers for children or adults and similar uses.
- f. *Detention Facilities*: A publicly operated use providing housing and care for individuals confined by law.
- g. *Government/Public Services*: Offices, administrative, clerical, governmental, or public services that deal directly with the citizen. Typical uses include but not limited to federal, state, and county offices, postal facilities, or other public or non-profit organizations directly benefiting the general public.
- h. *Local Utility Services*: Essential services which are necessary to support principal development and involve only minor structures such as lines and poles.
- i. *Major Utility Facilities*: Communication towers, antennas, generating plants, electrical switching facilities and primary substations, refuse collection or disposal facilities, water and wastewater treatment plants and similar facilities of public use, and firms having potentially significant impact upon surrounding uses.
- j. *Military Installations*: Military facilities of federal or state governments.
- k. *Park and Recreation Services*: Publicly or privately owned and operated parks, playgrounds, open spaces, and swimming pools.
- l. *Pre-Kindergarten, Preschool, or Nursery School*: An establishment enrolling children where tuition or other forms of compensation for the care of children is charged, and which is licensed or approved to operate as an educational facility for children.
- m. *Educational Facilities*: A public, private, or parochial school offering instruction at the elementary, junior and senior high school or collegiate levels.
- n. *Public Assembly*: Publicly owned or operated facilities for major public assembly, recreation, sports or entertainment, including civic or community auditoriums, convention facilities, event centers, fairgrounds, and exhibition facilities.
- o. *Religious Assembly*: A building wherein people regularly assemble for religious worship, which is maintained and controlled by a religious body organized to sustain public worship together with all accessory buildings and uses. Excludes primary or secondary educational facilities.

- p. *Safety Services*: Facilities for public safety and emergency services, including police and fire protection services and emergency medical and ambulance services.
- q. *Treatment Services*: A use providing counseling, guidance, vocational, or similar services to persons requiring rehabilitation assistance as a result of mental illness alcoholism, detention, drug addiction, or similar condition on a residential or daytime basis.

ARTICLE IV

Zoning Districts Established

Article 4: Zoning Districts Established

- Section 4.1. Zoning Districts
- Section 4.2. Boundaries and Official Map
- Section 4.3. Interpretations of Districts Boundaries
- Section 4.4. Disincorporation
- Section 4.5. Roadway or Public Right-of-Way Vacation
- Section 4.6. General Regulations

Section 4.1. ZONING DISTRICTS.

The Board of Supervisors shall cause to be prepared and approved, an official zoning districts map showing the various districts, which may be changed or corrected from time to time as recommended by the Planning and Zoning Commission and enacted by the Board of Supervisors. For the purpose and intent of this ordinance the unincorporated area of Clay County, Iowa, is hereby divided into ten (10) zoning districts or zones as follows:

Agricultural District	(A-1)
Floodplain and Conservation District	(A-2)
Rural Residential District	(R-1)
Suburban Residential District	(R-2)
Multiple Family Residential District	(R-3)
Lake Residential District	(R-4)
Rural Mobile/Manufactured Home Park District	(R-5)
General Commercial District	(GC)
Light Industrial District	(I-1)
Heavy Industrial District	(I-2)

Section 4.2. BOUNDARIES AND OFFICIAL MAP.

The boundaries of these districts are indicated and established as shown upon maps designated as the Official Zoning Map of Clay County, Iowa, which, with all their notations, designations, references, and other matters shown thereon, shall be as much a part of this zoning ordinance as if fully described and set forth herein.

Amendments, supplements, or changes of the boundaries of districts as shown on the official zoning map shall be made by ordinance amending the Clay County Zoning Ordinance. The amending ordinance shall refer to the official zoning map and shall set out the identification of the area affected by legal description and identify the zoning district as the same exists and the new district designation applicable to said property. After adoption and publication said ordinance, in accordance with the provisions of this ordinance, shall be recorded by the County Auditor on the official zoning map and a certified copy thereof be attached to the zoning map. Such amendatory ordinance shall, however, not repeal or reenact said map, but only amend it.

The official zoning map shall be on file in a convenient place in the office of the Clay County Auditor and/or zoning administrator's office. In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of use or the nature or number of changes

and additions, the Board of Supervisors may, by resolution, adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior map, but no such corrections shall have the effect of amending the original zoning ordinance or any subsequent amendments thereof. The official zoning map, together with amending ordinances, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the county.

Section 4.3. INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists as to a district's boundaries as shown on the official zoning map, the following rules shall apply.

1. Boundaries indicated as approximately following the center lines of streets, highways, alleys or other public right-of-ways shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following section lines, quarter section lines, or quarter-quarter section lines shall be construed as following such lines;
4. Boundaries indicated as approximately following city limits shall be construed as following such city limits;
5. Boundaries indicated as approximately following railroad lines shall be construed to be at the centerline of a set of tracks.
6. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes or other bodies of water shall be construed as following such center lines;
7. Boundaries indicated as parallel to or extensions of features indicated in subsections 1-6 above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
8. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsection 1-7 above, the Board of Adjustment shall interpret the district boundaries.

Section 4.4. DISINCORPORATION.

Any territory, lands, parcels or tracts which may hereafter become part of the unincorporated area of Clay County, that is regulated by this ordinance by the disincorporation of any city or town, or any part thereof shall automatically be classified as being within the (A-1) Agricultural District until such time the Planning and Zoning Commission may recommend and the Board of Supervisors shall determine and establish which zoning district(s) are most appropriate to the disincorporated lands.

Section 4.5. ROADWAY OR PUBLIC RIGHT-OF-WAY VACATION.

Whenever any roadway, street, highway or other public right-of-way is vacated by the official action of the Board of Supervisors, the zoning district(s) adjoining each side of such roadway or public right-of-way shall automatically extend to the center of such vacation and all area included in such vacation shall thenceforth be subject to all appropriate regulations of the extended district.

Section 4.6. GENERAL REGULATIONS.

All structures, buildings or part thereof shall be constructed and used in conformity with the regulations prescribed herein for the district in which such building or land is situated and a zoning/building permit is issued by the zoning administrator.

1. The principal building on a lot shall front on a road, street, or other public place.
2. The depths of front yards or rear yards and width of side yards shall be measured from the lot line to the nearest point of the building wall of the building or structure under consideration.
3. No building or structure shall be erected, converted, enlarged, re-constructed, or structurally altered, nor shall any building or land be used, which does not comply with all of the district regulations established by this ordinance for the district in which the building or land is located.
4. No yard or lot shall hereafter be reduced in dimension or area so that any required yard or other open space is below the minimum required by this ordinance for the district in which it is located.
5. No part of a yard or other open space, or off-street parking or loading space provided about any building, structure, or use for the purpose of complying with the provisions of this ordinance shall be included as part of a yard, open space, or off-street parking or loading space required under this ordinance for another building, structure, or use.
6. No accessory building to any principal building on the same lot shall be used for residential purposes.
7. Any portion of a building that is covered by a roof shall be considered as a part of the building.
8. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one (1) principal residential building on one (1) lot unless otherwise provided in this ordinance.
9. No building shall be erected or structurally altered to the extent specifically provided hereinafter except in conformity with the off-street parking and loading regulations of this ordinance.
10. Every residence, business, trade or industry hereafter established which requires water supply and sewage disposal facilities shall provide facilities which conform to the requirements and procedures set forth in the Iowa Administrative Code, Environmental Protection Commission [567]; especially Chapter 49 [567] - Nonpublic Water Supply Wells, and Chapter 69 [567] - Private Sewage Disposal Systems.

These regulations shall be required in addition to any applicable county, state or federal health and building regulations.

ARTICLE V (A-1) Agricultural District

Article 5: Agricultural District

- Section 5.1. Intent
- Section 5.2. Principal Permitted Uses
- Section 5.3. Permitted Residential Uses
- Section 5.4. Special Exception Uses
- Section 5.5. Permitted Accessory Uses and Structures
- Section 5.6. Site Development Regulations
- Section 5.7. Off-Street Parking and Loading Space
- Section 5.8. Sign Regulations
- Section 5.9. Zoning Permits Required

Section 5.1. INTENT.

The intent of the Agricultural District is to preserve land best suited for agricultural resources from the encroachment of incompatible urban and suburban sprawl land uses.

Section 5.2. PRINCIPAL PERMITTED USES.

Only the following principal uses and structures shall be permitted by right within the (A-1) Agricultural District, unless otherwise provided.

Agriculture/Conservation Uses	Non-Farm Residential Uses	Commercial Uses
Agricultural Uses Critical Area Farms Farmsteads Farm Dwelling, Principal Farm Dwelling, Support Housing Floodplain Fuel Storage Horticulture Pesticide/Fertilizer Storage Undeveloped or Unimproved Land Viticulture or Viniculture Water Control Structures/Irrigation Wildlife Refuge/Preserve	Single Family Residential <i>(see Section 5.3 below)</i>	
		Industrial Uses
		Railroad Facilities (including railroad right-of-ways)
		Civic/Public Uses
		Essential Services Local Utility Services Park and Recreation Services

Note: Any other buildings, structures, or uses of land primarily adapted for agricultural purposes shall be exempt from zoning regulations.

Section 5.3. PERMITTED NON-FARM RESIDENTIAL USES.

Non-farm residential dwellings in the agricultural district shall only be permitted on the following types of property and meeting the criteria outlined in items 1-3. Non-farm residential dwellings may be permitted if they meet any one of the five qualifying criteria in item 4 below.

1. Lots of Record, as defined in Section 16.2 of this ordinance.
2. In any instance within the agricultural district, single family non-farm dwellings shall not exceed a density of one (1) principal residential dwelling per every $\frac{1}{4}$ $\frac{1}{4}$ section (approx. 40 acres), as defined by the U.S. Geological Survey. This requirement shall not apply to agricultural support housing associated with the principal residential dwelling unit on a parcel or lot.
3. Single family non-farm residential uses shall be limited to one (1) principal dwelling per lot, parcel or tract of land. Residential uses associated with agricultural production on the property where the house is located, a maximum of one (1) principal single family residential dwelling and one (1) support housing dwelling per agricultural property is allowed.
4. A Single Family non-farm residential dwelling may locate within an (A-1) Agricultural District if it meets the criteria outlined in parts 1-3 above and any one of the qualifying criteria listed below.
 - Abandoned Farmsteads, which contain some indication of a previous building or structure such as the footings or foundations of previous buildings.
 - An irregularly shaped lot that because of its area, size or shape has limited potential for agricultural production.
 - Existing residential acreages, defined as a small parcel not under cultivation, which is recorded as a separate parcel and has historical residential use in excess of five (5) years.
 - At least 75% of the site for the non-farm residential dwelling contains slopes greater than nine percent (9%), of which must be documented by the applicant and verifiable.
 - At least 75% of the site for the non-farm residential dwelling contains soils unsuitable for agricultural operations, primarily those soils with less than a 65 Corn Suitability Rating (CSR), of which must be documented by the applicant and verifiable. If the soil type is above a CSR of 65, the zoning administrator will make the determination of prime agricultural soils based upon other mitigating factors. If there is uncertainty as to the determination of prime agricultural soils, based upon the zoning administrator's research and consideration of CSR and other mitigating factors, then the zoning administrator can refer the decision to the Planning Commission for review and recommendation of a determination. In general, if the soil type is above a CSR of 65, then other mitigating circumstances such as those listed above shall also be considered prior to approving non-agricultural uses to build in an agricultural zone. Following is a listing of soil types in Clay County, Iowa determined to be identified as prime agricultural soils.

<u>Soil Name</u>	<u>Soil Number</u>	<u>Corn Suitability Rating</u>
McCreath	1091	83
Nicollet	55	82
Ransom	282	81
Coland	135	78
Galva (terrace)	810	78
Annieville	928	78
Gillett Grove	1092	78
Webster	107	77
Rushmore	191	76
Terril	27B	75
Afton	31	75
Wilmonto	456	75
Spillville	485	75
Clarion	138B	74
Wilmonton	455	74
Colo	133	73
Canisteo	507	73
Galva (terrace)	810B	73
Annieville	928B	73
Ocheda	1385	73
Letri	397	72
Fostoria	879	72
Sac	77B	71
Cylinder (32-40" sand/gravel)	203	71
Biscay	259	70
Fostoria	375	70
Wacousta	506	69
Ocheyedan	878	69
Belmann (gypsum phase)	1053	69
Zook	54	68
Everly	577B	68
Calco	733	68
Havelock	735	68
Ocheyedan	379	67
Collinwood	384	67
Wadena	308	65
Talcot	559	65

Section 5.4. SPECIAL EXCEPTION USES.

The following uses and structures may be permitted in the (A-1) Agricultural District subject to specific conditions and requirements upon approval by the Board of Adjustment intended to make them compatible with and acceptable to adjacent uses.

Agricultural Uses	Residential Uses	Civic/Public Uses
	Group Residential Relocated Residential Residential Care Services Summer Cottage	Aviation Facilities Cemetery Cultural Services (<i>including historical sites and/or monuments</i>) Detention Facilities Educational Facilities Government/Public Uses Major Utility Facilities Religious Assembly Safety Services
Commercial Uses		Industrial Uses
Bed & Breakfast Establishment Business Home Occupations <i>(See Section 17.4 for additional regulations)</i> Campground Commercial Auction Yards and Barns Commercial Stables Communication Services Kennel, Commercial Small Wind Energy Devices Stockyards Transportation Services Veterinary Services Wind Energy Devices		Fertilizer or Chemical Storage or Processing Fuel Storage Renewable Energy/Renewable Resource Industries Resource Extraction Sanitary Landfill Scrap and Salvage Services

Before the issuance of any such special exception permit, the Planning and Zoning Commission shall report to the Board of Adjustment regarding the effect of such building, structure or use upon the character of the neighborhood, traffic conditions and other matters relating to the public health, safety and general welfare. The Planning and Zoning Commission shall make such report within sixty (60) days after application has been filed.

Section 5.5. PERMITTED ACCESSORY USES AND STRUCTURES.

Accessory uses shall not be the principal structure on any lot, and accessory uses are to remain incidental and secondary in size, use, and nature to principal uses. The following accessory uses and structures shall be permitted in the (A-1) Agricultural District.

1. Private garage or carport
2. Private parking lots
3. Single family dwellings, including a mobile home if used by the farm owner or operator, member of the immediate family, or a person engaged in agriculture.

4. Essential services, but not including any major utility facility
5. Utility sheds, garden buildings or greenhouses intended for personal or household use
6. Roadside stands for the sale of agricultural produce grown on the premises
7. Kennel, private
8. Residential home occupations (See Section 17.4 for additional regulations)
9. Temporary buildings for uses incidental to construction, in which buildings shall be removed upon completion or abandonment of construction, and in compliance with Section 16.3.
10. Accessory uses and structures normally incidental and subordinate to the principal permitted uses and structures, or buildings or structures which are primarily adapted by reason of nature and area for use for agricultural purposes.

Section 5.6. SITE DEVELOPMENT REGULATIONS.

The following minimum requirements shall be provided for light and open space around permitted and special exception uses and structures in the (A-1) Agricultural District, and subject to modifications contained in Article XVI, Supplemental District Regulations, except that these requirements do not apply to farmsteads, and land, buildings and structures used primarily for agricultural purposes.

Lot Area -	1 acre minimum on all uses
Lot Width -	200 feet minimum lot width
Front Yard -	50 feet minimum required setback
Side Yard -	25 feet minimum required setback for all residential uses (including non-farm dwellings) 50 feet minimum required setback for all other uses
Rear Yard -	50 feet minimum required setback
Street Side (Corner) Yard -	50 feet minimum required setback
Residential Density -	No more than 1 principal residential dwelling per lot, and no more than one 1 agricultural support housing per lot.
Height -	35 feet maximum height for dwellings and no limitation for agricultural or other buildings provided that no structure shall be permitted to extend into approach zones, clear zones or other restricted air space required for the protection of any public airport.

No minimum requirements for local utility facilities and essential services, except buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum setback requirements. Cemeteries are exempt from bulk regulations, except that no above ground building shall be constructed within the required yard setbacks.

All non-farm residential dwellings must be constructed in compliance with the “Minimum Requirements for Residential Structures” regulations outlined in Section 17.5.

Section 5.7. OFF-STREET PARKING.

Off-street parking and loading requirements shall be required for activities in the (A-1) Agricultural District in accordance with the provisions of Article XIX of this ordinance, except that these provisions shall not apply to farm dwellings or land, buildings and structures used for agricultural purposes.

Section 5.8. SIGN REGULATIONS.

Sign regulations shall be required for activities in the (A-1) Agricultural District in accordance with the provisions of Article XX of the ordinance.

Section 5.9. ZONING COMPLIANCE PERMITS REQUIRED.

Zoning permits shall be required in accordance with the provisions of Section 22.3 of this ordinance, except that zoning permits shall not be required for farm dwellings or land, buildings and structures used for agricultural purposes.

ARTICLE VI (A-2) Conservation District

Article 6: Conservation District

- Section 6.1. Intent
- Section 6.2. Principal Permitted Uses
- Section 6.3. Special Exception Uses
- Section 6.4. Permitted Accessory Uses and Structures
- Section 6.5. Site Development Regulations
- Section 6.6. Off-Street Parking and Loading Space
- Section 6.7. Sign Regulations
- Section 6.8. Zoning Permits Required

Section 6.1. INTENT.

The intent of the Conservation District is to preserve and protect water quality and conservation, wildlife habitat, woodlands, erosion control, natural drainage ways and to generally provide for ecologically sound land use of environmentally sensitive or critical areas. The Conservation District is also intended to preserve those areas otherwise not suitable for structural developments.

Section 6.2. PRINCIPAL PERMITTED USES.

Only the following principal uses and structures shall be permitted by right within the (A-2) Conservation District, unless otherwise provided.

Agriculture/Conservation Uses	Civic/Public Uses
Agriculture Farm Farmstead Critical Area Floodplain Horticulture Undeveloped or Unimproved Land Viticulture or Viniculture Water Control Structures or Retention Basins Wildlife Refuge/Preserve	Essential Services Local Utility Services Park and Recreation Services

Section 6.3. SPECIAL EXCEPTION USES.

The following uses and structures may be permitted in the (A-2) Conservation District subject to specific conditions and requirements upon approval by the Board of Adjustment intended to make them compatible with and acceptable to adjacent uses.

Commercial Uses	Civic/Public Uses	Industrial Uses
Communication Services Golf Course Campground Small Wind Energy Device Wind Energy Device	Government/Public Services	

Before the issuance of any such special use permit, the Planning and Zoning Commission shall report to the Board of Adjustment regarding the effect of such building, structure or use upon the character of the neighborhood, traffic conditions and other matters relating to the public health, safety and general welfare. The Planning and Zoning Commission shall make such report within sixty (60) days after application has been filed.

Section 6.4. PERMITTED ACCESSORY USES AND STRUCTURES.

Accessory uses shall not be the principal structure on any lot, and accessory uses are to remain incidental and secondary in size, use, and nature to principal uses. The following accessory uses and structures shall be permitted in the Conservation District:

1. Agricultural, recreational, utility or government buildings or structures which will not adversely affect the area and the value would not be impaired by being flooded, exclusive of dwelling units.
2. Parking lots.
3. Temporary buildings for uses incidental to construction, in which buildings shall be removed upon the completion or abandonment of construction, and in compliance with Section 17.3.
4. Accessory uses and structures customarily incidental and subordinate to principal permitted uses and structures or uses permitted as exceptions, as approved by the zoning administrator.

Section 6.5. SITE DEVELOPMENT REGULATIONS.

The following minimum requirements shall be provided for light and open space around permitted and special exception uses and structures in the (A-2) Conservation District, and subject to modifications contained in Article XVI, Supplemental District Regulations. In addition to these bulk regulations, please see Article XVII, Additional Use Regulations.

- Lot Area - 1 acre minimum lot area (43,560 sq. ft.), unless the district follows a floodway, river or other natural corridor, then no lot area is required.
- Lot Width - No minimum lot width
- Front Yard - 50 feet minimum required setback
- Side Yard - 25 feet minimum required setback
- Rear Yard - 50 feet minimum required setback
- Street Side (Corner) Yard - 50 feet minimum required setback

- Height - 35 feet maximum height on buildings and structures. No height limitations on agricultural buildings, provided that no structure shall be permitted to extend into approach zones, clear zones or other restricted air space required for the protection of any public airport. *(See Section 16.9 for Height Exceptions)*
- Building Coverage - 10 percent of the lot area – maximum coverage
- Impervious Coverage - 25 percent of the lot area – maximum coverage
- Usable Open Space - 75 percent of the lot area – minimum coverage

No minimum requirements for local utility facilities and essential services

Section 6.7. OFF-STREET PARKING.

Off-street parking and loading requirements shall be required for activities in the (A-2) Conservation District in accordance with the provisions of Article XIX of this ordinance.

Section 6.8. SIGN REGULATIONS.

Sign regulations shall be required for activities in the (A-2) Conservation District in accordance with the provisions of Article XX of this ordinance.

Section 6.9. ZONING COMPLIANCE PERMITS REQUIRED.

Zoning permits shall be required in accordance with the provisions of Section 22.3 of this ordinance.

ARTICLE VII (R-1) Rural Residential District

Section 7: Rural Residential District

- Section 7.1. Intent
- Section 7.2. Principal Permitted Uses
- Section 7.3. Special Exception Uses
- Section 7.4. Permitted Accessory Uses and Structures
- Section 7.5. Site Development Regulations
- Section 7.6. Off-Street Parking and Loading Space
- Section 7.7. Sign Regulations
- Section 7.8. Zoning Permits Required

Section 7.1. INTENT.

The intent of the Rural Residential District (R-1) is to provide for low density single family residential developments with a limited number of activities which are interrelated with agricultural uses. Permitted and special exception uses are intended to serve the residents and are benefited by an open residential environment, with special provisions to also protect the rural residential character of the district. This district is not intended to permit isolated rural dwellings.

Section 7.2. PRINCIPAL PERMITTED USES.

Only the following principal uses and structures shall be permitted by right within the (R-1) Rural Residential District, unless otherwise provided.

Residential Uses	Civic/Public Uses	Agricultural/Conservation Uses
Single Family Residential Two Family Residential Family Home	Essential Services Local Utility Services Park and Recreation Services Religious Assembly	Crop Production Critical Area Horticulture Undeveloped or Unimproved Land Wildlife Refuge/Preserve

Section 7.3. SPECIAL EXCEPTION USES.

The following uses and structures may be permitted in the (R-1) Rural Residential District subject to specific conditions and requirements upon approval by the Board of Adjustment intended to make them compatible with and acceptable to adjacent uses.

Residential Uses	Civic/Public Uses	Commercial Uses
Relocated Residential (single or two family only) Residential Care Services Assisted Living Facility Skilled Nursing or Convalescent Home	Cemetery Daycare Center Educational Facilities Government/Public Services Pre-Kindergarten, Preschool or Nursery School	Business Home Occupations <i>(See Section 17.4 for additional regulations)</i> Commercial Stables Small Wind Energy Device

Before the issuance of any such special use permit, the Planning and Zoning Commission shall report to the Board of Adjustment regarding the effect of such building, structure or use upon the character of the neighborhood, traffic conditions and other matters relating to the public health, safety and general welfare. The Planning and Zoning Commission shall make such report within sixty (60) days after application has been filed.

Section 7.4. PERMITTED ACCESSORY USES AND STRUCTURES.

Accessory uses shall not be the principal structure on any lot, and accessory uses are to remain incidental and secondary in size, use, and nature to principal uses. The following accessory uses and structures shall be permitted in the R-1 district.

1. Private garages or carports
2. Recreational facilities for use by residents and guests of the principal use
3. Patios, porches, gazebos, and incidental household storage buildings
4. Utility sheds, garden buildings or greenhouses intended for personal or household use
5. Radio, television, satellite, solar collector and other similar antennas for residential purposes
6. Residential home occupations (See Section 17.4 for additional regulations)
7. Private Parking Lots
8. Kennel, private
9. Roadside stands for the sale of products grown or produced on the premises
10. Temporary buildings or uses incidental to construction, which buildings shall be removed upon the completion or abandonment of construction work, and in compliance with Section 17.3.
11. Independent agricultural activities including farm animals, but only if controlled so as not to exceed one (1) horse per acre, one (1) feeder cattle per acre, one (1) mature dairy cow per acre, two (2) swine (over 55 lbs.) per acre, ten (10) sheep or lambs per acre, and fifty-five (55) small fowl per acre, or any combination of these or other similar animals and birds that does not exceed the above animal unit multiplier. Such accessory uses must be operated to meet health standards. More restrictive deed restrictions supersede the above standards.
12. Other necessary and customary accessory buildings or uses as determined by the zoning administrator to be appropriate, incidental and subordinate to a principal permitted and special exception uses and structures.

Section 7.5. SITE DEVELOPMENT REGULATIONS.

The following minimum requirements shall be provided for light and open space around permitted and special exception uses and structures in the (R-1) Rural Residential District, and subject to modifications contained in Article XVI, Supplemental District Regulations. In addition to these bulk regulations, please see Article XVII, Additional Use Regulations.

Lot Area -	1 acre minimum lot area (43,560 sq. ft.)
Lot Width -	150 feet minimum lot width
Front Yard -	50 feet minimum required setback

Side Yard -	15 feet minimum required setback
Rear Yard -	50 feet minimum required setback
Street Side (Corner) Yard -	50 feet minimum required setback
Height -	35 feet maximum height <i>(See Section 16.9 for Height Exceptions)</i>

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements.

All residential dwelling units must be constructed in compliance with the “Minimum Requirements for Residential Structures” regulations outlined in Section 17.5. Manufactured or mobile homes placed in designated residential subdivisions must be converted to real property in conformance with section 135D.26 of the Code of Iowa

Section 7.6. OFF-STREET PARKING.

Spaces for off-street parking and loading requirements shall be provided for activities in the (R-1) Rural Residential District in accordance with the provisions of Article XIX of this ordinance.

Section 7.7. SIGN REGULATIONS.

Sign regulations shall be required for activities in the (R-1) Rural Residential District in accordance with the provisions of Article XX of this ordinance.

Section 7.8. ZONING COMPLIANCE PERMITS REQUIRED.

Zoning permits shall be required in accordance with the provisions of Section 22.3 of this ordinance.

ARTICLE VIII (R-2) Suburban Residential District

Section 8: Suburban Residential District

- Section 8.1. Intent
- Section 8.2. Principal Permitted Uses
- Section 8.4. Special Exception Uses
- Section 8.4. Permitted Accessory Uses and Structures
- Section 8.5. Site Development Regulations
- Section 8.6. Off-Street Parking and Loading Space
- Section 8.7. Sign Regulations
- Section 8.8. Zoning Permits Required

Section 8.1. INTENT.

The intent of the Suburban Residential District is to provide for certain clustered residential development with a limited number of institutional, civic and recreational facilities permitted. Permitted or special exception uses are intended to serve the needs of the residents in areas of the county adjacent to or in close proximity to urban concentrations. This district is not intended to permit isolated rural dwellings.

Section 8.2. PRINCIPAL PERMITTED USES.

Only the following principal uses and structures shall be permitted by right within the (R-2) Suburban Residential District, unless otherwise provided.

Residential Uses	Civic/Public Uses	Agricultural/Conservation Uses
Single Family Residential Two Family Residential Family Home	Essential Services Local Utility Services Park and Recreation Services Religious Assembly	Critical Area Undeveloped or Unimproved Land

Section 8.3. SPECIAL EXCEPTION USES.

The following uses and structures may be permitted in the (R-2) Suburban Residential District subject to specific conditions and requirements upon approval by the Board of Adjustment intended to make them compatible with and acceptable to adjacent uses.

Residential Uses	Civic/Public Uses	Commercial Uses
Relocated Residential <i>(single or two family only)</i>	Cemetery Daycare Center Educational Facilities Government/Public Services Pre-Kindergarten, Preschool or Nursery School	Bed & Breakfast Establishment Business Home Occupations <i>(See Section 17.4 for additional regulations)</i> Commercial Stables Communication Services Small Wind Energy Device

Before the issuance of any such special exception permit, the Planning and Zoning Commission shall report to the Board of Adjustment regarding the effect of such building, structure or use upon the character of the neighborhood, traffic conditions and other matters relating to the public health, safety and general welfare. The Planning and Zoning Commission shall make such report within sixty (60) days after application has been filed.

Section 8.4. PERMITTED ACCESSORY USES AND STRUCTURES.

Accessory uses shall not be the principal structure on any lot, and accessory uses are to remain incidental and secondary in size, use, and nature to principal uses. The following accessory uses and structures shall be permitted in the R-2 district.

1. Private garages or carports
2. Recreational facilities for use by residents and guests of the principal use
3. Patios, porches, gazebos, and incidental household storage buildings
4. Utility sheds, garden buildings or greenhouses intended for personal or household use
5. Radio, television, satellite, solar collector and other similar antennas for residential purposes
6. Residential home occupations (See Section 17.4 for additional regulations)
7. Private Parking Lots
8. Kennel, private
9. Roadside stands for the sale of products grown or produced on the premises
10. Temporary buildings or uses incidental to construction, which buildings shall be removed upon completion or abandonment of construction work, and in compliance with Section 17.3.
11. Independent agricultural activities including farm animals, but only if controlled so as not to exceed one (1) horse per acre, one (1) feeder cattle per acre, one (1) mature dairy cow per acre, two (2) swine (over 55 lbs.) per acre, ten (10) sheep or lambs per acre, and fifty-five (55) small fowl per acre, or any combination of these or other similar animals and birds that does not exceed the above animal unit multiplier. Such accessory uses must be operated to meet health standards. More restrictive deed restrictions supersede the above standards.
12. Other necessary and customary accessory buildings or uses as determined by the zoning administrator to be appropriate, incidental and subordinate to a principal permitted and special exception uses and structures.

Section 8.5. SITE DEVELOPMENT REGULATIONS.

The following minimum requirements shall be provided for light and open space around permitted and special exception uses and structures in the (R-2) Suburban Residential District, and subject to modifications contained in Article XVI, Supplemental District Regulations. In addition to these bulk regulations, please see Article XVII, Additional Use Regulations.

Lot Area -	15,000 sq.ft. minimum lot area for Single Family
	20,000 sq.ft. minimum lot area for Two Family
Lot Width -	100 feet minimum lot width

Front Yard -	35 feet minimum required setback
Side Yard -	15 feet minimum required setback
Rear Yard -	35 feet minimum required setback
Street Side (Corner) Yard -	35 feet minimum required setback
Height -	35 feet maximum height (See Section 16.9 for Height Exceptions)

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements.

All residential dwelling units must be constructed in compliance with the “Minimum Requirements for Residential Structures” regulations outlined in Section 17.5. Manufactured or mobile homes placed in designated residential subdivisions must be converted to real property in conformance with section 135D.26 of the Code of Iowa

Section 8.6. OFF-STREET PARKING.

Spaces for off-street parking and loading requirements shall be provided for activities in the (R-2) Suburban Residential District in accordance with the provisions of Article XIX of this ordinance.

Section 8.7. SIGN REGULATIONS.

Sign regulations shall be required for activities in the (R-2) Suburban Residential District in accordance with the provisions of Article XX of the ordinance.

Section 8.8. ZONING COMPLIANCE PERMITS REQUIRED.

Zoning permits shall be required in accordance with the provisions of Section 22.3 of this ordinance.

ARTICLE IX (R-3) Multiple Family Residential District

Section 9: Multiple Family Residential District

- Section 9.1. Intent
- Section 9.2. Principal Permitted Uses
- Section 9.3. Special Exception Uses
- Section 9.4. Permitted Accessory Uses and Structures
- Section 9.5. Site Development Regulations
- Section 9.6. Off-Street Parking and Loading Space
- Section 9.7. Sign Regulations
- Section 9.8. Zoning Permits Required

Section 9.1. INTENT.

The intent of the Multiple Family Residential District is to provide for living areas within Clay County for development of high density residential uses. Multiple family developments shall be encouraged where public or shared water and sewer facilities are utilized, and also encouraged along hard surfaced roads where fire protection and public services are readily available.

Section 9.2. PRINCIPAL PERMITTED USES.

Only the following principal uses and structures shall be permitted by right within the (R-3) Multiple Family Residential District, unless otherwise provided.

Residential Uses	Civic/Public Uses	Commercial Uses
Condominium Residential Family Home Group Residential Multiple Family Residential Single Family Residential Summer Cottage Townhouse Residential Two Family Residential Residential Care Services Assisted Living Facility Skilled Nursing or Convalescent Home	Club or Lodge Essential Services Local Utility Services Park and Recreation Services Religious Assembly Pre-Kindergarten, Preschool or Nursery School Educational Facilities	Bed & Breakfast Inn

Section 9.3. SPECIAL EXCEPTION USES.

The following uses and structures may be permitted in the (R-3) Multiple Family Residential District subject to specific conditions and requirements upon approval by the Board of Adjustment intended to make them compatible with and acceptable to adjacent uses.

Residential Uses	Civic/Public Uses	Commercial Uses
Relocated Residential	Cultural Services Daycare Center Government/Public Services	Business Home Occupations <i>(See Section 17.4 for additional regulations)</i> Boarding or Lodging House Communication Services Commercial Off-Street Parking Outdoor Entertainment and Recreation Small Wind Energy Device

Before the issuance of any such special exception permit, the Planning and Zoning Commission shall report to the Board of Adjustment regarding the effect of such building, structure or use upon the character of the neighborhood, traffic conditions and other matters relating to the public health, safety and general welfare. The Planning and Zoning Commission shall make such report within sixty (60) days after application has been filed.

Section 9.4. PERMITTED ACCESSORY USES AND STRUCTURES.

Accessory uses shall not be the principal structure on any lot, and accessory uses are to remain incidental and secondary in size, use, and nature to principal uses. The following accessory uses and structures shall be permitted in the R-3 district.

1. Private garages or carports
2. Recreational facilities for use by residents and guests of the principal use
3. Storage garages for personal belongings and tools relevant to the maintenance of buildings where the lot is occupied by a multiple family dwelling, hospital or institutional building.
4. Patios, porches, gazebos, and incidental residential storage buildings
5. Utility sheds, garden buildings or greenhouses intended for personal or household use
6. Radio, television, satellite, solar collector and other similar antennas for residential purposes
7. Residential home occupations (See Section 17.4 for additional regulations)
8. Private Parking Lots
9. Kennel, private
10. Temporary buildings or uses incidental to construction, which buildings shall be removed upon the completion or abandonment of construction work, and in compliance with Section 17.3.
11. Independent agricultural activities including farm animals, but only if controlled so as not to exceed one (1) horse per acre, one (1) feeder cattle per acre, one (1) mature dairy cow per 1.4 acres, two and half (2 1/2) swine (over 55 lbs.) per acre, ten (10) sheep or lambs per acre, and fifty-five (55) turkeys and chickens per acre, or any combination of these or other similar animals and birds that does not exceed the above animal unit multiplier. Such accessory uses must be operated to meet health standards. More restrictive deed restrictions supersede the

above standards.

12. Other necessary and customary accessory buildings or uses as determined by the zoning administrator to be appropriate, incidental and subordinate to a principal permitted and special exception uses and structures.

Section 9.5. SITE DEVELOPMENT REGULATIONS.

The following minimum requirements shall be provided for light and open space around permitted and special exception uses and structures in the (R-3) Multiple Family Residential District, and subject to modifications contained in Article XVI, Supplemental District Regulations. In addition to these bulk regulations, please see Article XVII, Additional Use Regulations.

Lot Area -	10,000 sq.ft. – minimum lot area +2,000 sq.ft. for each additional dwelling unit in excess of three (3)
Lot Width -	80 feet minimum lot width
Front Yard -	30 feet minimum required setback
Side Yard -	10 feet minimum required setback
Rear Yard -	30 feet minimum required setback
Street Side (Corner) Yard -	30 feet minimum required setback
Height -	45 feet maximum height (See Section 16.9 for Height Exceptions)

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements.

All residential dwelling units must be constructed in compliance with the “Minimum Requirements for Residential Structures” regulations outlined in Section 17.5. Manufactured or mobile homes placed in designated residential subdivisions must be converted to real property in conformance with section 135D.26 of the Code of Iowa

Section 9.6. OFF-STREET PARKING.

Spaces for off-street parking and loading requirements shall be provided for activities in the (R-3) Multiple Family Residential District in accordance with the provisions of Article XIX of this ordinance.

Section 9.7. SIGN REGULATIONS.

Sign regulations shall be required for activities in the (R-3) Multiple Family Residential District in accordance with the provisions of Article XX of the ordinance.

Section 9.8. ZONING COMPLIANCE PERMITS REQUIRED.

Zoning permits shall be required in accordance with the provisions of Section 22.3 of this ordinance.

ARTICLE X (R-4) Lake Residential District

Section 10: Lake Residential District

- Section 10.1. Intent
- Section 10.2. Principal Permitted Uses
- Section 10.3. Special Exception Uses
- Section 10.4. Permitted Accessory Uses and Structures
- Section 10.5. Site Development Regulations
- Section 10.6. Off-Street Parking and Loading Space
- Section 10.7. Sign Regulations
- Section 10.8. Zoning Permits Required

Section 10.1. INTENT.

The intent of the Lake Residential District is to provide for residential uses having lake frontage. Because of the special nature of this district, in the event of conflict between regulations of the R-4 Lake Residential District and other provisions of this ordinance, the R-4 district regulations shall prevail.

Section 10.2. PRINCIPAL PERMITTED USES.

Only the following principal uses and structures shall be permitted by right within the (R-4) Lake Residential District, unless otherwise provided.

Residential Uses	Civic/Public Uses	Agricultural/Conservation Uses
Single Family Residential Summer Cottage Two Family Residential	Essential Services Local Utility Services Park and Recreation Services	Crop Production Farmstead Floodplain Horticulture Undeveloped/Unimproved Land Water Control Structures Wildlife Refuge/Preserve

Section 10.3. SPECIAL EXCEPTION USES.

The following uses and structures may be permitted in the (R-4) Lake Residential District subject to specific conditions and requirements upon approval by the Board of Adjustment intended to make them compatible with and acceptable to adjacent uses.

Residential Uses	Civic/Public Uses	Commercial Uses
Family Home Relocated Residential	Government/Public Services Major Utility Facility	Business Home Occupations <i>(See Section 17.4 for additional regulations)</i> Bed and Breakfast Inn Boarding or Lodging House Communication Services Small Wind Energy Device

Before the issuance of any such special exception permit, the Planning and Zoning Commission shall report to the Board of Adjustment regarding the effect of such building, structure or use upon the character of the neighborhood, traffic conditions and other matters relating to the public health, safety and general welfare. The Planning and Zoning Commission shall make such report within sixty (60) days after application has been filed.

Section 10.4. PERMITTED ACCESSORY USES AND STRUCTURES.

Accessory uses shall not be the principal structure on any lot, and accessory uses are to remain incidental and secondary in size, use, and nature to principal uses. The following accessory uses and structures shall be permitted in the R-4 Lake Residential District.

1. Private garages or carports
2. Recreational facilities for use by residents and guests of the principal use
3. Patios, porches, gazebos, and incidental residential storage buildings
4. Utility sheds, garden buildings or greenhouses intended for personal or household use
5. Radio, television, satellite, solar collector and other similar antennas for residential purposes
6. Residential home occupations
7. Kennel, private
8. Temporary buildings or uses incidental to construction, which buildings shall be removed upon the completion or abandonment of construction work, in compliance with Section 17.3.
9. Other necessary and customary accessory buildings or uses as determined by the zoning administrator to be appropriate, incidental and subordinate to a principal permitted and special exception uses and structures.

Section 10.5. SITE DEVELOPMENT REGULATIONS.

The following minimum requirements shall be provided for light and open space around permitted and special exception uses and structures in the (R-4) Lake Residential District, and subject to modifications contained in Article XVI, Supplemental District Regulations. In addition to these bulk regulations, please see Article XVII , Additional Use Regulations.

Lot Area -	5,000 sq.ft. minimum lot area for Single Family 7,500 sq.ft. minimum lot area for Two Family
Lot Width -	50 feet minimum lot width
Front Yard -	20 feet minimum required setback
Side Yard -	5 feet minimum required setback
Rear Yard -	20 feet minimum required setback
Street Side (Corner) Yard -	20 feet minimum required setback
Height -	35 feet maximum height (<i>See Section 16.9 for Height Exceptions</i>)

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements.

All residential dwelling units must be constructed in compliance with the “Minimum Requirements for Residential Structures” regulations outlined in Section 17.5. Manufactured or mobile homes placed in designated residential subdivisions must be converted to real property in conformance with section 135D.26 of the Code of Iowa

Section 10.6. OFF-STREET PARKING.

Spaces for off-street parking and loading requirements shall be provided for activities in the (R-4) Lake Residential District in accordance with the provisions of Article XIX of this ordinance.

Section 10.7. SIGN REGULATIONS.

Sign regulations shall be required for activities in the (R-4) Lake Residential District in accordance with the provisions of Article XX of the ordinance.

Section 10.8. ZONING COMPLIANCE PERMITS REQUIRED.

Zoning permits shall be required in accordance with the provisions of Section 22.3 of this ordinance.

ARTICLE XI

(R-5) Rural Mobile & Manufactured Home Park District

Section 11: Rural Mobile & Manufactured Home Park District

- Section 11.1. Intent
- Section 11.2. Principal Permitted Uses
- Section 11.3. Special Exception Uses
- Section 11.4. Permitted Accessory Uses and Structures
- Section 11.5. Site Development Regulations
- Section 11.6. Mobile and Manufactured Home Park Requirements
- Section 11.7. Off-Street Parking and Loading Space
- Section 11.8. Sign Regulations
- Section 11.9. Zoning Permits Required

Section 11.1. INTENT.

The intent of the Rural Mobile and Manufactured Home Park District is regulate the location and placement of mobile and manufactured homes and mobile or manufactured housing subdivisions within Clay County. The R-5 district is intended to find suitable siting locations for quality and affordable manufactured and mobile housing developments.

Section 11.2. PRINCIPAL PERMITTED USES.

Only the following principal uses and structures shall be permitted by right within the (R-5) Rural Mobile and Manufactured Home Park District, unless otherwise provided.

Residential Uses	Civic/Public Uses
Mobile Home or Manufactured Housing* *This does not include manufacturing or mobile home sales or display yards, but shall not preclude any owner from selling a manufactured or mobile home located on a stand and connected to utilities.	Essential Services Local Utility Services Park and Recreation Services

Section 11.3. SPECIAL EXCEPTION USES.

The following uses and structures may be permitted in the (R-5) Rural Mobile and Manufactured Home Park District subject to specific conditions and requirements upon approval by the Board of Adjustment intended to make them compatible with and acceptable to adjacent uses.

Residential Uses	Civic/Public Uses	Commercial Uses
Relocated Residential (<i>mobile or manufactured homes, excluding delivery from factory</i>) Single Family Residential	Daycare Facility Educational Facilities Government/Public Uses Religious Assembly	Small Wind Energy Device

Before the issuance of any such special use permit, the Planning and Zoning Commission shall report to the Board of Adjustment regarding the effect of such building, structure or use upon the character of the neighborhood, traffic conditions and other matters relating to the public health, safety and general welfare. The Planning and Zoning Commission shall make such report within sixty (60) days after application has been filed.

Section 11.4. PERMITTED ACCESSORY USES AND STRUCTURES.

Accessory uses shall not be the principal structure on any lot, and accessory uses are to remain incidental and secondary in size, use, and nature to principal uses. The following accessory uses and structures shall be permitted in the R-5 district.

1. Private garages or carports
2. Recreational facilities for use by residents and guests of the principal use
3. Service buildings as required by State statute
4. Patios, porches, gazebos, and incidental residential storage buildings
5. Utility sheds, garden buildings or greenhouses intended for personal or household use
6. Radio, television, satellite, solar collector and other similar antennas for residential purposes
7. Residential home occupations
8. Sale of mobile homes for use on the premises only, provided that such mobile homes are sited and connected to all utilities.
9. Private Parking Lots
10. Kennel, private
11. Temporary buildings or uses incidental to construction, which buildings shall be removed upon the completion or abandonment of construction work, and in compliance with Section 17.3.
12. Other necessary and customary accessory buildings or uses as determined by the zoning administrator to be appropriate, incidental and subordinate to a principal permitted and special exception uses and structures.

Section 11.5. SITE DEVELOPMENT REGULATIONS.

The following minimum requirements shall be provided for light and open space around permitted and special exception uses and structures in the (R-5) Mobile & Manufactured Home Park District, and subject to modifications contained in Article XVI, Supplemental District Regulations. In addition to these bulk regulations, please see Article XVII, Additional Use Regulations.

Mobile or Manufactured Housing Lot Requirements:

- | | |
|-------------|--|
| Lot Area - | 4,000 square feet - minimum lot area |
| Lot Width - | 40 feet - minimum lot width for single wide unit |

Front Yard -	25 feet - minimum required front yard, unless the front yard borders the park boundary in which case the front yard is not required
Side Yard -	6 feet - minimum required side yard, unless the side yard borders the park boundary in which case the side yard is not required
Street Side (Corner) Yard -	25 feet – minimum required setback
Rear Yard -	15 feet - minimum required rear yard, unless the rear yard borders the park boundary in which case the rear yard is not required
Maximum Height -	35 feet

Mobile or Manufactured Housing Park Requirements:

Park Area -	Three (3) acres – minimum park area
Park Width -	200 feet - minimum park width
Park Boundary -	50 feet - minimum required setback for dwellings abutting a street or road. 50 feet – minimum required setback for any yard space, shall be a minimum of fifty feet (50’) when adjacent to any other residential district and thirty feet (30’) when adjacent to any other district;

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements. Furthermore, mobile or manufactures housing lots and parks shall be developed in conformance with the following Mobile and Manufactured Home Park Requirements outlined in the section below.

Section 11.6. MOBILE & MANUFACTURED HOME PARK REQUIREMENTS.

Each petition for change to the (R-5) zoning classification submitted to the Board of Supervisors shall be accompanied by a plan developed in conformance with the regulations listed below.

- 1) *Development Plan:* The following information shall be shown on the development plan or submitted in writing with it:
 - a. Location of the mobile or manufactured housing park, and the lot layout giving the subdivision name and lot numbers;
 - b. Names, addresses and telephone numbers of the developer or representative;
 - c. Map showing the relationship of the proposed development and the adjacent tracts;
 - d. Present land use and existing zoning of the proposed development and adjacent tracts;
 - e. Interior streets, street names, right-of-way and roadway widths;
 - f. All lot lines and open spaces with dimensions shown;
 - g. Location, dimensions, capacity, and design for any proposed tornado safe room or storm shelter, if provided;

- h. Location of garbage cans, water hydrants, service buildings, driveways, walkways, recreation areas, required yards, parking facilities, lighting and landscaping.

The plan shall be considered by the Planning and Zoning Commission and who may approve or disapprove the plan or may require such changes thereto, as are deemed necessary to effectuate the intent and purpose of this ordinance.

2) *Permitted accessory uses and requirements thereof:*

- a. Accessory buildings or structures under park management supervision shall be used only as office space, storage, laundry facilities, recreation facilities, garage storage or other necessary service for park residents' use only. No accessory building or structure shall exceed a height of twenty five feet (25').
- b. Accessory buildings or structures shall not be permitted within the front yard and may be no closer than five feet (5') to any side or rear lot line.
- c. One (1) identification sign approved in conjunction with the final site plan approval. In no case shall such sign be larger than sixty (60) square feet in surface area nor have any moving parts or stand higher than ten (10) feet from the ground to the top of the sign. See Article XX for additional sign requirements and setbacks.
- d. No more than one (1) entry and/or one (1) exit sign at each access drive onto the public right-of-way. In no case shall the sign be larger than two (3) square feet in surface area, nor have any moving parts, nor stand higher than five (5) feet from the ground to the top of the sign

3) *Required development standards:*

- a. Each mobile or manufactured dwelling unit shall contain a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities, and plumbing and electrical connections designed for attachment to appropriate external systems and so attached.
- b. Facilities for water supply and sewage treatment shall be provided for each dwelling unit and meet the minimum requirements of the State of Iowa.
- c. Yard width shall be determined by measurement from the home face (side) to its site boundary from which every point shall not be less than the minimum width herein provided. Open patios shall be disregarded in determining yard widths. Enclosed all weather patios and carports shall be included in determining yard widths. The front yard is that yard which runs from the hitch end of the home to the nearest lot line. The rear yard is at the opposite end of the home.
- d. Each mobile home site shall be provided with a stand consisting of reinforced concrete runways not less than four (4) inches thick and not less than the length of the mobile home that will use the site. These runways will be so constructed, graded and placed to be durable and adequate for support of the maximum anticipated load during all seasons. Alternative pad and support mechanisms may be approved by the Planning and Zoning Commission upon request and if accompanied by sketches or other documentation.

- e. Each petition shall certify that provisions will be made to secure or "tie down" mobile homes to guard against wind damage within thirty (30) days of placing such mobile or manufactured dwelling. Each mobile home shall be anchored to the ground as provided in 661 IAC Chapter 16.626(103A).
- f. If a pier or post foundation is provided uniform skirting of each mobile home base shall be required within thirty (30) days after initial placement. A permanent type material and construction compatible with the design and color of the mobile home shall be installed to enclose the open space between the bottom of the mobile home floor and the grade level of the mobile home stand, and shall be constructed to provide substantial resistance to heavy winds. Skirting shall be maintained in an attractive manner consistent with the exterior of the mobile home and to preserve the appearance of the mobile home park. Sufficient screened ventilating area shall be installed in the skirting to supply the combustion requirements of heating units and ventilating of the mobile home.
- g. Storage of goods and articles underneath any mobile or manufactured dwelling unit shall be prohibited.
- h. Utility lines including, but not limited to electric, telephone, fiber optic, may be required to be installed underground. If overhead lines are permitted, they shall be placed in easements in the rear of the lots.
- i. A common recreation space of at least 300 sq. ft. per site in the park shall be developed and maintained for use by all residents of the park. Streets, sidewalks, parking areas and accessory buildings are not considered recreation space in computing the necessary area.
- j. All roads, driveways and motor vehicle parking spaces shall be paved and constructed as to handle all anticipated peak loads, and adequately drained for safety and ease of movement of pedestrians and vehicles. Streets within a mobile or manufactured housing park shall be equipped with speed bumps or other traffic slowing devices located at the entrance and exit to such park.
- k. Two (2) off-street parking spaces shall be provided for every mobile and manufactured dwelling unit. One space shall be provided within one hundred and fifty feet (150') of each individual site. A second space shall be provided in a common parking area for additional storage of all recreational type vehicles and visitor parking.
- l. All parks shall be furnished with lighting units spaced and equipped with approved fixtures, placed at mounting heights that will provide the following average maintained levels of illumination for safe movement of pedestrians and vehicles at night.
- m. A written emergency plan submitted to Clay County and posted on site to advise all of the park residents of safety measures.
- n. Adequate provisions shall be made to handle all surface drainage and storm water runoff as determined by the County Engineer.

All mobile and manufactured housing parks shall be developed in conformance with the above standards in addition to all current subdivision and development standards or specifications as enforced by Clay County.

Section 11.7. OFF-STREET PARKING.

Spaces for off-street parking and loading requirements shall be provided for activities in the (R-5) Mobile and Manufactured Home Park District in accordance with the provisions of Article XIX of this ordinance.

Section 11.8. SIGN REGULATIONS.

Sign regulations shall be required for activities in the (R-5) Mobile and Manufactured Home Park District in accordance with the provisions of Article XX of the ordinance.

Section 11.9. ZONING COMPLIANCE PERMITS REQUIRED.

Zoning permits shall be required in accordance with the provisions of Section 22.3 of this ordinance.

ARTICLE XII (GC) – General Commercial District

Section 12: General Commercial District

- Section 12.1. Intent
- Section 12.2. Principal Permitted Uses
- Section 12.3. Special Exception Uses
- Section 12.4. Permitted Accessory Uses and Structures
- Section 12.5. Site Development Regulations
- Section 12.6. Open-air Sales, Display and Storage
- Section 12.7. Off-Street Parking and Loading Space
- Section 12.8. Sign Regulations
- Section 12.9. Zoning Permits Required

Section 12.1. INTENT.

The intent of the General Commercial District is predominately for commercial and certain light industrial activities which typically have operating and traffic generation characteristics requiring location on a major trafficway. Site development regulations and performance standards are intended to ensure adequate access to and from uses. Commercial uses in Clay County should be encouraged to locate adjacent to hard surfaced transportation routes and in close proximity to an incorporated area.

Section 12.2. PRINCIPAL PERMITTED USES.

Only the following principal uses and structures shall be permitted by right within the (GC) General Commercial District, unless otherwise provided.

Commercial Uses	Civic/Public Uses
Administrative/Business Offices	Equipment Repair Services
Agricultural Sales & Services	Financial Services
Automotive Rentals	Food Sales
Automotive Repair Services	Funeral Services
Automotive Washing	General Retail Sales
Automotive Sales	House Sales/Display
Building Maintenance Services	Liquor Sales
Business Support Services	Medical Offices
Club or Lodge	Nursery/Commercial Greenhouse
Commercial Off-Street Parking	Personal Services
Commercial Recreation	Pet Services
- Indoor Sports and Recreation	Professional Offices
- Indoor Entertainment	Restaurant (Convenience)
- Outdoor Sports and Recreation	Restaurant (General)
Communication Services	Service Station
Construction Sales and Services	Transportation Services
Consumer Repair Services	Visitor Habitation
Condominium Storage Unit	-Boarding/Lodging House
Convenience Storage	-Campground - Hotel/Motel
Convenience Store	-Commercial Cottage/Resort
	Daycare Facility
	Essential Services
	Government/Public Services
	Hospital Services
	Irrigation/Flood Control
	Local Utility Services
	Park and Recreation Services
	Public Assembly
	Safety Services

Section 12.3. SPECIAL EXCEPTION USES.

The following uses and structures may be permitted in the (GC) General Commercial District subject to specific conditions and requirements upon approval by the Board of Adjustment intended to make them compatible with and acceptable to adjacent uses.

Commercial Uses	Industrial Uses	Civic/Public Uses
Cocktail Lounge Commercial Recreation - Outdoor Entertainment Equipment Sales Kennel, Commercial Small Wind Energy Device Vehicle Storage Vehicle Washing Veterinary Services Wind Energy Devices	Custom Manufacturing Limited Warehousing and Distribution	Aviation Facilities Business or Trade School Cemetery College and University Facilities Cultural Services Detention Facilities Guidance Services Educational Facilities Major Utility Facilities Military Installations Religious Assembly

Other uses and structures similar in nature and use to the principal permitted uses in this district as recommended by the zoning administrator and approved by the Board of Adjustment.

Before the issuance of any such special exception permit, the Planning and Zoning Commission shall report to the Board of Adjustment regarding the effect of such building, structure or use upon the character of the neighborhood, traffic conditions and other matters relating to the public health, safety and general welfare. The Planning and Zoning Commission shall make such report within sixty (60) days after application has been filed.

Section 12.4. PERMITTED ACCESSORY USES AND STRUCTURES.

Accessory uses shall not be the principal structure on any lot, and accessory uses are to remain incidental and secondary in size, use, and nature to principal uses. The following accessory uses and structures shall be permitted in the (GC) General Commercial District.

1. Temporary buildings for uses incidental to construction, which buildings shall be removed upon the completion or abandonment of the work, and in compliance with Section 17.3.
2. Any other commercial use type that is not listed as a permitted use in the same district, and complies with all the following criteria.
 - a. Operated primarily for the convenience of employees, clients, or customers of the principal use.
 - b. Storage of merchandise incidental to the principal use, but not to exceed forty (40) percent of the floor area used for such use;
 - c. Located and operated as an integral part of the principal use and does not comprise a separate business use or activity.

3. Other necessary and customary uses and structures determined by the zoning administrator to be accessory, incidental, and subordinate in size, use, and nature.

Section 12.5. SITE DEVELOPMENT REGULATIONS.

The following minimum requirements shall be provided for light and open space around permitted and special exception uses and structures in the (GC) General Commercial District, and subject to modifications contained in Article XVI, Supplemental District Regulations. In addition to these bulk regulations, please see Article XVII, Additional Use Regulations.

Lot Area -	15,000 sq. ft. minimum lot area
Lot Width -	100 feet minimum lot width
Front Yard -	50 feet minimum required setback
Side Yard -	10 feet minimum required setback
Rear Yard -	25 feet minimum required setback
Street Side (Corner) Yard -	50 feet minimum required setback
Height -	35 feet maximum height, (See Section 16.9 for Height Exceptions)

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements.

Section 12.6. OPEN-AIR SALES, DISPLAY AND STORAGE.

All open-air sales display and storage for used auto sales and storage, new auto sales and storage, new and used farm implement and equipment sales and storage, new and used truck, machinery, other vehicle or equipment sales and storage shall comply with the minimum requirements outlined in Section 25.7.2.

Section 12.7. OFF-STREET PARKING.

Spaces for off-street parking and loading requirements shall be provided for activities in the (GC) General Commercial District in accordance with the provisions of Article XIX of this ordinance.

Section 12.8. SIGN REGULATIONS.

Sign regulations shall be required for activities in the (GC) General Commercial District in accordance with the provisions of Article XX of the ordinance.

Section 12.9. ZONING COMPLIANCE PERMITS REQUIRED.

Zoning permits shall be required in accordance with the provisions of Section 22.3 of this ordinance.

ARTICLE XIII (I-1) Light Industrial District

Article 13: Light Industrial District

- Section 13.1. Intent
- Section 13.2. Principal Permitted Uses
- Section 13.3. Special Exception Uses
- Section 13.4. Permitted Accessory Uses and Structures
- Section 13.5. Required Conditions
- Section 16.6. Site Development Regulations
- Section 13.7. Open-air Sales, Display and Storage
- Section 13.8. Off-Street Parking and Loading Space
- Section 13.9. Sign Regulations
- Section 13.10. Zoning Permits Required

Section 13.1. INTENT.

The intent of the Light Industrial District is to provide space for certain commercial and a wide range of industrial uses and structures which are able to meet certain performance standards to protect nearby non-industrial uses from undesirable environmental conditions. It is not intended that any new residential development be permitted in the I-1 District.

Section 13.2. PRINCIPAL PERMITTED USES.

Only the following principal uses and structures shall be permitted by right within the I-1 Light Industrial District, except those uses which by reason of the emission of odor, dust, fumes, smoke, noise and other obnoxious characteristics would be injurious to the public health, safety, and general welfare of the county.

Industrial Uses	Commercial Uses	Civic Uses
Biotechnology Production and/or Manufacturing Custom Manufacturing Light Industry Research and Production Services Limited Warehousing and Distribution	Administrative and Business Offices Automotive Rentals Automotive Washing Building Maintenance Services Business Support Services Business or Trade School Commercial Trucking/Transportation Communications Services Condominium Storage Units Construction Sales and Service Convenience Storage Convenience Store Transportation Service Vehicle Storage Vehicle Washing	Aviation Facilities Government/Public Services Essential Services Local Utility Services Park and Recreation Services Maintenance and Service Facilities Safety Services

Section 13.3. SPECIAL EXCEPTION USES.

The following uses and structures may be permitted in the (I-1) Light Industrial District subject to specific conditions and requirements upon approval by the Board of Adjustment intended to make them compatible with and acceptable to adjacent uses.

Industrial Uses	Commercial Uses	Civic Uses
Railroad Facilities Resource Extraction	Agricultural Sales and Services Automotive Repair Services Automotive Sales Club or Lodge Commercial Auction Yards and Barns Commercial Recreation - Outdoor Entertainment and Recreation Equipment Sales Equipment Repair Services Kennels, Commercial Small Wind Energy Device Veterinary Services Wind Energy Devices	Major Utility Service Public Assembly Detention Facilities Military Installations

Other uses and structures similar in nature and use to the principal permitted uses in the district as recommended for approval by the zoning administrator and approved by the Board of Adjustment.

Before the issuance of any such special exception permit, the Planning and Zoning Commission shall report to the Board of Adjustment regarding the effect of such building, structure or use upon the character of the neighborhood, traffic conditions and other matters relating to the public health, safety and general welfare. The Planning and Zoning Commission shall make such report within sixty (60) days after application has been filed.

Section 13.4. PERMITTED ACCESSORY USES AND STRUCTURES.

Accessory uses shall not be the principal structure on any lot, and accessory uses are to remain incidental and secondary in size, use, and nature to principal uses. The following accessory uses and structures shall be permitted in the (I-1) Light Industrial District.

1. Temporary buildings for uses incidental to construction, which buildings shall be removed upon the completion or abandonment of the work, and in compliance with Section 17.3.
2. Any other commercial or industrial type use that is not listed as a permitted use in the same district, and complies with all the following criteria.
 - a. Operated primarily for convenience of employees, clients, or customers of the principal use.
 - b. Storage of merchandise incidental to the principal use, but not to exceed forty (40) percent of the floor area used for such use.

- c. Located and operated as an integral part of the principal use and does not comprise a separate business use or activity.
3. Other necessary and customary uses and structures determined by the zoning administrator to be accessory, incidental, and subordinate in size, use, and nature.

Section 13.5. REQUIRED CONDITIONS.

No use may be permitted to be established or maintained which by reason of its nature or manner of operation is or may become hazardous, noxious or offensive owing to the emission of odor, dust, smoke, cinders, gas, fumes, noise vibrations, refuse matter or water-carried waste. All facilities required for the discharge, collection, and treatment of liquid, solid or gaseous waste shall be designed, constructed and operated in accordance with the regulations of the Iowa Department of Natural Resources.

Section 13.6. SITE DEVELOPMENT REGULATIONS.

The following minimum requirements shall be provided for light and open space around permitted and special exception uses and structures in the (I-1) Light Industrial District, and subject to modifications contained in Article XVI, Supplemental District Regulations. In addition to these bulk regulations, please see Article XVII, Additional Use Regulations.

- Lot Area - 20,000 sq. ft. minimum lot area
- Lot Width - 100 feet minimum lot width
- Front Yard - 50 feet minimum required setback
- Side Yard - 25 feet minimum required setback
- Rear Yard - 25 feet minimum required setback
- Street Side (Corner) Yard - 50 feet minimum required setback
- Height - 60 feet maximum height. No structure shall be permitted to extend into approach zones, clear zones or restricted air space required for the protection of any public airport.
(See Section 16.9 for Height Exceptions)

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements.

Section 13.7. OPEN-AIR SALES, DISPLAY AND STORAGE.

All open-air sales display and storage for used auto sales and storage, new auto sales and storage, new and used farm implement and equipment sales and storage, new and used truck, machinery, other vehicle or equipment sales and storage shall comply with the minimum requirements outlined in Section 25.7.2.

Section 13.8. OFF-STREET PARKING.

Spaces for off-street parking and loading requirements shall be provided for activities in the (I-1) Light Industrial District in accordance with the provisions of Article XIX of this ordinance.

Section 13.9. SIGN REGULATIONS.

Sign regulations shall be required for activities in the (I-1) Light Industrial District in accordance with the provisions of Article XX of this ordinance.

Section 13.10. ZONING COMPLIANCE PERMITS REQUIRED.

Zoning permits shall be required in accordance with the provisions of Section 22.3 of this ordinance.

ARTICLE XIV (I-2) Heavy Industrial District

Article 14: Heavy Industrial District

- Section 14.1. Intent
- Section 14.2. Principal Permitted Uses
- Section 14.3. Special Exception Uses
- Section 14.4. Permitted Accessory Uses and Structures
- Section 14.5. Required Conditions
- Section 14.6. Site Development Regulations
- Section 14.7. Open-air Sales, Display and Storage
- Section 14.8. Off-Street Parking and Loading Space
- Section 14.9. Sign Regulations
- Section 14.10. Zoning Permits Required

Section 14.1. INTENT.

The intent of the Heavy Industrial District is to provide for areas of the county for intense industrial uses and activities and are typically in conflict with residential or lesser intense uses. Residential uses are not permitted in this district.

Section 14.2. PRINCIPAL PERMITTED USES.

Only the following principal uses and structures shall be permitted by right within the I-2 Heavy Industrial District, except those uses which by reason of the emission of odor, dust, fumes, smoke, noise and other obnoxious characteristics would be injurious to the public health, safety, and general welfare of the county.

Industrial Uses	Commercial Uses	Civic Uses
Alternative Fuels and Energy Production Facilities Biotechnology Production and/or Manufacturing Custom Manufacturing General Warehousing and Distribution Heavy Industry Light Industry Limited Warehousing and Distribution Railroad Facilities Research and Production Services Resource Extraction Stockyards	Agricultural Sales and Services Building Maintenance Services Commercial Trucking/Transportation Communications Services Construction Sales and Services Convenience Storage Equipment Sales Equipment Repair Services Transportation Services Vehicle Storage Vehicle Washing	Aviation Facilities Business or Trade School College or University Facilities Government/Public Services Essential Services Irrigation/Flood Control Structures Local Utility Services Major Utility Services Maintenance and Service Facilities Safety Services

Section 14.3. SPECIAL EXCEPTION USES.

The following uses and structures may be permitted in the (I-2) Heavy Industrial District subject to specific conditions and requirements upon approval by the Board of Adjustment intended to make them compatible with and acceptable to adjacent uses.

Industrial Uses	Commercial Uses
Bulk Stations Fertilizer or Chemical Storage or Processing Fuel Storage Sanitary Landfill Scrap and Salvage Services	Small Wind Energy Device Wind Energy Devices Adult Entertainment Establishments <i>(See Section 17.6 for regulations)</i>

Other uses and structures similar in nature and use to the principal permitted uses in the district as recommended for approval by the zoning administrator and approved by the Board of Adjustment.

Before the issuance of any such special exception permit, the Planning and Zoning Commission shall report to the Board of Adjustment regarding the effect of such building, structure or use upon the character of the neighborhood, traffic conditions and other matters relating to the public health, safety and general welfare. The Planning and Zoning Commission shall make such report within sixty (60) days after application has been filed.

Section 14.4. PERMITTED ACCESSORY USES AND STRUCTURES.

Accessory uses shall not be the principal structure on any lot, and accessory uses are to remain incidental and secondary in size, use, and nature to principal uses. The following accessory uses and structures shall be permitted in the (I-2) Heavy Industrial District.

1. Temporary buildings for uses incidental to construction, which buildings shall be removed upon the completion or abandonment of the work, and in compliance with Section 17.3.
2. Any other commercial or industrial type use that is not listed as a permitted use in the same district, and complies with all the following criteria.
 - d. Operated primarily for convenience of employees, clients, or customers of the principal use.
 - e. Storage of merchandise incidental to the principal use, but not to exceed forty (40) percent of the floor area used for such use.
 - f. Located and operated as an integral part of the principal use and does not comprise a separate business use or activity.
3. Other necessary and customary uses and structures determined by the zoning administrator to be accessory, incidental, and subordinate in size, use, and nature.

Section 14.5. REQUIRED CONDITIONS.

1. The best practical means available shall be employed for the disposal of refuse matter or water-carried waste, the abatement of noxious or offensive odors, dust, smoke, gas, noise or similar nuisance.
2. All facilities required for the discharge, collection and treatment of liquid, solid or gaseous wastes shall be designed, constructed and operated in accordance with regulations of the Iowa Department of Natural Resources.
3. All principal or accessory structures housing a use permitted only in the I-2 District shall be located at least two hundred (200) feet from any residential district.

Section 14.6. SITE DEVELOPMENT REGULATIONS.

The following minimum requirements shall be provided for light and open space around permitted and special exception uses and structures in the (I-2) Heavy Industrial District, and subject to modifications contained in Article XVI, Supplemental District Regulations. In addition to these bulk regulations, please see Article XVII, Additional Use Regulations.

Lot Area -	1 acre minimum lot area
Lot Width -	200 feet minimum lot width
Front Yard -	50 feet minimum required setback
Side Yard -	25 feet minimum required setback
Rear Yard -	25 feet minimum required setback
Street Side (Corner) Yard -	50 feet minimum required setback
Height -	60 feet maximum height, except 35 feet if property abuts any residential district. No structure shall be permitted to extend into approach zones, clear zones or restricted air space required for the protection of any public airport. <i>(See Section 16.9 for Height Exceptions)</i>

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements.

Section 14.7. OPEN-AIR SALES, DISPLAY AND STORAGE.

All open-air sales display and storage for used auto sales and storage, new auto sales and storage, new and used farm implement and equipment sales and storage, new and used truck, machinery, other vehicle or equipment sales and storage shall comply with the minimum requirements outlined in Section 25.7.2.

Section 14.8. OFF-STREET PARKING.

Spaces for off-street parking and loading requirements shall be provided for activities in the (I-2) Heavy Industrial District in accordance with the provisions of Article XIX of this ordinance.

Section 14.9. SIGN REGULATIONS.

Sign regulations shall be required for activities in the (I-2) Heavy Industrial District in accordance with the provisions of Article XX of the ordinance.

Section 14.10. ZONING COMPLIANCE PERMITS REQUIRED.

Zoning permits shall be required in accordance with the provisions of Section 22.3 of this ordinance.

“QUICK REFERENCE GUIDE”
CLAY COUNTY ZONING DISTRICT SITE DEVELOPMENT REGULATIONS

Zoning District	Maximum Height	Minimum Lot Area	Minimum Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Street Side Yard (Corner Lot)
A-1 Agriculture	35 ft. (no height on ag uses)	1 acre 43,560 sq.ft.	200 ft.	50 ft.	25 ft. – residential 50 ft – all other uses	50 ft.	50 ft.
A-2 Floodplain & Conservation	35 ft. (no height on ag uses)	1 acre 43,560 sq.ft.	none	50 ft.	25 ft.	50 ft.	50 ft.
R-1 Rural Residential	35 ft.	1 acre 43,560 sq.ft.	150 ft.	50 ft.	15 ft.	50 ft.	50 ft.
R-2 Suburban Residential	35 ft.	15,000 SF 20,000 TF	100 ft.	35 ft.	15 ft.	35 ft.	35 ft.
R-3 Multiple Family Residential	45 ft.	10,000 sq.ft. + 2,000 sq.ft. in excess of 3	80 ft.	30 ft.	10 ft.	30 ft.	30 ft.
R-4 Lake Residential	35 ft.	5,000 SF 7,500 TF	50 ft.	20 ft.	5 ft.	20 ft.	20 ft.
R-5 Mobile/Manufactured Home Park	35 ft.	4,000 sq.ft Mobile home site	40 ft.	25 ft.	6 ft.	15 ft.	25 ft.
GC General Commercial	35 ft.	15,000 sq.ft.	100 ft.	50 ft.	10 ft.	25 ft.	50 ft.
I-1 Light Industrial	60 ft. 35 ft. if next to residential;	20,000 sq.ft.	100 ft.	50 ft.	25 ft.	25 ft.	50 ft.
I-2 Heavy Industrial	60 ft. 35 ft. if next to residential;	1 acre 43,560 sq.ft.	200 ft.	50 ft.	25 ft.	25 ft.	50 ft.

Note: SF= Single Family Residential; TF= Two Family Residential; sq.ft. = square feet

ARTICLE XV
Floodplain Overlay District
 (Legal Authority: Chapter 335, Code Of Iowa)

Article 15: Floodplain Overlay District

Section 15.1.	Intent
Section 15.2.	Definitions
Section 15.3.	Statutory Authority and Findings of Fact
Section 15.4.	General Provisions
Section 15.5.	Establishment of Floodplain Overlay District
Section 15.6.	Standards for Floodplain Overlay District
Section 15.7.	Administration
Section 15.8.	Nonconforming Uses
Section 15.9.	Penalties for Violations
Section 15.10.	Amendments

Section 15.1. INTENT.

The purpose of this Article is to create and establish a Floodplain Overlay District. The boundaries of the Floodplain Overlay District shall follow the lines of the identified 100-year floodplain (Zone A) district as shown on the Flood Hazard Boundary Map (FHBM) for Clay County. Those areas designated as being within the (A-2) Floodplain and Conservation zoning district should not automatically assume they are located within or outside of a designated 100-year floodplain in Clay County. All property owners are encouraged to consult with the Flood Hazard Boundary Map (FHBM) for Clay County to ensure the location of floodplains as established by FEMA.

The following regulations are designed to meet the minimum requirements for acceptance in the National Flood Insurance Program for counties which have a Flood Hazard Boundary Map (FHBM) issued by the Federal Emergency Management Agency (FEMA), but have not been provided with detailed floodplain information. Specific Floodplain criteria are set forth in Section 60.3(b) of the rules and regulations as published in the October 1, 1994, Federal Register. These regulations are established under the authority of Chapter 335, Iowa Code. The following floodplain regulations only apply to development in the established Floodplain Overlay District (i.e., Zone A or the shaded area of the county's Flood Hazard Boundary Map). The standards for floodplain development are in addition to the requirements of the primary or underlying zoning district.

Furthermore, these Floodplain regulations establish a development permit system which requires a permit for all development within the Floodplain Overlay District. Specific performance standards for construction within that area are given in Section IV of this ordinance. Most floodplain construction must also be approved by the Department of Natural Resources (Section 455B.275, Code of Iowa), so applicants for floodplain development permits should be apprised of that requirement. Please feel free to call or write if you have any questions.

Floodplain Section, Iowa Department of Natural Resources
 Wallace State Office Building, East 9th and Grand
 Des Moines, Iowa 50319-5145 515/ 281-4333

Section 15.2. DEFINITIONS.

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage.

- 15.2.1 **BASE FLOOD:** The flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood).
- 15.2.2. **DEVELOPMENT:** Any man-made change to improved or unimproved real estate, including but not limited to building 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, grading.
- 15.2.3. **EXISTING CONSTRUCTION:** Any structure for which the "start of construction" commenced before the effective date of the first floodplain regulations adopted by Clay County.
- 15.2.4. **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 regulations adopted by Clay County.
- 15.2.5. **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).
- 15.2.6. **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.
- 15.2.7. **FLOOD ELEVATION:** The elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of flood waters related to the occurrence of the 100-year flood.
- 15.2.8. **FLOOD HAZARD BOUNDARY MAP (FHBM):** The official map of a county, issued by the Federal Insurance Administrator, which delineates the areas having special flood hazards, designated as Zone A.
- 15.2.9. **FLOODPLAIN:** Any land area susceptible to being inundated by water as a result of a flood.
- 15.2.10. **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.

- 15.2.11. **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.
- 15.2.12. **FLOODWAY FRINGE:** Those portions of the floodplain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.
- 15.2.13. **HISTORIC STRUCTURE** - Any structure that is:
- 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;
 - 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;
 - 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,
 - 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.
- 15.2.14. **LOWEST FLOOR:** The floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:
- The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 15.6.4 of this article and
 - 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
 - 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 100-year flood level, and
 - The enclosed area is not a "basement" as defined in this section.
- In cases where the lowest enclosed area satisfies criteria a, b, c, and d above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.
- 15.2.15. **MINOR PROJECTS:** Small development activities (except for filling, grading and excavating) valued at less than \$500.
- 15.2.16. **NEW CONSTRUCTION:** Those structures or development for which the start of construction commenced on or after the effective date of the first floodplain regulations adopted by the community and includes any subsequent improvements to such structures.
- 15.2.17. **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 regulations adopted by the community and includes any subsequent improvements to such structures.

15.2.18. **ONE HUNDRED (100) YEAR FLOOD:** A flood, the magnitude of which has a one (1) percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded a least once every one hundred (100) years.

15.2.19. **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.

15.2.20. **SPECIAL FLOOD HAZARD AREA:** The land within a community subject to the "100-year flood". This land is identified as Zone A on the county's Flood Hazard Boundary Map.

15.2.21. **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.

15.2.22. **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.

15.2.23. **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 on or after the first Floodplain 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.

Section 15.3. STATUTORY AUTHORITY AND FINDINGS OF FACT.

1. The Legislature of the State of Iowa has in Chapter 335, Code of Iowa, as amended, delegated the power to counties to enact zoning regulations to secure safety from flood and to promote health and the general welfare.
2. Findings of Fact
 - a. The flood hazard areas of Clay County, Iowa 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 county.
 - b. These flood losses, hazards, and related adverse effects are caused by the occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.
3. Statement of Purpose

It is the purpose of this article to protect and preserve the rights, privileges and property of Clay County and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses 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 county to purchase flood insurance through the National Flood Insurance Program.

Section 15.4. GENERAL PROVISIONS.**1. Lands to Which Ordinance Apply**

The provisions of this article shall apply to all lands within the jurisdiction of Clay County which are located within the boundaries of the Floodplain Overlay District as established in Section 15.4.

2. Rules for Interpretation of Floodplain Overlay District

The boundaries of the Floodplain Overlay District shall be determined by scaling distances on the official Flood Hazard Boundary Map. When an interpretation is needed as to the exact location of a boundary, the Zoning Administration 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 administrator in the enforcement or administration of this ordinance.

3. Compliance

No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations which apply to uses within the jurisdiction of this ordinance.

4. Abrogation and Greater Restrictions

It is not intended by these regulations 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 these regulations are hereby repealed to the extent of the inconsistency only.

5. Interpretation

In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

6. Warning and Disclaimer of Liability

The standards required by this Article 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. These regulations shall not create liability on the part of Clay County or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made there under.

7. Severability

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 15.5. ESTABLISHMENT OF FLOODPLAIN OVERLAY DISTRICT.

The areas within the jurisdiction of Clay County 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 Hazard Boundary Map (FHBM) for Clay County, dated June 7, 1977.

Section 15.6. 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 data has not been provided on the Flood Hazard Boundary Map, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. All development within the Floodplain Overlay District shall:
 - a. Be consistent with the need to minimize flood damage.
 - b. Use construction methods and practices that will minimize flood damage.
 - c. Use construction materials and utility equipment that are resistant to flood damage.
 - d. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. Residential buildings - All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 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.
3. Non-residential buildings - All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be 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 National Geodetic Vertical Datum) to which any structures are floodproofed shall be maintained by the zoning administrator.

4. All new and substantially improved structures:

- a. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
 - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - ii. The bottom of all openings shall be no higher than one foot above grade.
 - iii. 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.

- b. 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.
- c. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-built homes:

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

6. Utility and Sanitary Systems:

- a. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
- b. All new and replacement sanitary sewage systems shall be designed to minimize 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.
- c. 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.

- d. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (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.
8. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 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.
9. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this Ordinance. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Floodplain (Overlay) District.
11. Accessory Structures
 - a. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied.
 - i. The structure shall not be used for human habitation.
 - ii. The structure shall be designed to have low flood damage potential.
 - iii. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
 - iv. The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
 - v. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the 100-year flood level.
 - b. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.
12. Recreational Vehicles
 - a. Recreational vehicles are exempt from the requirements of this article regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

- i. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
 - ii. The recreational vehicle must be fully licensed and ready for highway use.
 - b. 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 this article regarding anchoring and elevation of factory-built homes.
13. 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.

Section 15.7. ADMINISTRATION.

1. Appointment, Duties and Responsibilities of zoning administrator

- a. The Clay County zoning administrator is hereby appointed to implement and administer the provisions of this article.
 - b. Duties of the zoning administrator shall include, but not necessarily be limited to the following:
 - i. Review all floodplain development permit applications to assure that the provisions of this article will be satisfied.
 - ii. 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.
 - iii. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the Floodplain Overlay District.
 - iv. Record and maintain a record of the elevation (in relation to National Geodetic Vertical datum) to which all new or substantially improved structures have been floodproofed.
 - v. 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.
 - vi. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this article and zoning ordinance.
2. Floodplain Development Permit
- a. Permit Required - A Floodplain Development Permit issued by the zoning 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.
 - b. Application for permit shall be made on forms furnished by the zoning administrator and shall include the following:
 - i. Description of the work to be covered by the permit for which application is to be made.

- ii. Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
 - iii. Indication of the use or occupancy for which the proposed work is intended.
 - iv. Elevation of the 100-year flood.
 - v. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.
 - vi. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
 - vii. Such other information as the zoning administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this article.
- c. The zoning administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this article and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The zoning administrator shall not issue permits for variances except as directed by the Board of Adjustment.
- d. 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 article and ordinance. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, 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.
3. Variance
- a. The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this article that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.
 - i. Variances shall only be granted upon: (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.
 - ii. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - iii. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will

- result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.
- b. In passing upon applications for variances, the board shall consider all relevant factors specified in other sections of this Ordinance and:
- i. The danger to life and property due to increased flood heights or velocities caused by encroachments.
 - ii. The danger that materials may be swept on to other land or downstream to the injury of others.
 - iii. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
 - iv. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - v. The importance of the services provided by the proposed facility to the County.
 - vi. The requirements of the facility for a floodplain location.
 - vii. The availability of alternative locations not subject to flooding for the proposed use.
 - viii. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - ix. The relationship of the proposed use to the comprehensive plan and Floodplain program for the area.
 - x. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - xi. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
 - xii. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
 - xiii. Such other factors which are relevant to the purpose of this Ordinance.
- c. 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 article. Such conditions may include, but not necessarily be limited to:
- i. Modification of waste disposal and water supply facilities.
 - ii. Limitation of periods of use and operation.
 - iii. Imposition of operational controls, sureties, and deed restrictions.
 - iv. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.
 - v. Floodproofing measures.

Section 15.8. NONCONFORMING USES.

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 ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

Section 15.9. PENALTIES FOR VIOLATIONS.

Violations of the provisions of the Floodplain Overlay District regulations or failure to comply with any of the requirements shall constitute a municipal infraction and shall be punishable under the provisions of Article XXIII.

Section 15.10. AMENDMENTS.

The regulations and standards set forth in this article may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

ARTICLE XVI

Supplemental District Regulations

Article 16: Supplemental District Regulations

Section 16.1.	Intent
Section 16.2.	Lot of Record
Section 16.3.	Multiple Principal Structures per Lot
Section 16.4.	Yard Regulations
Section 16.5.	Steps, Decks and Patios
Section 16.6.	Fences and Hedges
Section 16.7.	Buildings to Have Access
Section 16.8.	Use of Public Right-of-Way
Section 16.9.	Height Exceptions
Section 16.10.	Airport Height Limitations

Section 16.1. INTENT.

The regulations set forth in this Article qualify, supplement and/or modify the zoning district regulations set forth elsewhere in this ordinance.

Section 16.2. LOT OF RECORD.

In any residential zoning district on a lot of record at the time of enactment of this ordinance, a single-family dwelling may be established regardless of the size of the lot, provided all other requirements of this ordinance are met. Any lot of record at the time of passage of this ordinance shall maintain the required front, side, and rear yards on each side of the dwelling. However, where two (2) or more vacant and contiguous substandard recorded lots are held in common ownership, they shall be combined into zoning lots and shall thereafter be maintained in common ownership and shall be so joined and developed for the purpose of forming an effective and conforming zoning lot. For the purpose of this section, the razing of a building on a substandard lot shall constitute the formation of a vacant lot.

Section 16.3. MULTIPLE PRINCIPAL STRUCTURES PER LOT.

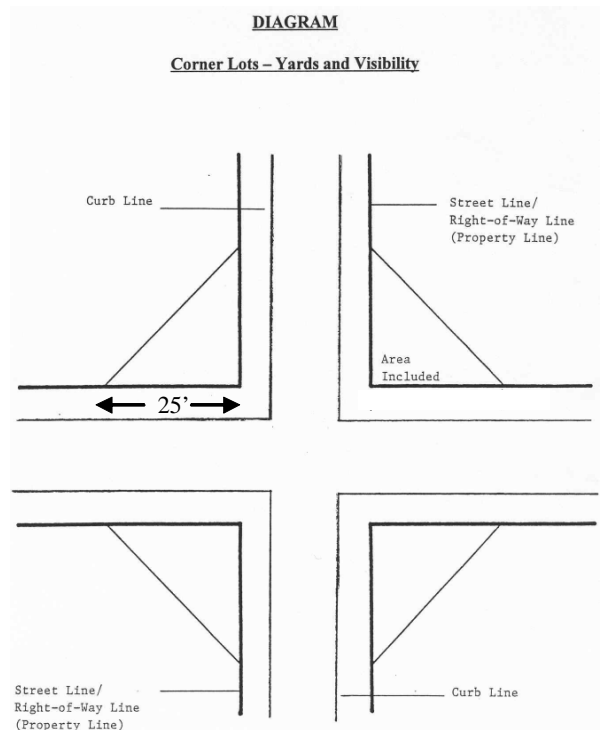
More than one principal structure not intended to be a single family residential structure may be erected on a single zoning lot, except in the R-1, R-2, and R-4 residential districts, subject to the following conditions.

- 1) No principal building shall be located closer than twenty-five feet (25') in relation to another principal building on the same lot, so as to cause danger from fire;
- 2) All principal buildings on the lot shall be served by access ways suitable for police, fire, and emergency vehicles.

Section 16.4. YARD REGULATIONS.

1. *Unimproved Residential Lots.* In any district where single family residences are permitted and where neither a public water supply nor public sewer is available, the lot area and width requirements shall be either the minimum required for the particular district or as follows, whichever is greater:
 - a. Lot area of one acre (1 acre or 43,560 sq. ft.); lot width one hundred fifty feet (150'); however where a public water supply and sewer is available these requirements shall be fifteen thousand (15,000) sq. ft. and one hundred feet (100') respectively.

- b. The above requirements shall not apply in subdivision developments providing private water supply and sewage collection and disposal systems which have been approved by the Iowa Department of Natural Resources and other authorized authorities.
2. *Projecting Overhang or Structure.* The ordinary horizontal projections from buildings including eaves, sills, fascia, cornices, or other similar architectural features, except for gutters, may not project or extend more than three feet (3') into a required yard.
 3. *Yard Encroachments.* Covered carports, bay windows, cantilevered projections, chimneys and structures may not project into any required yard.
 4. *Through Lots.* Buildings on through lots, extending from street to street shall provide the required front yard on both streets.
 5. *Corner Lots.* For buildings on corner lots with frontage on two (2) or more public streets, each yard abutting a public street shall be the same as the required front yard on such street and no accessory building shall project beyond the required front yard on either street.
 6. *Line of Site Visibility (at Intersections).* On a corner lot in any district, no fence, wall, hedge, tree or other planting or structure that will obstruct vision between a height of two feet (2') and ten feet (10') above the centerline grade of the intersecting streets shall be erected, placed or maintained within the triangular area formed by connecting the right-of-way lines at points which are twenty-five feet (25') feet from the intersection of the street right-of-way lines, and measured along the street right-of-way lines.



Section 16.5. STEPS, DECKS AND PATIOS.

1. Steps providing access to the ground level of any dwelling may encroach no more than three feet (3') into any required side yard. Steps may encroach no more than five feet (5') into any required front or rear yard.
2. Deck floors higher than twelve inches (12") above the average grade of the ground shall conform to required yard setbacks. An open unenclosed deck may project into a front yard for a distance not exceeding ten feet (10').
3. Uncovered patios or other concrete slab structures constructed on the ground, or less than 12 inches above the average grade of the ground, shall be allowed within the required front, side, or rear yards. Concrete slab structure built on the ground or uncovered patios may be built up to the property line in the side and rear yards. However, uncovered patios or other concrete

slab structures within front yards shall not extend more than ten feet (10') beyond one side of a driveway .

Section 16.6. FENCES AND HEDGES.

1. Fences within all residential zoned districts shall not be constructed more than fifty percent (50%) solid or more than four feet (4') in height in any front yard. Please reference Section 16.4.6 when considering fences in front or side yards.
2. Except as provided above, solid or privacy fences up to seven feet (7') in height may be erected in any required side or rear yards. Fences in excess of seven feet (7') may be allowed by special exception by the Board of Adjustment in instances where the fence will screen and protect the public view against certain junk, salvage, scrap or other commercial or industrial uses.
3. Fences are permitted to be built up to the property line. Hedges and other perennial plantings shall not be planted closer than two feet (2') to any property line.
4. Fences within all residential zoned districts shall not be constructed of corrugated tin, metal or fiberglass; or sheet metal or fiberglass. The Planning and Zoning Commission, upon recommendation of the zoning administrator, will have the determination of materials used in fencing if the zoning administrator has questions on the structural integrity, safety or effective use of such proposed fencing.
5. Fences located within the (A-1) Agricultural District are not subject to the fence and hedge regulations listed in items 1-4 above.

Section 16.7. BUILDINGS TO HAVE ACCESS.

Every principal use hereafter erected or structurally altered, shall be on a lot or parcel having frontage on a public street or road, or on a lot or parcel with access to a public or private street.

Section 16.8. USE OF PUBLIC RIGHT-OF-WAYS.

No portion of the public road, street or alley right-of-way shall be used, or occupied by an abutting use of land or structure for row cropping purposes, storage or display purposes, or to provide any parking or loading space required by this ordinance.

Section 16.9. HEIGHT EXCEPTIONS.

The following structures shall be exempt from the height requirements provided in the district in which the structure is located: television and radio towers, other receiving antennas, church spires, belfries, monuments, farm buildings, penthouses and domes not used for human occupancy, tanks, water and fire towers, water tanks, wind energy devices, stage towers or scenery lofts, cooling towers, grain elevators, silos, utility poles, essential services, ornamental towers, elevator bulkheads, drilling rigs, conveyors, flagpoles and other pertinent mechanical apparatuses. These structures or accessories may be erected to a greater height provided all towers or structures exceeding height requirements shall conform where applicable to the requirements of the Federal Communications Commission, the Federal Aviation Administration and other public authorities having jurisdiction. No tower or structure shall be permitted to

extend into approach zones, clear zones or other restricted air space required for the protection of the flying public. All communications towers shall be subject to the heights and limitations imposed in Section 25.7.4 of this ordinance, Supplemental Standards.

Public, semi-public, or public service buildings, hospitals or schools when permitted in a district may be erected to a greater height than otherwise permitted in the district if the building is set back from each property line at least one foot (1') in addition to the minimum yard requirements for each two feet (2') of additional building height above the maximum height permitted in the district.

Section 16.10. AIRPORT HEIGHT LIMITATIONS.

The provisions of this section shall apply to development within identified zones near and surrounding the Northwest Iowa Regional Airport near Spencer, Iowa; and located at an elevation of 1,340.7 feet above mean sea level.

1. Airport Height Zones and Height Limitations. Except as otherwise provided in this ordinance, no structure shall be erected, altered or maintained and no tree shall be allowed to grow in any zone created by this ordinance to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in questions as follows:

a. *Primary Surface Zone -*

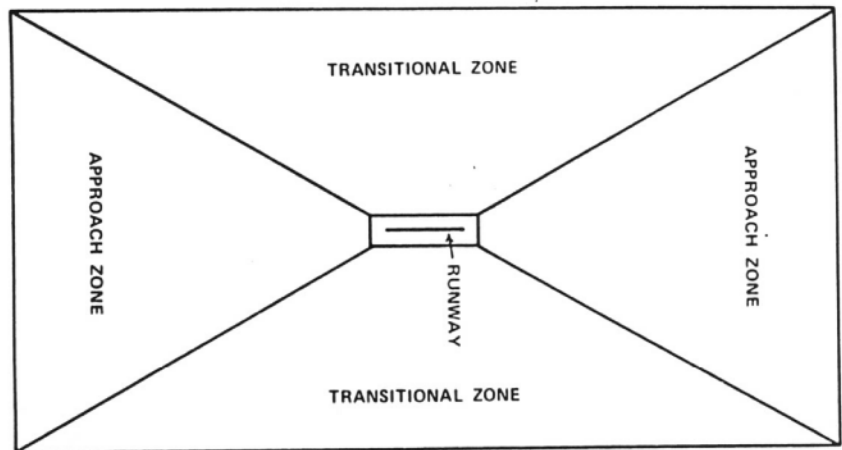
The surface longitudinally centered on a runway. The primary surface is extended two hundred feet (200') beyond each end of each runway. The width of the primary surface is one thousand feet (1,000'). The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

t. *Approach Zone -*

Slopes twenty feet (20') outward for each foot upward on the extended runway centerline, extending outward and upward from the end at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

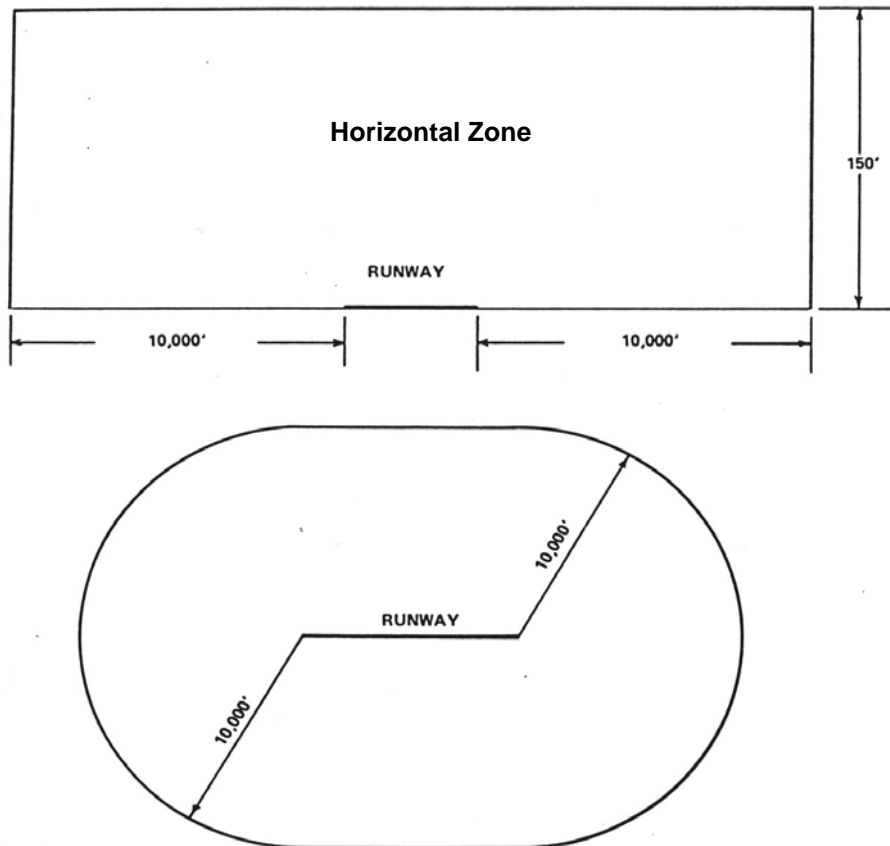
c. *Transitional Zone -*

Slopes seven feet (7') outward for each one foot (1') upward beginning at the sides of and at the same elevation as the primary surface extending to a height of 150 feet above the airport elevation which is 1,340.7 feet above mean sea level. The transitional zone, using the above stated formula, will be established for a distance of 1,050 feet perpendicular to the primary runway surface.



d. *Horizontal Zone* -

Established at 150 feet above the airport elevation or at a height of 1,490.70 feet above mean sea level. The horizontal zone is established by swinging arcs of ten thousand feet (10,000') radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the visual approach and transitional zones. Variances will be required for a structure exceeding a horizontal plane 150 feet above the established airport elevation within a perimeter found by drawing radii of 10,000 feet from the runway ends and connecting these arcs with tangents.



e. *Conical Zone* -

The conical zone is a surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty to one (20:1) for a horizontal distance of four thousand feet (4,000'). Slopes twenty feet (20') outward for each foot upward beginning at the periphery of the horizontal zone and at one hundred fifty feet (150') above the airport elevation and extending to a height of three hundred fifty feet (350') above the airport elevation.

2. Airport Height Use Restrictions. No use may be made and no building or structure may be constructed, located, moved in or erected in any airport zone in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird

strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the Northwest Iowa Regional Airport.

The runway protection zone is an area "off the end of the runway threshold established to enhance the protection of people and property on the ground" in the event an aircraft lands or crashes beyond the runway end. Runway protection zones underlie a portion of the approach closest to the airport. Compatible land uses within the runway protection zone is generally restricted to such land uses as agricultural and uses that do not involve congregations of people or construction of buildings or other improvements that may be obstructions. Agricultural operations (other than forestry or livestock farms) are expressly permitted under this provision. Golf courses (but not clubhouses), although discouraged, may be permitted if a wildlife hazard assessment determines that it will not provide an environment attractive to birds. Automobile parking facilities, although discouraged, may be permitted, provided the parking facilities and any associated appurtenances, in addition to meeting all of the preceding conditions, are located outside of the object free area extension. Land uses prohibited from the runway protection zone include residences and places of public assembly such as churches, schools, hospitals, office buildings, shopping centers, and other uses with similar concentrations of persons typify places of public assembly.

Prohibited Uses - regardless of any other provisions of this section, no use may be made of land or water within any zone established by this chapter in such a manner as to do any of the following:

- a. Create electrical interference with navigational signals or radio communication between the airport and aircraft;
- b. Imitate airport lights - all lights or illumination used in conjunction with streets, parking, signs or use of land and structures shall be arranged and operated in such a manner that is not misleading or dangerous to aircraft operating from the Northwest Iowa regional airport, or in the vicinity thereof;
- c. Result in glare in the eyes of pilots using the airport;
- d. Create bird strikes; or
- e. Endangerment of aircraft or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

2. Lighting. The owner of any structure over two hundred feet (200') above ground level must install, on the structure, lighting in accordance with Federal Aviation Administration (FAA), advisory circular 70-7460-1D and amendments. Additionally, any structure, constructed after the effective date of this ordinance and exceeding nine hundred forty nine feet (949') above ground level, must install on that structure high intensity white obstruction lights in accordance with chapter 6 of FAA advisory circular 70-7460-1D and amendments.

3. Variances. Any person, firm or corporation desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use property not in accordance with the regulations of the Section may apply to the Board of Adjustment for variance from such regulations. The application for a variance shall be accompanied by a determination from the

Federal Aviation Administration (FAA) as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable air space.

4. Nonconforming Uses. The regulations prescribed in the Section shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this ordinance. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date hereof. No permit shall be granted that would allow a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date hereof, or any amendment hereto, or than it is when the application for a permit is made.

ARTICLE XVII

Additional Use Regulations

Article 17: Additional Use Regulations

Section 17.1.	Intent
Section 17.2.	Accessory Buildings
Section 17.3.	Temporary Uses
Section 17.4.	Home Occupations
Section 17.5.	Minimum Requirements for Residential Structures
Section 17.6.	Adult Entertainment Regulations
Section 17.7.	Wind Energy Devices
Section 17.8.	Small Wind Energy Devices
Section 17.9.	Minor Modification to Zoning Regulations

Section 17.1. INTENT.

These provisions apply to additional use regulations in addition to those guidelines set forth in the zoning district regulations. In event of any conflict in provisions, the more restrictive provision shall apply unless specifically indicated to the contrary.

Section 17.2. ACCESSORY BUILDINGS.

The purpose of these provisions is to establish the relationship among principal and accessory uses and to establish provisions governing the conduct of accessory uses. Principal uses specified as permitted uses or special exception uses for a district shall be deemed to include accessory buildings and uses identified by these regulations and such other accessory uses that are necessary and customarily associated with and are subordinate to such principal or special exception uses. Accessory buildings and uses shall be subject to the same regulations as apply to principal uses in each district, except as otherwise provided in these regulations.

Accessory buildings and uses customarily incidental to that of the principal building may be erected or established upon any lot or tract of land, provided they comply with the following limitations:

1. Accessory buildings that are structurally part of or attached to the principal building shall conform to the site development regulations of the principal building.
2. No accessory building is permitted within the front yard, including lakeshore residential properties.
3. Accessory buildings, except those within the R-1, R-2 and R-5 districts, may be allowed as the only principal structure on a separate lot so long as the property the accessory building is situated on is located no more than 300 feet from the lot of the principal structure it is associated with.
4. No detached accessory building in any residential district shall occupy more than thirty percent (30%) of the rear yard. Residential accessory buildings shall be limited to a maximum of two (2) total buildings, including a garage.
5. Accessory buildings which are not a part of the main building may be built in a rear yard within five (5) feet of the rear lot line and within three (3) feet of the side lot line. In the Lake Residential (R-4) District, no accessory building shall be located within fifteen feet (15') of the rear lot line (lakeshore side of the lot).

6. No detached accessory building in any residential district shall be erected within ten (10) feet of any main or principal building.
7. In the R-1 and R-3 districts not more than one (1) vehicle housed in a private garage may be a commercial vehicle or of more than three (3) tons capacity, and not more than three (3) spaces in a private garage may be leased to persons other than the residents on the premises.
8. Accessory buildings shall not be erected, placed, located or constructed on any required, permanent, temporary or utility easement.
9. Accessory buildings shall not exceed twenty feet (20') in height in residential districts and twenty-five feet (25') in height in commercial or industrial districts, but in no circumstance shall the elevation of the accessory building exceed the height of the principal building or structure on the property.
10. Accessory buildings shall have siding or exterior finishes similar to that of the principal building on the same or adjacent lot. Except within the (A-1) Agricultural District, accessory buildings shall not be constructed from galvanized sheet or corrugated metal. This is not to exclude the use of standing seam metal roofs or other fabricated or painted metal roof shingles or siding.
11. No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used unless the main building on the lot is also being used.
12. No accessory building shall be used for dwelling purposes.

Section 17.3. TEMPORARY USES.

Provisions authorizing temporary uses are intended to permit occasional, temporary uses when consistent with the purposes of this zoning ordinance and when compatible with other nearby uses.

- 1) *Temporary Use Types:* The following types of temporary use may be authorized, subject to specific limitations herein and such additional conditions as may be established by the zoning administrator.
 - a. Contractor's office, storage yard, and equipment parking and servicing on the site of an active construction project may be permitted in any district during the period that the construction work is in progress, but such temporary building(s) shall be removed within thirty (30) days after completion or abandonment of the construction work.
 - b. Religious, patriotic, or historic assemblies, displays, or exhibits.
 - c. Circuses, carnivals, fairs, or similar transient amusement or recreational activities.
 - d. Christmas tree sale lots, exclusive of tree farms.
 - e. Outdoor special sales, including arts and crafts shows, swap meets, flea markets, parking lot sales, or similar activities, limited to locations in all residential, commercial or industrial districts, and when operated more than 3 days in the same week or more than 7 days in the same month.
 - f. Temporary signs relating to temporary uses.

- g. Temporary use of trailer units or similar portable structures for nonresidential uses, of which are limited to a maximum time period of 6 months per calendar year.
 - h. Additional similar uses determined to be temporary by the zoning administrator.
2. *Required Conditions of Temporary Use:*
 Each site occupied by a temporary use shall be left free of debris, litter, or other evidence of temporary use upon completion or removal of the use. The zoning administrator may establish additional conditions as deemed necessary to ensure land use compatibility and to minimize potential negative impacts on nearby uses, including but not limited to time and frequency of operation, temporary arrangements for parking and traffic circulation, requirements for screening or enclosure, and guarantees for site restoration and cleanup.

Section 17.4. HOME OCCUPATIONS.

Residential Home Occupations: Home occupations as an accessory to residential uses shall be subject to the following limitations. The Board of Adjustment may grant additional special exemptions for the type of allowed use, the use of additional buildings, and employment of individuals not living in the residence, or signs that are larger than allowed, provided the proposed special exception will not create a nuisance for surrounding residents.

1. The use must be conducted as a secondary use and in such a manner as not to give an outward appearance nor manifest any characteristics of a business in the ordinary meaning of the term. The home occupation shall be conducted entirely within a dwelling unit that is the bona fide residence of the practitioner(s), or entirely within a garage or accessory building (not to include a carport, driveway, yard or outside area).
2. Only one (1) unrelated person living outside the residence and members of the immediate family may be employed in the home occupation.
3. The home occupation shall not generate customer related vehicular traffic substantially in excess of the normal anticipated residential neighborhood traffic.
4. No equipment or materials associated with home occupations located in residential districts shall be displayed or stored where visible from off the premises.
5. May have no more than one (1) flush-mounted non-illuminated wall sign not exceeding six (6) square feet, and one (1) non-illuminated yard sign not exceeding twelve (12) square feet and six feet (6') in height.
6. No more than thirty percent (30%) of the main floor area of the principal building may be utilized by the home occupation. However, this regulation shall not apply to day care services.
7. The occupation shall not produce external noise, vibration, smoke, dust, odor, heat, glare, fumes, electrical interference or waste run off outside the dwelling unit or on the property surrounding the dwelling unit.
8. The use must not infringe upon the right of neighbors to enjoy peaceful and healthy occupancy of their home for which purpose the use is primarily intended.

9. Nothing herein shall be construed to allow the following businesses or occupations as home occupations: animal hospitals, animal breeding, clinics, hospitals, contractor's yards, junk yards, restaurants or rental outlets.
10. In-home daycare operations shall be permitted according to state regulations.

Business Home Occupations: are those uses which typically carry on a commercial type use on the premises of a farm, farmstead, lot, parcel or tract of land in association with a dwelling unit. Business home occupations shall also be subject to the following limitations. The Board of Adjustment shall grant special exemptions for the type of allowed use, the use of additional buildings, and employment of individuals; provided the proposed special exception will not create a nuisance for surrounding properties or residents.

1. The use must be conducted as a secondary or accessory use to the property. The business home occupation may be conducted within the principal dwelling, an accessory building or a designated business building, as long as the occupation is located on the same premises as the principal dwelling.
2. Up to three (3) unrelated persons living outside the residence and members of the immediate family may be employed in the business home occupation.
3. Incidental equipment or materials associated with a business home occupation may be displayed or stored where visible from off the premises. However, the business home occupation shall not use the principal use of the property as a sales lot or display area for home occupation products such as automobiles, recreational vehicles or farm machinery and equipment.
4. May have no more than one (1) flush-mounted non-illuminated wall sign not exceeding twelve (12) square feet, and one (1) non-illuminated yard sign not exceeding twenty (20) square feet and ten feet (10') in height.
5. The business home occupation shall not produce external noise, vibration, smoke, dust, odor, heat, glare, fumes, electrical interference or waste run off outside of property of the principal use or elsewhere that would be a nuisance to neighboring properties.
6. The following uses shall not be allowed as business home occupations: animal hospitals, clinics, hospitals, junk or salvage yards, or restaurants.
7. Daycare centers, respite facilities, or places for the short term care of children and/or adults shall be permitted and the number of occupants allowed according to state regulations.
8. Factors to be reviewed in considering whether to permit a business home occupation; the Board of Adjustment shall consider:
 - a. The impact of the business home occupation upon the existing neighborhood character.
 - b. The impact of the business home occupation upon existing traffic patterns, and upon general traffic safety.
 - c. The additional public expense, if any, likely to be caused by the business home occupation.

- d. The extent to which the business home occupation may interfere with the quiet, peaceful and healthful enjoyment of other properties in the vicinity.
 - e. The impact of the business home occupation upon natural resources.
 - f. All other relevant and material factors.
9. The permit for a business home occupation issued pursuant to this section shall be personal to the applicant and shall not be sold, conveyed or transferred, nor shall such a permit be deemed to run with the land. Estoppel, waiver, laches or acquiescence in breach shall not be asserted by the holder against any action taken by the zoning administrator or Board of Adjustment pursuant to this ordinance.
10. The zoning administrator may revoke the permit for a business home occupation upon determining that:
- a. The applicant made a false statement in the application for issuance of the permit, or
 - b. The business home occupation is or has been conducted contrary to that set forth in the application, or
 - c. The business home occupation is or has been conducted contrary to that set forth in the permit, or
 - d. The business home occupation is or has been conducted contrary to the certification contained in the application, or
 - e. A final court judgment has been entered of record finding the business home occupation a public nuisance.

The decision of the zoning administrator to revoke, or after receipt of a demand to do so, to not revoke a permit for a business home occupation pursuant to this section may be appealed to the Board of Adjustment as provided in Article XXIV of this Ordinance.

Section 17.5. MINIMUM REQUIREMENTS FOR RESIDENTIAL STRUCTURES.

All structures intended for residential occupancy placed, moved in, erected, assembled or constructed in Clay County, after the effective date of this ordinance, shall meet and comply with the following minimum requirements:

1. *Structure Size:* Each such structure shall have a main body with a minimum exterior dimension of at least twenty-four feet (24') measured from outside of the exterior walls, exclusive of attached garages, porches, or other attached accessory structures. A structure may include porches, sunrooms, garages and additions or lesser dimensions and area, so long as the main body meets the minimum requirements.
2. *Minimum Floor Area:* Each such structure shall have a minimum floor area of not less than eight hundred (800) square feet.
3. *Foundation:* All residential dwellings shall have a continuous and complete frost protected perimeter foundation, except that a perimeter foundation shall not be required for a mobile or manufactured home if a perimeter foundation is incompatible with the structural design of

the building. For such a mobile or manufactured home, a permanent foundation may be a pier footing or post foundation system designed and constructed to be compatible with the structure and the conditions of the site. Foundation materials may be masonry, poured concrete, wood or metal and must extend below the normal frost line or be an approved frost-free permanent foundation. The structure must be permanently attached to the foundation.

4. *Exterior Wall and Roof Material:*

- a. Exterior wall covering shall be of wood or masonry finish, vertical or horizontal grooved siding, lap siding, log siding, wood shingles, or other approved materials of similar appearance thereof.
- b. Roofing materials shall be shingles (asphalt, fiberglass, metal or wood), slate, ceramic, concrete, or metal of a type customarily used for residential roofing material, such as “standing seam” or embossed or textured metal.
- c. Smooth, unfinished or corrugated sheet metal (including galvanized) or sheet fiberglass shall not be used for exterior wall or roof coverings.
- d. Soffits and/or eaves, window and door trim, roofs and coverings over bay and bow windows and doors may be smooth finished metal, vinyl or wood or unfinished metal, such as copper, customarily used for residential structure trim.

5. *Entrance and Exit Doors:* Not less than two (2) functional entrance and exit doors.

6. *Wheels, Axles or Towing Device:* No residential structure shall have attached wheels, axles, or a towing device.

7. *Exemption:* The provisions of this section shall not apply to mobile homes or manufactured housing placed in a mobile home park in compliance with the remaining regulations in this zoning ordinance.

Section 17.6. ADULT ENTERTAINMENT REGULATIONS.

1. *Purpose.*

Clay County, Iowa finds that adult entertainment establishments require special consideration in order to protect and preserve the health, safety, and welfare of the patrons of such establishments as well as the citizens of Clay County. Because of their very nature, these uses have a detrimental effect on both existing establishments around them and surrounding residential areas adjacent to them. It is for these reasons and further that Clay County finds:

- a. The concern over sexually-transmitted diseases is a legitimate health concern that demands reasonable regulation of adult entertainment establishments in order to protect the health and well-being of the county;
- b. Adult entertainment establishments, due to their very nature, have serious objectionable operational characteristics, thereby contributing to blight and downgrading the quality of life in the adjacent areas;

- c. Clay County wants to prevent such adverse effects and thereby protect the health, safety, and welfare of its residents; protection from increased crime; preserve the quality of life; preserve property values and deter the spread of blight;

It is not the intent of these regulations to suppress any free speech activities protected by the First Amendment, but to enact content neutral regulations that address the secondary effects of adult entertainment establishments as well as the problems associated with such establishments.

2. *Definitions.*

Adult entertainment establishments consisting of, including, or having the characteristics of any or all of the following.

- a. *Adult Bookstore:* An establishment that has a facility or facilities, including but not limited to, booths, cubicles, rooms or stalls for the presentation of "adult entertainment," including adult-oriented films, movies, or live performances for observation by patrons therein; or an establishment having a substantial or significant portion of its stock for sale, rent, trade, lease, inspection, or viewing of books, films, video cassettes, DVDs, magazines, publications, or other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified anatomical areas or specified sexual activities as defined below.
- b. *Adult Entertainment:* Any exhibition of any motion picture, live performance, display, or dance of any type, which has as its dominant theme or is distinguished or characterized by an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as defined below.
- c. *Adult Motion Picture Theater:* An enclosed building used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined below for observation by patrons of the building.
- d. *Adult Entertainment Establishment:* Any establishment devoted to adult entertainment, either with or without a liquor license, presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined below. It further means any premises that feature topless dancers, strippers, male or female impersonators, or other similar entertainers for observation by patrons. Adult entertainment establishments further mean those places to which are physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures or adult entertainment dancing.
- e. *Operators:* Any person, partnership, or corporation operating, conducting, maintaining or owning any adult entertainment establishment.
- f. *Specified Anatomical Areas:* Less than completely and opaquely covered female or male genitals or buttocks; and the fully exposed female breasts.
- g. *Specified Sexual Activities:* Simulated or actual acts of:
 - (i) showing of specified anatomical areas in a state of sexual stimulation or arousal;

- (ii) actual or simulated acts of sexual intercourse, sodomy, sado-masochism; or
- (iii) fondling or erotic touching of specified anatomical areas.

3. *Adult Entertainment Operations or Activities.*

In any building, structure or venue intended for adult entertainment, whether alcohol is served or not, activities engaged in the showing of specified anatomical areas or specified sexual activities are not permitted.

4. *Locational Requirements and Restrictions.*

An adult entertainment establishment shall be permitted within Clay County only in the (I-2) Heavy Industrial zoning district upon receipt of a site plan prepared in accordance with Article XVIII and a special exception use permit in accordance with the procedures set forth in Article XXV; and only if it meets all of the location requirements set forth below. Distances provided hereafter shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the proposed adult entertainment business is to be located, to the nearest point of the parcel of property or zoning district boundary line from which the proposed adult entertainment business is to be separated.

- a. Adult entertainment establishments shall be prohibited in or within one thousand (1,000) feet of the borders of a residential district.
- b. Adult entertainment establishments shall be prohibited within one thousand (1,000) feet of any church, synagogue, mosque, temple, or other place of religious worship.
- c. Adult entertainment establishments shall be prohibited within one thousand (1,000) feet of any public or private school offering general education for students between the years of kindergarten and twelfth grade.
- d. Adult entertainment establishments shall be prohibited within one thousand (1,000) feet of any public park or playground.
- e. Adult entertainment establishments shall be prohibited within one thousand (1,000) feet of any daycare home or daycare business.

5. *Development Design Standards.*

It shall be unlawful for an owner of an adult entertainment establishment to allow merchandise or activities of the establishment to be visible from a point outside the establishment. Furthermore, adult entertainment establishments shall not allow the exterior to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representation of any manner depicting specified anatomical areas or specified sexual activities. In addition to the sign regulations identified elsewhere in these zoning regulations, the sign shall not contain any flashing lights or photographs, silhouettes, drawings, or pictorial representations of any manner, except for the name of the enterprise.

6. *Responsibilities of the Operator.*

Every act or omission by an employee constituting a violation of the provisions of these regulations shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be

punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

7. *Minors.*

It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of an adult entertainment establishment at any time that the establishment is open for business. The operator is responsible for monitoring public entrances at all times during regular business hours.

Section 17.7. WIND ENERGY DEVICES.

The purpose of these regulations is to oversee the permitting of wind energy devices in Clay County and to preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of a wind energy devices.

1. *Definitions.*

- a. “Administrator” - means the Clay County zoning administrator
- b. “Commercial Wind Energy Device” – any wind energy device with a nameplate capacity of more than 100kw of which its primary intent is to generate electrical power to be sold to utility or power companies.
- c. “Owner” - shall mean the individual or entity that intends to own and operate the wind energy system in accordance with this ordinance.
- d. “Rotor Diameter” - means the cross sectional dimension of the circle swept by the rotating blades.
- e. “Total Height” - means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.
- f. “Tower” - means the monopole, freestanding, or guyed structure that supports a wind generator.
- g. “Wind Energy Device” - means equipment that converts and then stores or transfers energy from the wind into usable forms of energy. This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, wire, inverter, batteries or other components used in the system.
- h. “Meteorological Tower (or Met Tower)” - Any meteorological, measuring or surveying equipment erected on or attached to any tower, monopole, or guyed structure to verify the wind and weather resources found within a certain area. Meteorological towers are excluded from permitting on both temporary and permanent structures.

2. *Wind Energy Requirements*

- a. Location and Height. Commercial wind energy devices shall not be permitted within any defined residential zoned district. Commercial wind energy devices shall be limited to a total height of 250 feet within 1,200 feet of any residential zoned district. No height limitations shall apply in all other zoning districts, except when located within the airport height limitation zones.

- b. Setbacks. Commercial wind energy devices shall be set back a distance equal to 110% or 1.1 times the total height from any public street right of way, overhead utility lines or adjacent property lines. Commercial wind energy devices, including meteorological towers, shall be setback a distance of no less than 1,200 feet from any residential dwellings.

There shall be no setback requirements with regard to wind energy devices if the adjacent property owner gives written consent to allow such wind energy device to be placed adjacent to the property line. Such consent shall be in writing from the adjacent property owner.

There shall be no setback requirement if the county provides written consent to allow such wind energy device to be placed closer to a public right of way than 110% of the wind energy devices total height. Similarly, there shall be no setback requirement if the appropriate public or private utility provides written consent to allow such wind energy device to be placed closer to overhead utility lines than 110% of the wind energy devices total height.

There shall be no setback requirement if the adjacent property owner will also have wind energy devices located on their property and has granted an overhang easement pursuant to an overhang easement with a wind energy company. In such case, there will be no setback requirements if both parties are participating in an overhang easement with a wind energy company which grants the participating parties mutual overhanging easements.

- c. Special Exception. All wind energy devices, wind energy towers or meteorological towers erected in any zoning district shall be granted as a special exception use and approved by the Board of Adjustment after a public hearing.
- d. Access. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- e. Electrical Wires. All electrical wires associated with a wind energy device, other than wires necessary to the operation of the wind turbine itself shall be located underground.
- f. Lighting. A wind energy device shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.
- g. Appearance, Color, and Finish. The wind energy device shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless approved in the special exception use permit.
- h. Signs. All signs visible from any public road, other than the manufacturer's or installer's identification or appropriate warning signs shall be prohibited.
- i. Code Compliance. A wind energy device shall comply with all applicable state construction and electrical codes, and the National Electrical Code.
- j. Utility notification and interconnection. Wind energy devices that connect to the electric utility shall comply with all local, State of Iowa and Federal regulations regarding the connection of energy generation facilities.

- k. Sound. Sound produced by wind energy devices under normal operating conditions, as measured at the property line shall: a) not produce sound at a level that would constitute a nuisance; b) shall comply with any local ordinance regulating the volume of sound as a nuisance, if applicable. Sound levels, however, may be exceeded during short term events out of anyone's control, such as utility outages and/or severe wind storms.
- l. Climbing Apparatus. The tower must be designed to prevent climbing within the first ten feet (10').
- m. Electromagnetic Interference. All wind energy devices shall be designed and constructed so as not to cause radio and television interference. If it is determined that the wind energy device is causing electromagnetic interference, the owner shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, subject to the approval of the appropriate county authority. A zoning compliance permit granting a wind energy device may be revoked if electromagnetic interference from such device becomes evident.
3. Permit Requirements. A zoning compliance permit shall be required for the installation of a wind energy device. The zoning compliance permit application shall be accompanied by a site plan which includes the following:
- Location of the proposed wind energy device(s)
 - Wind energy device specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed)
 - Tower foundation blueprints or drawings and tower blueprint or drawing
 - Site layout, including location of property lines, wind turbines, electrical wires, connection points with electrical grid, and related accessory structures. The site layout shall be drawn to scale.
 - Documentation of land ownership or legal control of the property on which such devices will be located.
 - FAA Permit Application
 - Any applicable fees for a zoning compliance permit and a special exception use permit shall be paid at the time of permit application.
4. Notification. Notice shall be given by ordinary mail to all adjacent property owners and owners of property within 500' of the proposed site(s) for which the special exception use is requested.
5. Discontinuance. Any commercial wind energy device that is out-of-service for a continuous one (1) year period will be deemed to have been abandoned and discontinued for use. At such time the wind energy device is determined to be abandoned, the owner shall remove the wind energy device at the owner's expense within 6 months of receipt of notice. If the owner fails to remove the wind energy device, the zoning administrator may pursue legal action against the owner of such wind energy devices.
6. Penalty. It shall be unlawful for any person, firm or corporation to construct, install, or operate a wind energy device that is not in compliance with this ordinance or with any special conditions contained in the special exception use permit. Wind energy devices installed prior to the adoption

of this ordinance are exempt. The zoning administrator may enter any property for which a permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met. Any person who fails to comply with any provision of this ordinance or a special exception use permit shall be subject to enforcement and penalties as stipulated in Article XXIII.

Section 17.8. SMALL WIND ENERGY DEVICES.

The purpose of these regulations is to permit, but regulate the safe, effective, and efficient use of small wind devices for personal or residential use and installed to reduce the on-site consumption of utility supplied electricity.

1. *Definitions.* The definitions in Section 17.7 shall also apply to this section in addition to the definition below.

- a. “Small Wind Energy Device” - means a wind energy system that is used to generate electricity and has a nameplate capacity of 100kw or less. Wind energy devices with a generating capacity of 20kw or less may be used for residential or personal use. Wind energy devices with a generating capacity between 20kw and 100kw is considered small wind energy for commercial/industrial applications. A wind energy device is considered “small” only if it supplies electrical power solely for on-site use, except that when a parcel on which the system is installed also receives electrical power supply by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company in accordance with Section 199, chapter 15.11 (5) of the Iowa Administrative Code.

2. *Small Wind Energy Requirements.*

- a. Allowance. Small wind energy devices designed, marketed and sold with a nameplate capacity of 100kw or less, shall be considered a special exception use in all zoning districts.
- b. Placement. Small wind energy devices designed for residential or personal use shall be erected on either a freestanding pole or tower. In all residential zoned districts, no small wind energy device or accessory structures shall be permitted within the front yard.
- c. Height. No height limitations shall apply, except when located within the airport height limitation zones.
- d. Setbacks. Small wind energy devices located on a freestanding pole or other tower structure must maintain a setback distance equal to 110% of its total height from any public street or road right-of-way, overhead utility lines or adjacent property lines not under the same ownership unless written permission is granted by the property owner or entity with jurisdiction over the street, utilities or adjacent properties.
- e. Special Exception. A small wind energy device, wind energy tower or meteorological tower erected in any zoning district shall be granted as a special exception use and approved by the Board of Adjustment after a public hearing.

- f. Access. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
 - g. Electrical Wires. All electrical wires associated with a wind energy device, other than wires necessary to the operation of the device itself shall be located underground.
 - h. Lighting. A small wind energy device shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.
 - i. Appearance, Color, and Finish. All small wind energy devices shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless approved in the special exception use permit.
 - j. Utility notification and interconnection. No small wind energy devices shall be installed until evidence has been given that the utility company has authorized interconnection of the small wind device to its electric distribution or transmission, under an agreement approved by and subject to regulation adopted by the Iowa Utilities Board. Wind energy devices not connected to a public utility system shall be exempt from this requirement.
 - k. Sound. Sound produced by small wind energy devices under normal operating conditions, as measured at the property line shall: a) not produce sound at a level that would constitute a nuisance; b) shall comply with any local ordinance regulating the volume of sound as a nuisance, if applicable. Sound levels, however, may be exceeded during short term events out of anyone's control, such as utility outages and/or severe wind storms.
 - l. Electromagnetic Interference. All small wind energy devices shall be designed and constructed so as not to cause radio and television interference. If it is determined that the small wind energy device is causing electromagnetic interference, the owner/operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, subject to the approval of the county. A permit granting a small wind energy device may be revoked if electromagnetic interference becomes evident.
3. *Permit Requirements*. A zoning compliance permit shall be required for the installation of a small wind energy device.
 4. *Notification*. The same provisions apply as identified in Part 6. of Section 17.7.
 5. *Penalty*. The same provisions apply as identified in Part 8. of Section 17.7.

Section 17.9. MINOR MODIFICATION TO DISTRICT REGULATIONS.

The zoning administrator shall be responsible for reviewing applications and approving or denying minor modifications from the requirements of the zoning district regulations. The intent behind minor modifications is to allow minor area, lot, setback and height exceptions for principal and accessory buildings and structures.

1. *Minor Modification Limitations*. The following exceptions are permitted without variance to this ordinance.

- a. Reduction of required side yard setbacks by no more than one foot (1'), but in no instance shall a side yard be less than five feet (5');
 - b. Reduction of required rear and corner yard setbacks by no more 10% of the required setback;
 - c. Reduction of minimum lot area requirements by no more than 10% of the required standard;
 - d. Exception to the height requirements by no more than two feet (2');
 - e. Exceed the maximum lot coverage ratio by 10%;
 - f. Reduction of front, rear, side or corner yard setbacks to allow for construction of an addition in line with an existing portion of the building or structure.
 - g. Reduction of required residential front, rear and side yard setbacks without limit as required to provide handicapped access ramps to a dwelling or building;
 - h. Reduction of front, rear, and side yard setbacks without limit to allow reconstruction of a historically accurate structure.
 - i. Construct an addition to a principal structure that would cause existing detached accessory structures to become nonconforming.
2. *Application.* The application for a minor modification shall be submitted on a form provided by the zoning administrator (the application may be the county's variance application) and must contain a sufficient site plan and other exhibits as appropriate to illustrate the request.
 3. *Fee.* A fee, determined by resolution of the Board of Supervisors, shall accompany the application.
 5. *Review Criteria.* Before a minor modification can be granted, the zoning administrator shall establish that the following standards are satisfied.
 - a. The minor modification will not be detrimental to the public health, safety or general welfare of the county.
 - b. The minor modification will not have a substantial negative impact upon neighboring properties.
 - c. The minor modification does not authorize a use or activity not otherwise expressly authorized by the regulations within the zoning district in which the property is located.
 - d. The minor modification is the minimum necessary to achieve the desired result.
 - e. The minor modification does not alter the applicant's obligation to comply with other applicable laws or regulations of this ordinance.
 6. *Authorization.* The zoning administrator shall issue a decision to approve, approve with conditions or deny the minor modification. The decision will include the findings upon which the approval or denial is based. The denial of a minor modification shall not prevent the applicant from seeking approval of a variance for the same project from the Board of Adjustment pursuant to Section 24.6 of this ordinance.

ARTICLE XVIII

Site Plans

Article 18: Site Plans

- Section 18.1. Intent
- Section 18.2. Legal Information
- Section 18.3. Site Plan

Section 18.1. INTENT.

Site plans are required for new construction of permitted or special exception buildings and structures in any district, and shall comply with and illustrate the following. Accessory uses, buildings and structures, decks and patios, interior remodeling projects, and those exterior projects that do not change the size, cubic content or building footprint are exempt from site plan requirements. Although site plans according to this article are not required for such accessory uses or other remodeling or interior projects, it does not imply that such uses are exempt from the zoning permit process and any site drawings or plans required of the zoning permit application.

Section 18.2. LEGAL INFORMATION.

One (1) copy of the site plan shall be presented to the county and include the following:

- a. Legal property owners name and description of property.
- b. Appellant's name, requested land use and zoning.
- c. If the appellant is other than the legal owner, the appellant's interest shall be indicated and the legal owners' authority to appeal shall be submitted in a certified legal form.

Section 18.3. SITE PLAN.

One (1) copy of the site plan shall be presented to the county and clearly illustrate the following:

- a. Property boundary lines, dimensions and total area.
- b. If substantial topographic change is proposed, contour lines at intervals of not more than one foot (1') may be requested by the zoning administrator.
- c. The availability and location of existing utilities.
- d. The proposed location, size, shape and type of all buildings or structures.
- e. The total square feet of all proposed buildings, both individually and collectively.
- f. The number of dwelling units or building units (if multiple units are involved)
- g. Parking areas, number of parking spaces proposed, number of parking spaces required by this ordinance, type of surfacing to be used, etc.
- h. Walkways, driveways, outside lighting, walls, fences, signs, monuments, statues and other man-made features to be used in the landscape.

ARTICLE XIX Off Street Parking

Article 19: Off Street Parking

Section 19.1.	Intent
Section 19.2.	General Parking Area and Surface Requirements
Section 19.3.	Off Street Parking Requirements
Section 19.4.	Computation of Parking Spaces
Section 19.5.	Location and Type of Parking
Section 19.6.	Off Street Loading Requirements

Section 19.1. INTENT.

It is the intent of this article to prevent traffic congestion and to provide for proper traffic safety by preserving the public thoroughfares for the unimpaired movement of pedestrian and vehicular traffic. Therefore, after the effective date of this ordinance, in all districts, there shall be provided at the time any new building or structure is erected, off-street parking spaces in accordance with the requirements set forth herein. The requirements of this Article are minimum standards, and in certain uses these requirements may be inadequate. Where review of the site plans and intended land use indicated within the application of proven standards or experienced statistics that the requirements herein are inadequate for the specific land use adaptation, a greater requirement for off-street parking may be required to preserve the intent of this ordinance.

Section 19.2. GENERAL PARKING AREA AND SURFACE REQUIREMENTS.

All off-street parking areas as required in this Section shall comply with the following minimum area and surface requirements.

1. All buildings and structures erected and all uses of land in all districts established after the effective date of this ordinance shall provide accessory parking and loading facilities as required under this section, unless a building permit has been issued and construction is begun at least six (6) months prior to the effected date of this ordinance.
2. Owners of two (2) or more uses or parcels of land may agree to jointly utilize the same parking spaces provided that satisfactory legal evidence is presented in the form of deeds, leases, or contract documents to establish such a joint area of use.
3. A “parking space” shall be not less than 180 square feet (typically 9' in width by 20' in length).
4. Parking spaces shall be surfaced with portland cement, concrete, asphaltic concrete or equivalent hard surface including gravel or rock.
5. Enclosed parking areas or garages shall qualify to meet the minimum parking space requirements under this section.
6. All yard area except the front yard within residential zoned districts may be used for off-street parking; however, parking may be permitted in front yards only on a surfaced driveway.
7. Requirements as to number and size of parking space in this section are minimum requirements only and shall not be construed as limitations.

8. Willful failure to permanently maintain and provide parking spaces as required under this section shall be deemed in violation of this ordinance and subject to the penalty listed in Article XXIII.

Section 19.3. OFF STREET PARKING REQUIREMENTS.

In all districts in connection with every industrial, commercial, business, trade, institutional, recreational or dwelling use and similar uses, space for parking and storage of vehicles shall be provided in accordance with the following schedule:

- | | |
|---|--|
| 1. Single Family Residential: | 2 spaces |
| 2. Multiple Family Residential: | 1.5 spaces per dwelling unit |
| 3. Mobile Home Residential: | 2 spaces per each mobile home dwelling |
| 4. Lodging Facilities:
(<i>e.g. hotel, motel, bed & breakfast inn</i>) | 1 space per each sleeping room, plus
1 space for each two (2) employees |
| 5. Healthcare Facilities:
(<i>e.g. hospitals, medical clinics, etc.</i>) | 1 space for each four (4) hospital beds, plus
1 space for each two (2) employees |
| 6. Nursing, Assisted Living,
and retirement homes | 1 space for each eight (8) beds, plus 1 space
for each three (3) employees, plus 1 space
for each resident staff. |
| 7. Public Assembly:
(<i>e.g. churches, auditoriums, theaters, etc.</i>) | 1 space for each six (6) seats of seating
capacity |
| 8. Dance hall, Township Hall, Assembly Hall: | 1 space for each 300 sq. ft. of gross floor area |
| 9. General Retail Sales/Offices: | 1 space per 300 feet of gross floor area. |
| 10. Auto Sales and Auto Service | 1 space per 1,000 sq. ft. of gross floor area,
plus 1 space for each two (2) employees |
| 11. Bowling Alleys | Five (5) spaces for each lane |
| 12. Restaurants: | 1 space for each four (4) seats, plus 1 space
for each two (2) employees |
| 13. Lounges/Bars/Taverns/Night Clubs: | 1 space for each two (2) seats or 1 space per
150 sq. ft. of gross floor area, whichever is greater |
| 14. Educational Facilities: | 1 space for every six (6) seats in the largest
facility for public assembly or 1 space per
each regular employee, whichever is greater. |
| 15. Manufacturing/Wholesale/Warehousing: | 1 space for every three (3) employees on the
largest shift, but in no case less than one 1
space for each 1,000 sq. ft. of gross floor area. |

- | | |
|---|--|
| 16. Industry/Biotechnical/Research: | 1 space for every two (2) employees on the largest shift, but in no case less than one 1 space for each 1,000 sq.ft. of gross floor area. |
| 17. Salvage Yards/Scrap Yards/Junk Yards: | One (1) space per one hundred (100) sq. ft. of display or floor area |
| 18. Campgrounds, camp site or RV parks: | One (1) space per one (1) camping or RV site |
| 19. All Other Uses: | All other buildings having a gross floor area of more than two thousand (2,000) sq. ft. shall provide one off-street parking space for each one thousand (1,000) sq. ft. of floor space. |

Section 19.4. COMPUTATION OF PARKING SPACES.

1. Where the use of any building, structure or premises is not specifically mentioned herein, the provisions for a similar use which is so mentioned above shall apply, as determined by the zoning administrator.
2. Where fractional spaces occur, the parking spaces required shall be increased to the next whole number.
3. Whenever a building or use constructed or established after the effective date of this ordinance is changed, altered, or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten percent (10%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this ordinance is enlarged to the extent of fifty percent (50%) or more in floor area or in the area used, said building or use shall then and thereafter comply with the parking requirements set forth herein.
4. In the case of mixed or joint uses, the parking spaces required shall equal the sum of the requirements of the various uses if computed separately.

Section 19.5. LOCATION AND TYPE OF PARKING.

Off-street parking areas in residential zoned districts shall be provided on the same lot with the principal use. Every parcel of land hereafter used as a public or private parking area, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements:

1. Off-street parking spaces may occupy all or part of any required yard or open space, subject to the provisions of this section; except that no required off-street parking areas shall be located in any front yard in a residential zoned district.
2. All required off-street parking areas, including any commercial parking lot, of more than five (5) spaces shall be surfaced with asphalt, concrete, or other similar hard surfaced materials as

approved by the County Engineer so as to provide a durable and dustless parking surface. Parking areas shall be graded and drained to dispose of surface water accumulation on the lot, and shall be arranged and marked to provide for orderly and safe ingress and egress and storage of vehicles.

3. Any lighting used to illuminate off-street parking areas shall be arranged to reflect light away from adjacent lots and uses of land.
4. In cases when commercial or other non-residential parking lots adjoin a residential district, parking areas shall be at least five feet (5') from the property line and effectively screened by the use of a fence, hedge, or other similar methods.
5. Where a parking lot does not abut on a public or private street, road, alley or easement of access, there shall be provided an access drive not less than ten feet (10') in width in case of a dwelling, and not less than twenty feet (20') in width in all other cases leading to the parking or storage areas required hereunder in such manner as to secure the most appropriate development of the property in question; provided, however, such easement of access or access drive shall not be located in any agricultural or residential district, except where serving a permitted use in an agricultural or residential district.

Section 19.6. OFF STREET LOADING REQUIREMENTS.

At the time of construction, alteration, or enlargement of any building, or part thereof hereafter erected, having a gross floor area of ten thousand (10,000) square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building, at least one (1) permanently maintained off-street loading space plus one (1) additional loading space for each twenty thousand (20,000) square feet or major fraction thereof of gross floor area, so used, in excess of ten thousand (10,000) square feet.

1. Each loading space shall be no less than twelve feet (12') in width, forty feet (40') in length.
2. Such loading space may occupy all or any part of any required side or rear yard or open space, except where adjoining a residential district. If the loading space is adjacent to a residential district, it shall be set back at least ten feet (10') and be effectively screened from view.
3. All loading, unloading and parking must be conducted on private property and cannot be conducted on the public right-of-way, except for designated or approved delivery, parcel or moving vehicles intended for temporary parking and unloading. Furthermore, parking of vehicles or loading and unloading may be allowed on the public right-of-way or any street by the Board of Adjustment or Board of Supervisors during county-wide or township events, celebrations, or other special events.

ARTICLE XX Sign Regulations

Article 20: Sign Regulations

Section 20.1.	Intent
Section 20.2.	Definitions
Section 20.3.	Sign Requirements
Section 20.4.	Billboards and Off-Premise Signs
Section 20.5.	Special Exceptions
Section 20.6.	Additional Regulations
Section 20.7.	General Sign Provisions
Section 20.8.	Unsafe and Unlawful Signs
Section 20.9.	Removal of Signs
Section 20.10.	Exempt Signs
Section 20.11.	Nonconforming Signs
Section 20.12.	Sign Permits

Section 20.1. INTENT.

These regulations are established to protect the health, safety, general welfare and order within Clay County through the establishment of comprehensive and uniform sign standards, regulations and procedures governing the type, number, size, structure, location, height, lighting, erection, use or display of devices, signs, or symbols serving as a visual communications media. Sign regulations are intended to encourage opportunity for effective, aesthetically compatible, and orderly communication by reducing confusion and hazards resulting from unnecessary or indiscriminate use of signs. Hereafter no sign shall be erected, constructed, altered, or modified except as regulated by the provisions of this Article.

Section 20.2. DEFINITIONS.

For use in this article, the following terms are defined.

- 20.2.1 **AWNING:** A device made of cloth, metal, or other material affixed to and projecting from a building in such a manner that the device is either permanently fixed or so erected as to allow it to be raised or retracted and return to a flat position against the building when not in use.
- 20.2.2 **BILLBOARD:** As used in this ordinance shall include all structures, regardless of the material used in the construction of the same that are erected, maintained or used for public display of posters, painted signs, wall signs, whether the structure be placed on the wall or painted on the wall itself, pictures or other pictorial reading material which advertise a business or attraction which is not carried on, manufactured, grown or sold on the premises which said signs or billboards are located.
- 20.2.3 **ERECT:** To build, construct, attach, hang, suspend or affix, and shall also include the painting of wall signs.
- 20.2.4 **FACING (or SURFACE):** The surface of the sign upon; against or through which the message is displayed or illustrated on the sign.
- 20.2.5 **INCOMBUSTIBLE MATERIAL:** Material that will not ignite at or below a temperature of 120 degrees Fahrenheit and will not continue to burn or glow at that temperature.

20.2.6 PERSON: Any one being, firm, partnership, association, corporation, company or organization of any kind.

20.2.7 SIGN: An identification, description, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure or land and which directs attention to a product, place, activity, person, institution or business, and are visible to the general public.

- a. ABANDONED SIGN: A sign which no longer correctly directs any person, advertises a business, lessor, owner, product, or activity.
- b. ADDRESS SIGN: A sign communicating street address only, whether written or in numerical form.
- c. AWNING SIGN: A sign consisting of either an operating or permanently affixed awning containing letters, graphics, pictures, or other images which portray the business or other advertising of the establishment in which it is attached to. Awning signs shall not encroach more than four (4) feet out in front of a building, but shall meet all other size requirements addressed in this chapter. Permanent awnings may be lighted (from the backside); however, awning signs shall not have any flashing, strobe, or otherwise intermittent light emitting from the awning sign.
- d. CAMPAIGN SIGN: A temporary sign promoting the candidacy of a person running for a governmental office, or promoting an issue to be voted upon at a governmental election.
- e. CONSTRUCTION SIGN: A sign placed at construction site identifying the project or the name of the architect, engineer, contractor, financier or other involved parties.
- f. DIRECTIONAL SIGN: A sign erected on public or private property which bears the address and name of a business, institution, church, or other use or activity plus directional arrows or information on location.
- g. FLASHING SIGN: Any illuminated sign that has artificial light or color which is not maintained at a constant intensity or color when such sign is in use. A sign providing public service information, such as time, weather, date, temperature or similar information, shall not be considered a flashing sign.
- h. FREE STANDING SIGN: Any sign or sign structure, not securely attached to the ground or to any other structure. This shall not include trailer signs as defined in this section
- i. GOVERNMENTAL SIGN: A sign which is erected by a governmental unit.
- j. ILLUMINATED SIGN: Any sign which has character, letters, figures, designs or outline illuminated by electric lights or luminous tubes as a part of the sign proper.
- k. INFORMATION SIGN: Any sign giving information to employees, visitors or delivery vehicles, but containing no advertising or identification.
- l. JOINT IDENTIFICATION SIGN: A free-standing sign which identifies a subdivision, a multiple residential complex consisting of three (3) or more structures, a shopping center

consisting of three (3) or more separate business concerns, an industrial area, an office complex consisting of three (3) or more structures or any combination of the above.

- m. **NON-CONFORMING SIGN:** A sign which lawfully existed at the time of the passage of this Ordinance or amendments thereto but which does not conform to the regulation of this ordinance.
 - n. **POLE SIGN:** Any sign which is supported by structures or supports in or upon the ground and independent of support from any building.
 - o. **PORTABLE SIGN:** Any sign not permanently attached to a building, structure, or the ground, capable of being moved at periodic intervals.
 - p. **PROJECTING SIGN:** A sign, other than a wall sign, which projects perpendicular to the wall surface of a building or structure, and is supported by a wall of the building or structure.
 - q. **REAL ESTATE SIGN:** A business sign placed upon a property advertising that particular property for sale, for lease or for rent.
 - r. **ROOF SIGN:** A sign erected upon or above a roof or parapet of a building or structure.
 - s. **SWINGING SIGN:** A sign installed on an arm or spar that is not, in addition, permanently fastened to an adjacent wall or upright pole.
 - t. **TRAILER SIGN:** Any sign mounted on a vehicle normally licensed by the State of Iowa as a trailer and used for advertising or promotional purposes.
 - u. **WALL SIGN:** All flat signs of solid face construction placed against a building or other structure and attached to the exterior front, rear or side wall of any building or other structure. Such signs may extend no more than twelve (12) inches from the surface of the building or structure to which they are attached. Wall signs are also known as "flush mounted signs".
- 20.2.8 **SIGN AREA:** The surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of such forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.
- 20.2.9 **SIGN STRUCTURE:** The supports, uprights, bracing and framework for a sign including the sign area.
- 20.2.10 **STREET LINE (or PROPERTY LINE):** The place where the street right of way line begins and the private property line ends.
- 20.2.11 **STRUCTURAL TRIM:** The molding, battens, cappings, nailing strips, latticing and platforms that are attached to the sign structure.
- 20.2.12 **TEMPORARY SIGN:** Any sign erected or displayed for a specified period of time.

Section 20.3. SIGN REQUIREMENTS.

Signs and billboards in conjunction with principal permitted non-agricultural uses are allowed subject to the following regulations:

1. *All Residential(R-1 through R-5) and Floodplain Conservation (A-2) Districts.*
 - a. Home occupation signs are allowed subject to the requirements in Section 17.4.
 - b. Signs, for non-residential businesses located in residential areas, shall be limited to no more than forty (40) square feet on one (1) free standing sign not to exceed a height of six (6) feet from the ground to the top of the sign. One (1) additional wall mounted sign not to exceed six (6) square feet is also permitted for non-residential businesses.
 - c. Prohibited signs:
 1. Any flashing, revolving, rotating, or motion signs
 - d. Permitted sign types:
 1. Address sign
 2. Real Estate sign
 3. Government sign
 4. Campaign sign
 5. Directional sign
 6. Wall sign
 7. Pole sign
 8. Portable (or temporary) sign
 9. Informational sign
 10. Construction Signs
2. *Agriculture (A-1), General Commercial (C) and all Industrial (I-1 and I-2) Districts.*
 - a. All signs shall be limited to:
 - (i) Identifying uses conducted on the property
 - (ii) Identifying the commercial enterprise by name or symbol
 - (iii) Necessary for directional purposes
 - (iv) Used to advertise the sale or lease of real property on buildings on which displayed
 - b. Exterior signs located on the street frontages of principal buildings referring only to a use or uses located within the building and attached or integral thereto, provided that:
 - (i) Such signs shall not have an aggregate surface area in excess of twenty-five (25) percent of the total surface area of the building elevation to which they are attached;
 - (ii) Signs which project out from the building more than eighteen (18) inches must be at least twelve (12) feet above grade and may project a maximum of six (6) feet; and
 - (iii) No sign shall project more than four (4) feet above the roof line or parapet when one exists.
 - c. One (1) free standing or post sign referring only to a use or uses conducted on the premises may be erected in any yard abutting a public street, provided that:

- (i) Such signs shall not have a surface area in excess of forty (40) square feet on any one (1) side and that not more than two (2) sides of such signs shall be used for advertising purposes; and
 - (ii) The bottom of the surface area of such signs shall not be less than twelve (12) feet above grade.
- d. All signs shall be fixed and shall not be audible. No intermittent flashing-type signs are permitted and no sign or illumination shall be revolving or animated, except for scrolling marquee or digital signs. No signs shall have moving parts including devices set in motion by movement of air.
 - e. Signs may extend up to fifteen (15) feet above the roof line or parapet where one exists.
 - f. Bulletin boards and signs pertaining to the use of the premises or to the lease, hire or sale of building or premises, or signs pertaining to any material that is mined, grown, or treated within the district, are permitted provided that such signs shall not exceed sixteen (16) square feet in area.
 - g. Permitted sign types:
 - 1. Real Estate sign
 - 2. Government sign
 - 3. Address sign
 - 4. Campaign sign
 - 5. Directional sign
 - 6. Roof sign
 - 7. Informational sign
 - 8. Illuminated sign
 - 9. Joint Identification sign
 - 10. Wall sign
 - 11. Pole sign
 - 12. Freestanding sign
 - 13. Portable (or temporary) sign
 - 14. Projecting sign (not to encroach in the R.O.W.)
 - 15. Swinging sign (not in encroach in the R.O.W.)
 - 16. Awning sign
 - 17. Construction sign
 - 18. Portable (or Temporary) sign (so long as they do not impede upon the use of a public road or street or right-of-way)

Section 20.4. BILLBOARDS AND OFF-PREMISE SIGNS.

- 1. Billboards and all other off-premise outdoor advertising signs are limited to three hundred (300) square feet, and must not impair sight distance or create a traffic hazard.
- 2. Off-premise outdoor advertising signs and billboards shall comply with all state and federal regulations.
- 3. Billboard and off-premise outdoor advertising signs are not permitted in any residential zoning district.

4. No sign or billboard which faces any public parkway, public square or entrance to any public park, public or parochial school, churches or cemetery or similar institution shall be permitted within three hundred (300) feet thereof;
5. Where the total contiguous area of the commercial district in which the sign or billboard is to be located is less than ten (10) acres in area, exclusive of streets and alleys, prior recommendation must be obtained from the Planning and Zoning Commission and approval granted by the Board of Supervisors; and
6. No billboard or other off-premise outdoor advertising signs shall be permitted within 1,000 feet of another billboard or off-premise outdoor advertising sign.

Section 20.5. SPECIAL EXCEPTIONS.

Any sign type may be granted special exception status after review by the Board of Adjustment and subject to any conditions deemed by the Board to be appropriate.

Section 20.6. ADDITIONAL SIGN REGULATIONS.

In all districts, signs and billboards shall adhere to pertinent state regulations and other local ordinances.

Section 20.7. GENERAL SIGN PROVISIONS.

The following signs are allowed with a permit and shall comply with all other applicable provisions of this ordinance.

1. *Ground Signs and/or Pole Signs.* All letters, figures, characters or representations in cut-out or irregular form, maintained in conjunction with, attached to, or superimposed upon any sign shall be safely and securely built or attached to the sign structure. All ground signs and the premises surrounding the sign structure shall be maintained by the owner thereof in a clean, sanitary and inoffensive condition, and free of obnoxious rubbish and weeds.
2. *Wall Signs:* No wall sign shall cover wholly or partially any wall opening, nor project beyond the ends of the wall to which it is attached.
3. *Free Standing Signs:* Free standing signs will be permitted if they do not block the view of oncoming traffic, conform to the Iowa Department of Transportation regulations, and are not located within any public right-of-way.
4. *Bulletin Board, Sale and Construction Signs:* In all zoning districts, one temporary bulletin board or sign not to exceed fifty (50) square feet in area pertaining to construction, lease, hire or sale of a building, premises or subdivision lots; which sign shall refer to property on which the sign is located, and shall be removed as soon as the premises are sold or leased or construction completed;
5. *Signs not to Constitute Traffic Hazards:* No sign or advertising structure permitted by this ordinance shall be erected at the intersection of any streets in such a manner as to obstruct free and clear vision; or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or

device; or which makes use of the words, "STOP", "LOOK", "DRIVE-IN", "DANGER" or any other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse traffic. No sign or other advertising structure as regulated by this ordinance shall have posts, guides or supports located within any street or alley.

6. *Interference*: No sign, nor any guys, stay or attachment thereto shall be erected, placed or maintained by any person on rocks, fences, or trees; nor in such a manner as to interfere with the effective use of fire fighting equipment or personnel, or any electric light, power, telephone, telegraph or TV cable wires or supports thereof.
7. *Signs in Right-of Way*: No signs other than government signs shall be erected or temporarily placed within any public rights-of-way, except as may be specifically provided herein.
8. *Safe Ingress and Egress*: No sign or part thereof shall be erected or maintained so as to prevent or deter free ingress and egress from any door, window, or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.
9. *Signs Required by Law*: All signs required by law shall be permitted in all districts.
10. *Back to Back Signs*: If a free-standing sign or sign structure is constructed so that the faces are not back to back, the angle shall not exceed thirty degrees. If the angle is greater than thirty degrees, the total area of both sides added together shall be the calculated sign area. Back to back signs (when less than thirty degrees) shall be considered as one sign when debited against the total number of signs permitted on one zoning lot.
11. *Illumination*: All externally illuminated signs shall be constructed so as to direct the source of light away from adjacent properties or public streets.
12. *Animated Signs*: Animated signs, including scrolling marquee signs, electronic message boards, and digital screen signs may be allowed as a special exception requiring a hearing before the Board of Adjustment.

Section 20.8. UNSAFE AND UNLAWFUL SIGNS.

All signs and sign structures, including billboards, shall be properly maintained and kept in a safe, orderly condition. Signs shall also maintain a neat and orderly appearance in which the sign is easily read. Additionally, all parts and supports shall be properly painted. Any sign or sign structure which is rotted, unsafe, deteriorated, defaced, or otherwise altered, shall be repainted, repaired, or replaced by the property owner or agent of the owner of the property upon which the sign is located, after written notice by Clay County. Such notice shall include a statement explaining alleged violations and deficiencies, an order to repair or remove said sign and an explanation of the consequences of failure to comply with said order. If the permit holder fails to remove or alter said sign to comply with the order, said sign or other advertising structure may be removed or altered to comply by the zoning administrator at the expense of the permit holder, or owner of the property on which it is located. The permit holder may appeal the order of the zoning administrator to the Board of Adjustment and, if such an appeal is on file, the compliance period shall be extended until following the board's decision on the matter. If, however, the

zoning administrator finds that any sign or other advertising structure poses an immediate threat to the health or safety of any person, the removal of such sign may be summarily ordered without notice to the permit holder.

Section 20.9. REMOVAL OF SIGNS.

Any sign now or hereafter existing which no longer advertises a bona fide business conducted, or a product sold, shall be taken down and removed by the owner, agent or person having the beneficial use of the building or structure upon which such sign may be found within ninety (90) days from date of notice provided by Clay County. The owner of the property on which the sign is located shall have ninety (90) days from date of notice to remove any such sign. If after the expiration of the ninety (90) day period, the sign has not been removed, the county may cause the sign to be removed and any expenses may be charged back to the property owner.

Section 20.10. EXEMPT SIGNS.

The provisions and regulations of this ordinance shall not apply to the following signs, provided however, said signs shall comply with all other applicable provisions of this ordinance.

1. Government Signs: Signs of a public, non-commercial nature to include safety signs, danger signs, trespassing signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques and the like, when signs are erected by or on order of a public officer or employee in the performance of official duty.
2. Directory Signs: A wall sign which identifies the business, owners, manager, or resident occupant and sets forth the occupation or other address information but contains no advertising. There may be one directory sign per zoning lot not to exceed two (2) square feet of area per business or resident occupant.
3. Parking Signs (on site): On-site directional and parking signs intended to facilitate the movement of vehicles and pedestrians upon which the sign is located. Such signs shall not exceed six (6) square feet of area.
4. Address Signs: Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, names of occupants of the premises or other identification of premises not having commercial connotations.
5. Flags or Insignia: of any government except when displayed in connection with commercial promotion.
6. Legal Notices: Identification, informational, or directional signs intended to provide the general public information;
7. Integral Signs: Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights. Name of buildings, date of construction, commemorative tablets and the like, which are of the building or structure.
8. Traffic Signs: Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
9. Political Signs: are allowed as per Section 306C.22, Code of Iowa.

10. Construction Signs: A non-illuminated sign announcing the names of architects, engineers, contractors, future use, and other individuals or firms involved with the construction, alteration, or repair of such building (but not including any advertisement of any product). Such signs shall be confined to the site of the construction, alteration or repair. One (1) sign shall be permitted for each major street the project abuts.
11. Real Estate Signs (on-site): Any on-site sign announcing the owner, manager, realtor or other person directly involved in the sale or rental of the property.

Section 20.11. NONCONFORMING SIGNS.

Nonconforming signs shall be brought to compliance upon change of ownership or occupancy.

Section 20.12. SIGN PERMITS.

1. Permits Required. It shall be unlawful for any person to erect, repair, alter, relocate, construct, modify or maintain within Clay County any sign or other advertising structure as defined in this ordinance, without first receiving a valid sign permit from the zoning administrator and making payment of the sign permit fee.
2. Sign Permit Application. Application for sign permits shall be provided by the zoning administrator and shall have attached thereto the following information:
 - a. Name, address and telephone number of the applicant.
 - b. Location of building, structure or lot to which or upon which the sign or other advertising structure is to be attached or erected.
 - c. Position of the sign or other advertising structure in relation to nearby buildings or structures.
 - d. Name of person, firm, corporation or association erecting such sign and/or sign structure.
 - f. Written consent of the owner of the building, structure or land on which the sign or sign structure is to be erected.
 - g. Such other information as may be deemed necessary for the proper enforcement of this ordinance.
3. Permit Issued. It shall be the duty of the zoning administrator upon review of a sign permit to examine such plans and specifications, other data, and the premises upon which it is proposed to erect the sign or other advertising structure. If it appears the proposed structure is in compliance with all the requirements of this ordinance and all other ordinances of Clay County, Iowa, the sign permit shall be issued. If the work authorized under a sign permit has not been completed within one (1) year after date of issuance, said sign permit shall be null and void.
4. Permit Fees. The applicant shall pay to the County Treasurer a fee in the amount established by resolution of the Board of Supervisors.
5. Revocation of Permit. Any permit holder who fails to comply with a valid order of the zoning administrator within the allotted time, or who fails to pay reasonable removal or repair expenses shall have the sign permit revoked. Another sign permit for the erection or maintenance of such sign or signs shall not be issued to the permit holder for a period of one (1) year from the date of revocation.

ARTICLE XXI

Nonconforming Uses

Article 21: Nonconforming Uses

Section 21.1	Intent
Section 21.2	Nonconforming Uses of Land
Section 21.3.	Nonconforming Structures in Any "R" or "A" Districts
Section 21.4.	Nonconforming Structures in Any "C" or "I" Districts
Section 21.5	Replacing Damaged Buildings
Section 21.6	Uses Under Exception Provisions Not Nonconforming Uses
Section 21.7	Change of Tenancy or Ownership

Section 21.1. INTENT.

It is the intent of this ordinance to permit legal nonconforming lots, structures or uses to continue until they are removed but not to encourage their continuance. Within the various districts established by this ordinance or subsequent amendments that may later be adopted there exists lots, structures and uses of land and structures which were lawful prior to the adoption of this ordinance but which would be prohibited, regulated, or restricted under the provisions of the ordinance or future amendments. Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this ordinance that such nonconformities shall not be enlarged upon, expanded or extended; nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of existing building has been substantially begun prior to rebuilding such demolition or removal shall be deemed to be actual construction, providing that work shall be diligently carried on until completion of the building involved.

A nonconforming uses of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by addition of other uses of a nature which would not be permitted generally in the district involved.

Section 21.2. NONCONFORMING USES OF LAND.

Within the various district established by this ordinance or amendments that may later be adopted there exists structures and uses of land which was lawful prior to the adoption of this ordinance but which would be prohibited, regulated, or restricted under provisions of this ordinance. It is the intent of this ordinance to permit these non-conformities to continue until they are removed, but not to encourage their continuance. Such uses may be continued, so long as they remain otherwise lawful, subject to the following provisions:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.
3. If such nonconforming use of land ceases for any reason for a period of more than six (6) months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

Section 21.3. NONCONFORMING STRUCTURES IN ANY “R” or “A” DISTRICTS.

Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure or premises devoted to a use not permitted by this ordinance in the district in which such structure or premises is located, except when required by law, shall be enlarged, extended, reconstructed, substituted or structurally altered in any way which increases its nonconformity; unless the use thereof is changed to a use permitted in the district in which such structure or premises is located.
2. Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement costs, exclusive of the foundation, it shall be reconstructed only in conformity with the provisions of this ordinance.
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
4. Substitution. If no structural alterations are made, a nonconforming use of a structure may be changed to another nonconforming use of the same or more restrictive classification. Whenever a nonconforming use has been changed to more restrictive use or to a conforming use, such use shall not hereafter be changed to a less restrictive use.
5. Discontinuance. In the event that a non-conforming use of any building or structure or premises is discontinued for a period of one (1) year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.
6. Where nonconforming use status applies to the land, structures or both, removal or destruction of the structure shall eliminate the nonconforming status of the land; and any subsequent new or reconstruction shall therefore be conforming to the district regulations.

Section 21.4. NONCONFORMING STRUCTURES IN ANY “C” or “I” DISTRICTS.

The regulations described in Section 21.3 above shall apply to this section with the exception that any building in districts other than an “A” or “R” districts devoted to a use made non-conforming

by this ordinance may be structurally altered or enlarged in conformity with the lot area, lot width, yard and height requirements of the district in which situated, provided such construction shall be limited to buildings on land owned of record by the owner of the land devoted to the non-conforming use prior to the effective date of this ordinance. In the event of such structural alteration or enlargement of structures, the premises involved may not be used or any non-conforming use other than the use existing on the effective date of this ordinance, other provisions of this ordinance notwithstanding.

Section 21.5. REPLACING DAMAGED BUILDINGS.

Any non-conforming building or structure, in whole or in part, damaged more than fifty percent (50%) of its replacement value exclusive of the foundations at the time of damage by fire, flood, explosion, war, riot or Act of God shall not be restored or reconstructed and used as before such happening. However, if less than fifty percent (50%) is damaged above the foundation, it may be restored, reconstructed, or used as before provided that such reconstruction or repairs begins within one (1) year of such happening.

Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety upon orders of such official.

Section 21.6. USES UNDER EXCEPTION PROVISIONS NOT NONCONFORMING USES.

Any use for which a special exception is permitted as provided in this ordinance shall not be deemed a nonconforming use, but shall without further action, be deemed a conforming use in such district. Any expansion of a special exception use shall be met with the approval of the Board of Adjustment.

Section 21.7. CHANGE OF TENANCY OR OWNERSHIP.

There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, of structures, or of structures and land in combination.

ARTICLE XXII

Zoning Administration and Enforcement

Article 22: Zoning Administration and Enforcement

Section 22.1	Zoning Administrator
Section 22.2.	Zoning Compliance
Section 22.3	Zoning Permits Required
Section 22.4.	Application for a Zoning Compliance Permit
Section 22.5.	Site Plans
Section 22.6.	Construction and Use to be Provided in Application, Plans & Permit
Section 22.7	Fees
Section 22.8	Special Exceptions
Section 22.9	Administrative Appeals

Section 22.1. ZONING ADMINISTRATOR.

The Clay County Board of Supervisors shall appoint or confirm a zoning administrator and it shall be the duty of said administrator to enforce this ordinance. Such zoning administrator may be a person holding other appointive office in the county or another governmental agency.

Section 22.2. ZONING COMPLIANCE.

If the zoning administrator shall find that any of the provisions of this ordinance are being violated, they shall notify in writing the person responsible for such violations indicating the nature of the violation and ordering the action necessary to correct it. The zoning administrator shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done, or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions.

Section 22.3. ZONING COMPLIANCE PERMITS REQUIRED.

No land shall be occupied or used, and no building or other structures hereafter erected, moved, constructed, reconstructed, added to, placed, or structurally altered shall be occupied or used in whole or in part for any purpose whatsoever until a permit is issued by the zoning administrator, stating that the building and use comply with the provisions of this ordinance. Zoning permits shall be issued in conformance with the provisions of this ordinance, or upon written order from the Board of Adjustment, but shall be null and void if the purpose for which the permit is issued is not commenced within one (1) year from date of issuance. No zoning compliance shall be required for the construction, reconstruction, alterations, remodeling, or expansion of buildings and uses customarily associated with the pursuit of agricultural enterprises in Clay County.

Section 22.4. APPLICATION FOR ZONING COMPLIANCE PERMIT.

Zoning compliance permits shall be obtained from the zoning administrator before starting or proceeding with the erection, construction, moving into, placing, locating or the structural alteration of a building or structure, including billboards. Permits shall be kept on file in the office of the zoning administrator, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building(s) affected. Zoning compliance permits shall be issued to complying applicants within seven (7) days after application is made, unless additional information is required or additional procedures are necessary prior to approval.

Section 22.5. SITE PLANS.

Each application for a zoning compliance permit, involving new construction of a building or structure, shall be accompanied by a site plan prepared in accordance with Article XVII, Site Plans. This shall include sketches of the proposed water supply and sewage disposal systems which would conform to the Iowa Code. In the case of moving an existing building, the application shall be accompanied by photos of the structure to be moved.

Section 22.6. CONSTRUCTION & USE AS PROVIDED IN APPLICATION, PLANS & PERMIT.

Zoning compliance permits issued on the basis of plans and specifications, approved by the zoning administrator, shall authorize only that use, arrangement and construction. Use, arrangement and construction at variance with that authorized by permit shall be deemed a violation of this ordinance and punishable as provided by Article XXIII, Violation and Penalty.

Section 22.7. FEES.

At the time of application for a zoning compliance permit the owner or their agent shall pay to the County Treasurer the permit fee as established by resolution of the Clay County Board of Supervisors. Any city, county, state and federal governments or other tax levying agencies shall be exempt from paying scheduled fees. If application for a zoning compliance permit is made after starting construction, erection, moving in, or structurally altering a building or structure, the fee for said permit shall be equal to two (2) times the amount provided in the fee schedule. If application for a zoning compliance permit is made after completion of construction, erection, moving in, or structurally altering any building or structure the fee for said permit shall be five (5) times the amount provided in the fee schedule. This permit fee shall be in addition to any penalty imposed under Article XXIII, Violation and Penalty, of this ordinance.

Section 22.8. SPECIAL EXCEPTIONS.

A zoning compliance permit for a special exception may be issued by the zoning administrator after review by the Planning and Zoning Commission, if required, and upon order of the Board of Adjustment.

Section 22.9. ADMINISTRATIVE APPEALS.

This procedure is intended to afford review of administrative actions taken pursuant to the zoning ordinance where such actions may be in error.

1. *Appeals:* An appeal of an administrative decision may be made to the Board of Adjustment by any person aggrieved, or by any officer, department, or board of the county affected by any decision or ruling of the zoning administrator. Such notice of appeal shall be filed, within 30 days of the decision being appealed, with the zoning administrator or the Chairperson of the Board of Adjustment, of which such appeal shall specify the grounds thereof. The zoning administrator shall forthwith transmit to the board all papers constituting the record upon which the action being appealed was taken.
2. *Stay of Proceedings:* An appeal from the action of the zoning administrator shall stay all proceedings in furtherance of such action unless the zoning administrator certifies to the Board of Adjustment that by reason of the facts stated a stay would cause imminent peril to life or property. In the event the zoning administrator shall make such determination, the

action shall not be stayed other than by a restraining order that may be granted by the Board of Adjustment or a court of record upon application of the party aggrieved by the action of the zoning administrator.

3. *Action:* The Board of Adjustment shall act on any appeal within 30 days following the closing of a public hearing. In exercising the powers set out in this section, the Board of Adjustment may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may take such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the zoning administrator from whose action the appeal was taken. The board shall notify the appellant of its decision by mail. The concurring vote of three members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the zoning administrator, or to decide in favor of the applicant upon any matter which it is required to pass under these provisions.

ARTICLE XXIII Violation and Penalty

Article 23: Zoning Administration and Enforcement

Section 23.1 Violation and Penalty

Section 23.2. Restraining Order

Section 23.1. VIOLATION AND PENALTY.

Unless provided elsewhere in this ordinance or other county ordinances, any person failing to perform a duty, obtain a zoning compliance permit, or violating the Clay County Zoning Ordinance, or any rule or regulation adopted by reference shall be guilty of a county infraction. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or resists enforcement of this ordinance, with the exception of those provisions specifically provided under State law as a felony, an aggravated misdemeanor, or a serious misdemeanor; or a simple misdemeanor under Chapters 687 through 747 of the Code of Iowa, is a county infraction and punishable by civil penalty as provided herein (*Code of Iowa, Sec. 331.307[3]*).

A county infraction in Clay County, Iowa is punishable under the following civil penalties: (*Code of Iowa, Sec. 331.307[1]*)

1. First offense – not less than \$100 and not to exceed \$750.00, plus court costs
2. Second and repeat offenses – not less than \$100 and not to exceed \$1,000.00, plus court costs; or imprisonment of not more than thirty (30) days

The criminal penalty surcharge imposed by the Code of Iowa (*Code of Iowa, Sec. 911.2*) shall be added to the fine and is not a part of any fine imposed by the county. Each day that a violation is permitted to exist constitutes a separate offense.

Section 23.2. RESTRAINING ORDER.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this ordinance, the County Attorney, in addition to other remedies, may institute any proper action or proceed in the name of Clay County, Iowa, to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent any illegal act, conduct, business or use in or about said premises.

ARTICLE XXIV Board of Adjustment

Article 24: Board of Adjustment

- Section 24.1. Confirmation of Board of Adjustment
- Section 24.2. Membership, Term of Office and Removal
- Section 24.3. Proceedings of the Board of Adjustment
- Section 24.4. Appeals to the Board
- Section 24.5. Powers and Duties
- Section 24.6. Variances
- Section 24.7. Decisions of the Board of Adjustment
- Section 24.8. Appeals from the Board of Adjustment

Section 24.1. CONFIRMATION OF BOARD OF ADJUSTMENT.

The Clay County Board of Supervisors shall provide for the appointment and confirmation of the Board of Adjustment. Pursuant to the authority of this ordinance, the Board of Adjustment may in appropriate cases and subject to appropriate conditions and safeguards make special exceptions to the terms of the ordinances in harmony with its general purpose and intent and in accordance with general or specific rules therein contained and provide that any property owner aggrieved by the action of the Board of Supervisors in the adoption of such regulations and restrictions may petition the said board of adjustment direct to modify regulations and restrictions as applied to such property owners. The members of the Board of Adjustment, as created and established under applicable provisions of the Iowa statutes, are hereby confirmed to their appointed terms of office. (*Code of Iowa, Sec.335.10*)

Section 24.2. MEMBERSHIP, TERM OF OFFICE AND REMOVAL.

The board shall consist of five (5) members, a majority of whom shall reside within the county but outside the corporate limits of any city, each to be appointed by the Board of Supervisors for a term of five (5) years. When the board is first created, one member shall be appointed for a term of five (5) years, one for a term of four (4) years, one for a term of three (3) years, one for a term of two (2) years and one for a term of one (1) year. A majority of the members of the Board of Adjustment shall be persons representing the public at large and should not be involved in the business of purchasing or selling real estate. Members of the Board of Adjustment may be removed from office by the Board of Supervisors for cause upon written charges and after a public hearing. Vacancies shall be filled by the Board of Supervisors for the unexpired term of the member resigning, removed or death. (*Code of Iowa, Sec.335.11*)

Section 24.3. PROCEEDINGS OF THE BOARD OF ADJUSTMENT.

The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of any regulation or ordinance pursuant to Chapter 335 of the Iowa Code. Meetings shall be held at the call of the chairperson, the zoning administrator and at such other times as the Board may determine. The chairperson, or in his/her absence the acting chairperson, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public. The zoning administrator may be an ex-officio member and act as secretary for the Board of Adjustment. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examination and other official actions all of which shall be public record and

filed in the office of the zoning administrator. The presence of three (3) members of the board shall constitute a quorum. A five (5) member board shall not carry out its business without having at least three (3) members present. The concurring vote of three (3) members of the board shall be necessary to reverse any order, requirement, decision, or determination of the zoning administrator, or to decide in favor of the applicant on any matter upon which it is required to pass or to effect any variation in application of this ordinance.

(Code of Iowa, Sec.335.12 & 335.17)

Section 24.4. APPEALS TO THE BOARD.

Appeals to the Board of Adjustment concerning the interpretation or administration of this ordinance may be made by any person aggrieved or by any officer or bureau of Clay County affected by a decision of the zoning administrator. Such appeal shall be made within a reasonable time, not more than thirty (30) days of the issuance or denial of the permit, by filing with the zoning administrator and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all papers constituting the record upon which the appeal was made. The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notices thereof, as well as due notice to the parties of interest, and decide the same within a reasonable time. At the hearing any party may appear in person, by agent or attorney. A fee to be determined by resolution of the Board of Supervisors shall be paid at the time the notice of appeal is filed. *(Code of Iowa, Sec.335.13)*

Section 24.5. POWERS AND DUTIES.

The Board of Adjustment shall have the following powers and duties:

1. *Administrative Appeal*: To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the zoning administrator in the enforcement of this ordinance or of any ordinance adopted pursuant thereto.
2. *Interpretation of Zoning Map*: Where the application of the rules for interpretation of the district boundaries leaves a reasonable doubt to the boundary between two zoning districts the Board of Adjustment shall interpret the map in such a way as to carry out the intent and purposes of this ordinance.
3. *Special Exceptions*: To hear and decide special exception requests as the Board of Adjustment is specifically authorized to pass on by the terms of this ordinance, and as provided for in Article XXV of this ordinance.
4. *Variances*: To authorize upon appeal, in specific cases, such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to the special conditions a literal enforcement of the provisions of this ordinance would result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

(Code of Iowa, Sec.335.15)

Section 24.6. VARIANCES.

A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:

1. An application for the variance shall be filed in writing with the zoning administrator. Said application shall include the following:
 - a. Name and address of the owner and applicant.
 - b. Address and legal description of the property.
 - c. If the applicant is not the legal owner of the property, a statement that the applicant is the authorized agent of the owner.
 - d. A statement describing the variance requested and the reasons why it complies with the criteria for variances provided in this section.
 - e. A form which shows the names and current addresses of the owners of all property within 500 feet of the property for which the variance is requested.
 - f. A site plan, as prepared in accordance with Article XVIII.
2. The zoning administrator may request additional information necessary to enable a complete analysis and evaluation of the variance request, and a determination as to whether the circumstances prescribed for the granting of a variance exist.
3. Under no circumstances shall the Board of Adjustment grant a variance to allow for the use not permissible under the terms of this ordinance in the zoning district involved, or any use expressly or by implication prohibited by the terms of this ordinance in the zoning district.
4. The Board of Adjustment shall schedule and conduct at least one (1) public hearing on the proposed variance request. Notice of the public hearing shall be given to those property owners by ordinary mail to the last known addresses of those to be thus notified by depositing such notice with sufficient postage in the United States mail no less than seven (7) days and no more than twenty (20) days prior to the public hearing. An affidavit of mailing shall be obtained for each notice mailed. Notice shall be given to the public by publication in the official county newspaper(s) no less than seven (7) and no more than twenty (20) days prior to the public hearing.
5. The public hearing shall be held. Any party may appear in person or by agent or attorney.
6. No variance that has been denied wholly or in part by the Board of Adjustment shall be resubmitted for a period of one (1) year from the date of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Board of Adjustment.
7. The Board of Adjustment shall grant a variance if it makes affirmative findings of fact on each and all of the following criteria.
 - a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
 - b. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
 - c. That special conditions and circumstances do not result from the actions of the applicant;

- d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
8. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
9. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
10. The application for a variance shall be accompanied by a fee to be determined by resolution of County Board of Supervisors.
11. *Additional Variance Conditions:* In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Article XXIII of this ordinance.
12. *Lapse of Variance:* Unless a longer time period shall be specifically established as a condition of approval, a variance shall lapse and shall become void one (1) year following the date on which the variance became effective, unless prior to the expiration of one year a zoning compliance permit is issued and construction is commenced, or a certificate of occupancy is issued for the site or structure which was the subject of the variance application, or the site is occupied if no zoning/building permit or certificate of occupancy is required.
13. *Revocation of Variance:* Upon violation of any applicable provision of this ordinance, or if granted subject to the conditions, upon failure to comply with conditions, a variance shall be revoked upon notification to the owner of the; use or property subject to the variance.
14. *Variance to Run With Land or Structure:* Unless otherwise specified at the time a variance is granted, a variance shall run with the land and shall continue to be valid upon a change of ownership of the site or structure to which it applies.

Section 24.7. DECISIONS OF THE BOARD OF ADJUSTMENT.

In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this ordinance, and Chapter 335, Code of Iowa, reverse or affirm, wholly or partly, or may modify the order, requirements, decisions, or determination as ought to be made and to that end shall have powers of the zoning administrator from whom the appeal is taken. The concurring vote of three (3) members of the board, even upon instances of absentee members or during conflicts of interest, shall be necessary to reverse any order, requirement, decision or determination of the zoning administrator, or to decide in favor of the applicant on any matter which it is required to pass under this ordinance, or to effect any

variation in application of this ordinance. The action of the board shall not become effective until it has a written decision describing such action, the vote of each member participating therein, and reasons for such action specifying the manner in which the action either satisfied or failed to satisfy each of the applicable standards set forth in this article.

Section 24.8. APPEALS FROM THE BOARD OF ADJUSTMENT.

Any person or persons, or any board, taxpayer, department, or bureau of the community aggrieved by any decision of the Board of Adjustment may seek review of such decision of the Board of Adjustment by a court of record in the manner provided by laws of the State and particularly by Chapter 335, Code of Iowa. Otherwise, all decisions of the Board shall be final immediately upon filing.

ARTICLE XXV Special Exceptions

Article 25: Special Exceptions

- Section 25.1. Requirements
- Section 25.2. Jurisdiction
- Section 25.3. Application for Special Exception Permit
- Section 25.4. Procedures
- Section 25.5. Standards
- Section 25.6. Revocation
- Section 25.7. Supplemental Standards
- Section 25.8. Planned Unit Development (PUD)

Section 25.1. REQUIREMENTS.

Special exception uses may be permitted, enlarged, or altered upon application for a special exception use permit in accordance with the rules and procedures of the Board of Adjustment. The board shall grant or deny a special exception use permit in accordance with the standards set forth herein and with the intent and purpose of this ordinance, In granting a special exception use permit, the Board of Adjustment will authorize the issuance of a special exception use permit and may prescribe and impose appropriate conditions, safeguards, or a specified time limit for the performance of the special exception use permit.

Section 25.2. JURISDICTION.

The zoning administrator shall be responsible for administration of the special exception procedure and the Board of Adjustment shall be responsible for the review, evaluation, and action on all applications for special exception use permits.

Section 25.3. APPLICATION FOR SPECIAL EXCEPTION USE PERMIT.

An application for a special exception use permit may be initiated by a property owner or the owner's authorized agent by filing an application with the zoning administrator. The application shall be accompanied by a site plan prepared in accordance with Article XVIII of this ordinance and shall include at a minimum:

- The names and last known addresses of the owners of all property within 500 feet of the property for which the special exception use is requested
- Plans and data showing the dimensions, arrangements, descriptive data, and other materials constituting a record essential to an understanding of the proposed use and proposed modification in relation to the standards set forth herein.
- A statement indicating the section of this ordinance under which the special exception is sought and stating the grounds on which it is requested.

The application shall also be accompanied by a fee as established by resolution of the Clay County Board of Supervisors. Any approved special exception use permit shall be valid for one (1) year following the issuance of the permit. After one (1) year, the permit will no longer be valid and the permit must be renewed or a new permit reapplied for.

In the case that a special exception use permit is denied, no application for a the same special exception use permit shall be filed with or considered by the Board of adjustment until the

expiration of one (1) year from and after final action denying a previous identical or substantially identical application. The one (1) year period shall begin on the date of final board action denying the application, or on the date of entry of a final court judgment affirming board action denying the application from which no appellate review is taken or can be taken, whichever shall last occur. The filing fee for all second and subsequent applications for a special exception use permit shall be double the original fee.

Section 25.4. PROCEDURE.

The Board of Adjustment shall not grant a special exception use permit unless and until the following procedures have been fulfilled:

1. The Board of Adjustment shall provide a copy of the application for special exception use for review and comment to the Planning and Zoning Commission.
2. The Planning and Zoning Commission shall provide the Board of Adjustment with their recommendations within fifteen (15) days after receipt of the application.
3. After receipt of the Planning and Zoning Commission's recommendations, the Board of Adjustment shall schedule and conduct at least one public hearing in relation to the special exception use request. Notice shall be given to the public hearing as required by state statute by publication in the official county newspaper(s) no less than seven (7) and no more than twenty (20) days prior to the public hearing. Notice shall be given by ordinary mail to all property owners located within 500 feet by mailing such notice to the last known addresses of those to be thus notified by depositing such notice with sufficient postage in the United States mail no less than seven (7) and no more than twenty (20) days prior to the public hearing.
4. In granting any special exception use, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the special exception use is granted, shall be deemed a violation of this ordinance and punishable under Article XXIII of this ordinance. In all cases in which a special exception use permit is granted, the Board of Adjustment shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being complied with.
5. The concurring vote of three (3) members of the Board of Adjustment grants a special exception use permit, even in the event of absentee members or during conflicts of interest.
6. An order of the Board of Adjustment granting a special exception use permit shall be valid for a period no longer than one (1) year from the date of such an order, unless the Board of Adjustment specifically grants a longer period of time or a building permit is obtained within the one (1) year period and construction is commenced.

Section 25.5. STANDARDS.

The Board of Adjustment shall not grant any special exception use permit unless such board shall find:

1. That the use shall be in harmony with the intent, purpose and spirit of this ordinance.

2. That the use shall be an appropriate use of the land and is necessary or desirable to provide a service or a facility which is in the interest of the public convenience or which will contribute to the general welfare of the vicinity or the county.
3. That the use shall be located, designed, constructed, arranged and operated so as not to interfere with the development and use of adjoining or surrounding property in accordance with the applicable district regulations.
4. That the use shall not have a substantial or undue adverse effect upon adjoining or surrounding property, the character of the neighborhood, conditions, parking, utility facilities or other matters affecting the public health, safety and general welfare of persons residing or working in the vicinity.
5. That the use shall not unduly diminish or impair established property values in adjoining or surrounding properties.
6. That the use shall be served adequately by essential public facilities and services such as highway, streets, parking spaces, drainage structures, water supply and sewage disposal; or that the persons or agencies responsible for the establishment of the proposed use will provide adequately for such services.
7. That the use complies with all conditions imposed on it by the provisions of the district in which such special exception use may be authorized.
8. In the case of existing relocated dwelling units or accessory structures, the proposed use aesthetically blends in with the neighboring existing permitted uses and special attention is given to the architectural style, size and condition of the proposed building or structure.
9. The use shall not create a hazard to vehicular or pedestrian traffic.
10. The use shall not cause any permanent, irreparable environmental damage to the parcel or neighboring lands.

In addition to the general standards outlined above, specified uses shall adhere to these standards and operate only after the issuance of a special exception use permit. The special exception shall, in all other respects, conform to the applicable regulations of the zoning district in which it is located, except as such regulations may be modified by the Board of Adjustment.

Section 25.6. REVOCATION.

The issuance of a special exception use permit by the Board of Adjustment shall entitle the owner to continue to operate the use so long as the owner remains in compliance with the terms and conditions of this ordinance and the terms, conditions, limitations, requirements and safeguards set forth in the special exception use permit. If such permit is granted, it does expressly grant to the county the power and authority to enter upon the premises at any reasonable time for the purpose of inspection and enforcement of the terms of the special exception use permit. In the event the owner or occupant of the property shall violate any term,

condition, limitation, regulation or safeguards contained in the special exception permit, the permit shall become null and void and the owner or occupant shall be deemed to be in violation of this ordinance and the county may proceed to enforce the provisions of this ordinance and the terms, conditions, limitations, and safeguards of the special exception permit.

Section 25.7. SUPPLEMENTAL STANDARDS.

In addition to the general standards outlined in Section 25.5 above, specified uses shall adhere to certain supplemental and additional standards as follows:

1. ***Salvage Yards:*** All salvage yards, including any area where waste, junk, discarded or wrecked and salvaged materials are bought, sold, stored, exchanged, baled or packed, disassembled or handled, including dismantling or wrecking of automobiles or machinery or other vehicles, shall be located in the (A-1) Agriculture and the (I-2) Heavy Industrial districts under special exception use permit. The application for a special use permit shall be accompanied with a proposed intent or covenant to meet the minimum requirements described herein:

- a. Any salvage yard shall be at least five hundred feet (500') from any residential building, with the exception of the residence of the salvage yard owner or operator.
- b. Salvage or junk yards shall be screened by a solid wall or uniformly painted solid fence not less than eight (8) feet in height, or in lieu thereof, a landscape buffer strip fifty feet (50') wide with evergreen trees and/or large shrubs to provide an immediate solid landscape screen at least ten feet (10') high that will effectively screen all areas that contain the scrap and salvage materials.
- c. Off-street parking or service areas in connection with the yards may be located outside of the screened-in area.

2. ***Open-Air Sales Display and Storage:*** All open-air display and storage, including new and used auto sales and storage, new and used farm implement and equipment sales and storage, new and used truck, machinery, or equipment sales and storage shall require a special exception use permit and shall be accompanied with drawings and other documents describing the intent, layout, and construction or installation in accordance with the following minimum requirements:

- a. All lighting and lighted facilities shall be designed and arranged so that they do not focus or glare directly on adjacent properties, or public streets, thereby creating a traffic hazard.
- b. No lighted flashing signs, or revolving beacon lights shall be permitted.
- c. The open-air area shall be maintained to be reasonably free of weeds, debris, trash and other objectionable materials.
- d. The open-air storage or display area intended for inventory storage, salvage or repair services shall be limited to the side or rear yard areas and be opaquely screened with a wall or fence at least seven feet (7') in height. Those uses intended to exclusively display products or equipment for sale or lease are exempt from screening such products or equipment, unless the following provisions in subpart e. apply.

- e. The side and rear lot lines, when abutting properties used for residential purposes, will be screened with a wall or fence at least fifty percent (50%) solid and at least seven feet (7') in height. Such fence or wall shall not be required to extend beyond the front setback line.
3. ***Boat and Marine Accessory Storage:*** Boats, personal watercraft, trailers, boat hoists, or other marine accessories may be stored on the owner's lot for no longer than nine (9) consecutive months in the same location. Multiple boats, personal watercraft, trailers, boat hoists, or other marine accessories stored on a parcel, lot or group of lots for longer than nine (9) consecutive months for commercial or monetary purposes shall conform to the requirements of section 2 "Open-air Sales Display and Storage" above.
 4. ***Communication Towers:*** The purpose of this section is to provide for the regulation of contractors engaged in the construction, erection, placement or location of freestanding communications towers in Clay County. These regulations do not apply to antennas, satellite dishes, or other communication devices attached to a structure or accessory building and primarily used for personal or residential enjoyment. Communication towers shall be permitted under a special exception use permit in every zoning district within the county. An application for a special exception use permit shall be accompanied by drawings, plans and other necessary documents describing the intent, layout, and construction or installation in accordance with the following minimum requirements:
 - a. "Communication Tower" shall mean a structure, tower, antenna or other facility primarily engaged in the provision of broadcasting and information relay services accomplished through the use of electronic, cellular or other mechanisms but exclude those classified as Major Utility Facilities. Typical uses include but not limited to telecommunication towers, radio, television, cellular and other receiving towers, antennas or structures and amateur radio communications including voluntary and noncommercial communication services.
 - b. The construction and maintenance of a communication tower shall be permitted to the owner of the tower as specified in the special exception use permit application only upon compliance with all applicable ordinances of Clay County. The permit shall be of indefinite duration and shall remain in effect so long as the tower remains in compliance with all applicable county ordinances. A special exception use permit for a communication tower may be revoked upon notice to the owner and following opportunity for a public hearing before the Board of Adjustment, for a violation of any applicable county ordinance, state statute or regulation, or federal statute or regulation.
 - c. The issuance of a special exception use permit for the construction or installation of a communication tower under this ordinance shall not relieve any permittee, applicant or owner from compliance with all legal requirements, nor relieve the permittee, applicant or owner of any liability for damage or loss resulting from the placement, construction or maintenance of the tower. Clay County assumes no liability whatsoever by virtue of the issuance of a special exception use permit for a communications tower.
 - d. The minimum distance from the base of the tower to the nearest property line of the tower site shall not be less than one hundred ten percent (110%) of the tower height, except that

- no setback shall be less than any required yard setbacks in the zoning district in which the communication tower is located.
- e. The communication tower base shall be completely enclosed by a fence or wall no less than six feet (6') in height and designed or constructed to provide a secure environment and unauthorized access to the tower base.
 - f. All towers shall be maintained and operated in compliance with the standards adopted by the Federal Communications Commission concerning electromagnetic field emissions.
 - g. Communication towers will be exempt from the maximum height requirements; except that no communication tower located within any residential zoned district shall exceed a height of two hundred feet (200').
 - h. The county shall not restrict or deny the use of amateur radio antennas or towers for the personal enjoyment and use of the owner(s) and shall comply with Title 47 of the Code of Federal Regulations, Part 97 (FCC rules for amateur radio).
 - i. In order to avoid unnecessary duplication of communications towers, businesses engaged in wireless communication requiring the use of communications towers are required to utilize joint or multiple use of all existing and proposed towers. An application for a special exception use permit for a communication tower shall include a verification that the applicant has considered the use of existing towers and shall include a detailed explanation establishing that the use of an existing tower is economically or technically not feasible. Each owner of a tower placed and constructed pursuant to a special exception use permit issued under this ordinance shall, to the extent technically feasible, lease tower capacity to other wireless communication providers at commercially reasonable rates and terms.
 - j. Communication towers which become abandoned or obsolete shall be removed within twelve (12) months of the discontinuance of such use, and shall be the responsibility of the communication tower owner, the property lessee, or the property owner to have such tower properly removed or dismantled.

Section 25.8. PLANNED UNIT DEVELOPMENT (PUD).

Planned Unit Developments (PUD's) are intended to accommodate a wide variety of use types in accordance with the county's comprehensive plan. The purpose of PUD regulations is to encourage flexibility in the design and development of land in order to promote its most appropriate use; to facilitate the adequate and economical provision of streets, utilities, and public spaces; and to preserve the natural and scenic qualities of open areas. PUD's are intended to encourage innovative, well-designed projects that achieve a high level of low impact development, environmental sensitivity, energy efficiency, safety, and aesthetics. Each PUD will be applied for and reviewed as a special exception within the zoning district in which it is located. The PUD application shall contain a general statement by the applicant describing how the proposed development departs from the county's standard zoning regulations and how the proposed development is an improvement over the requirements of the county's zoning regulations. The procedure is intended to permit diversification in the location of structures and improve circulation facilities and other site qualities while ensuring adequate standards relating

to public health, safety, welfare, and convenience both in the use and occupancy of buildings and facilities in planned groups.

1. A planned unit development to be eligible under this Article must be:
 - a. In accordance with the comprehensive plan of the county and with the regulations of this ordinance;
 - b. An effective and unified means of treating possible development providing for preservation of scenic features and amenities of the site and the surrounding area;
 - c. So designed in its space allocation, orientation, landscaping, circulation system, materials and other features as to produce an environment of stable and desirable character, complimenting the design and values of the neighborhood.
 - d. encourage a more creative and efficient development of land and its improvements;
 - e. allow for a mixture of uses in an integrated and well-planned area;
 - f. ensure concentration of open space into more usable areas and preservation of the natural resources of the site including wetlands, woodlands, steep slopes, and scenic areas;
 - g. facilitate economic provisions of streets and public utilities;
 - h. encourage low impact and sustainable developments.
2. General Regulations. In order for PUD's to be eligible for consideration of a special exception use permit, certain regulations needs to be satisfied to preserve the integrity of the planned development and minimize any potential impact to adjacent properties.
 - a. *Conformance with the Comprehensive Plan*: The proposed planned unit development is in conformance with the Clay County Comprehensive Plan. At a minimum, the Planning and Zoning Commission shall find that the PUD does not conflict with the comprehensive plan.
 - b. *Minimum Site Area*: A PUD shall include no less than three (3) acres of contiguous land. Property shall be deemed to be contiguous so long as all parts are under unified control of the applicant, and all parts abut or are separated by only a road, easement or right of way. A minimum of two (2) or more principal structures must be proposed.
 - c. *Land Use*: At least sixty-five (65) percent of the PUD site exclusive of open space shall be devoted to those uses permitted in the zoning district in which the PUD is located. Proposed land uses shall not adversely affect surrounding development.
 - d. *Preservation of Natural Features*: Mature trees, vegetative cover, watercourses and other natural site features shall be preserved to the greatest extent possible. Abrupt changes in natural slope shall be avoided. Preservation shall be directed toward;
 - i. Protecting the natural environment;
 - ii. Providing buffering between new developments and surrounding properties;
 - iii. Handling of storm water flows in natural channels;
 - iv. Maintaining existing vegetation along stream corridors as water quality filters; and
 - v. Developing and sustaining low impact developments.

- e. *Common Open Space*: A minimum of twenty-five (25) percent of every PUD site area shall be developed as common open space. Parking areas and vehicle access facilities shall not be considered in calculating open space requirements. Common open space may qualify wholly or partially as recreation areas, recreational buildings, pedestrian open space system (permanently maintained walks and trails), or environmental features such as natural habitats or environmentally sensitive areas.
 - f. *Maintenance of Common Open Space*: In order that the purpose of these regulations may be realized, the land and buildings and appurtenant facilities shall be in single ownership, or under management or supervision of a central authority, or otherwise subject to such supervision lease or ownership control as may be necessary to carry out the provisions herein. In the event that the owner or organization established to own and maintain common open space shall fail to maintain the land in reasonable condition, the zoning administrator shall serve written notice defining the maintenance deficiencies. If such deficiencies are not corrected after 30 days, the zoning administrator shall call upon any public or private agency to maintain the common open space. In such cases, the tax assessor shall assess the costs proportionally against all properties within the PUD that have the right of use of the common open space.
 - g. *Screening*: Additional buffering beyond minimum requirements of this ordinance, both around the parameter and interior of the planned unit development, shall be provided where appropriate to mitigate against adverse impacts of noise, glare, sound, or other influences on the proposed development or on adjacent land.
 - h. *Lighting*: All lighting from proposed developments shall be arranged to prevent direct glare or hazardous interference to adjoining streets or lands.
 - i. *Other Conditions*: The zoning administrator and the Planning and Zoning Commission shall have the authority to impose such other conditions as are necessary to accomplish the purposes of this ordinance and the comprehensive plan.
3. Application Procedures. PUD's shall be subject to the approval of the County Board of Supervisors based upon review and recommendations by the Planning and Zoning Commission.
4. General Development Plan. The applicant shall file a general development plan which shall include the following information:
- a. A statement describing the general character of the intended development and the manner in which it has been designed to take advantage of the PUD regulations.
 - b. An accurate site plan of the proposed project, including its relationship to surrounding properties, existing topography, and key features;
 - c. The pattern of proposed land use including shape, size, and arrangement of proposed use areas, density and environmental character.
 - d. The pattern of public and private streets.
 - e. The location, size, and character of recreational and open space areas reserved or dedicated for public uses such as schools, parks, greenways, etc.

- f. A utility plan.
 - g. Appropriate statistical data on the size of the development, ratio of various land uses, percentage of multi-family units by number of bedrooms, expected staging, and any other plans or data pertinent to evaluation by the county.
 - h. General outline of intended organizational structure related to property owner's association, deed restrictions and private provision of common services.
 - i. A list of property owners and addresses within 500' of the development property.
 - j. An indication of the expected development schedule, including phased developments.
 - k. Any additional information requested by the Planning and Zoning Commission that may be required for clarification of the proposed project.
5. Preliminary Plat. The applicant shall also submit a preliminary plat and all the necessary documentation as required under the subdivision regulations of all or that portion of the project to be platted. For purposes of administrative simplification, the public hearings required for the PUD and preliminary plat may be combined or held concurrently.
6. Specific Implementation Plan. A specific and detailed plan for implementation of all or a part of a proposed PUD after approval of the General Development Plan must be submitted within one (1) year. The specific implementation plan shall be submitted for review by the Planning and Zoning Commission and approval or disapproval by the County Board of Supervisors and shall include the following detailed construction and engineering plans and related detailed documents and schedules:
- a. An accurate map of the area covered by the plan including the relationship to the total general development plan.
 - b. The pattern of public and private roads, driveways, walkways, and parking facilities.
 - c. Detailed lot layout and subdivision plat where required.
 - d. The arrangement of building groups, and their architectural character.
 - e. Sanitary sewer and water mains.
 - f. Grading plan and storm drainage.
 - g. The location and treatment of open space areas and recreational or other special amenities.
 - h. The location and description of any areas to be dedicated to the public, if any.
 - i. General landscape treatment.
 - j. Proof of financing capability or performance capability.
 - k. A development-schedule indicating (1) the approximate date when construction of the project can be expected to begin, (2) the stages in which the project will be built and the approximate date when construction of each stage can be expected to begin, (3) the anticipated rate of development of each of the stages will be completed, and 4) the area and location of common open space that will be provided at each stage.
 - l. Agreements, bylaws, provisions, or covenants which govern the organizational structure, use, maintenance, and continued protection of the PUD and any of its common services, common open areas, or other facilities;
 - m. Any other plans, documents, or schedules requested by the County Board of Supervisors.

7. Criteria for Approval. As a basis for determining the acceptability of a PUD application, the following criteria shall be applied to the precise development plan for such district with specific consideration as to whether it is consistent with the spirit and intent of this Ordinance, it has been prepared with competent professional advice and guidance, and it produces significant benefits in terms of environmental design.
 - a. Character and Intensity of Land Use. In a PUD, the use proposed and the intensity and the arrangement on the site shall be of visual and operational character which:
 - i. Is compatible to the physical nature of the site with particular concern for preservation of natural features, tree growth, and open space.
 - ii. Would produce an attractive environment of sustained aesthetic and ecologic desirability, economic stability and functional practicality compatible with the general development plans for the area as established by the community.
 - iii. Would not adversely affect the anticipated provision for school or other municipal services.
 - iv. Would not create a traffic or parking demand incompatible with the existing or proposed facilities to serve it.
 - b. Economic Feasibility and Impact. The proponents of a PUD application shall provide evidence satisfactory to the County Board of Supervisors of its economic feasibility, of available adequate financing, and that it would not adversely affect the economic prosperity of the county or the values of surrounding properties.
 - c. Engineering Design Standards. The width of street right-of-way, width and location of street or other paving, location of sewer and water lines, provision for storm water drainage, or other similar environmental engineering consideration shall be in no case less than those necessary to ensure the public safety and welfare of county residents.
8. Implementation Schedule. The proponents of a PUD shall submit a reasonable schedule for the implementation of the development to the satisfaction of the County Board of Supervisors including suitable provisions for assurance that each phase could be brought to completion in a manner which would not result in adverse effects upon the county as a result of termination at that point.
9. Approval of the Specific Implementation Plan.
 - a. Following a review of the specific implementation plans, the Planning and Zoning Commission shall recommend to the County Board of Supervisors that the plans be approved as submitted, approved with modifications, or disapproved.
 - b. Upon receipt of the Planning and Zoning Commission recommendation, the Board of Supervisors may approve the plan and authorize the development to proceed accordingly, or disapprove the plan.
 - c. In the event of approval of the Specific Implementation Plan, the building, site, and operational plans for the development, as approved, as well as all other commitments and contractual agreements with the county offered or required with regard to project value, character, and other factors pertinent to an assurance that the proposed development will be

carried out basically as presented in the official submittal plans, shall be recorded by the developer within 90 days in the County Recorder's Office. This shall include posting a performance bond or certified check in an amount determined by the Board of Supervisors with Clay County, Iowa, guaranteeing that required improvements will be constructed according to the approved implementation schedule. This shall be accomplished prior to the issuance of any compliance permit.

- d. Any subsequent change or addition to the plans or use shall first be submitted for approval to the Board of Supervisors and Planning Commission and if such change or addition constitutes a substantial alteration of the original plan, the procedures in the above shall be required.
- e. If construction of the PUD does not commence within two (2) years of the official recording of the implementation schedule, then the PUD shall be voided.

ARTICLE XXVI

Changes and Amendments

Article 26: Changes and Amendments

- Section 26.1. Procedures
- Section 26.2. Initiation
- Section 26.3. Application for Change in Zoning District Boundaries
- Section 26.4. Protest Provision
- Section 26.5. New Application

Section 26.1. PROCEDURES.

The Board of Supervisors, on its own action or on petition and recommendation from the County Planning and Zoning Commission, and after public notice and hearings as provided by law; may amend, supplement, or change the text or zoning district boundaries or regulations herein or subsequently established within this ordinance and the zoning map. Such amendment shall not become effective except by the favorable vote of a majority of all members of the Board of Supervisors. However, no amendment, either zoning text or district boundaries, shall become effective unless it shall have been proposed by or shall have been first submitted to the Planning and Zoning Commission for review and recommendation. The commission shall have forty-five (45) days in which to submit its report to the Board of Supervisors. Prior to making recommendation to the Supervisors, the Planning and Zoning Commission shall hold at least one (1) public hearing on the text amendment or rezoning request. If the commission fails to submit a report within the forty-five (45) day period, it shall be deemed to have approved the proposed amendment.

Not more than thirty (30) days following receipt of the recommendation of the Planning and Zoning Commission the County Board of Supervisors shall hold at least one (1) public hearing before any proposed text amendment or rezoning request is considered. Notice of said hearing shall be published in a newspaper of general circulation within the county at least seven (7) days but no more than twenty (20) days before the date fixed for such hearing. Such notice shall contain the time, date and place of the hearing, the existing zoning classification, the requested zoning classification and the name of the petitioner or petitioners. Additionally, a notification shall be sent by regular mail to the property owners within 500' of the property for which the change is requested. In no case shall the public hearing be held earlier than the next regularly scheduled Board of Supervisors meeting following the published notice.

Within thirty (30) days following the closing of a public hearing, the Board of Supervisors shall make a specific finding as to whether the change is consistent with the objectives of this ordinance. If the board finds that the change is consistent, it shall introduce an ordinance amending the text of the zoning regulations or amending the zoning map, whichever is appropriate. If the Board of Supervisors finds that the change is not consistent, it shall deny the application. The board shall not modify a recommendation of the Planning and Zoning Commission on a rezoning or change until it has requested and considered a report of the Planning and Zoning Commission on the modification. Failure of the commission to report within 30 days after receipt of the Board of Supervisors request shall be concurrence.

Section 26.2. INITIATION.

Petitions requesting such changes or amendment shall clearly describe the property and its boundaries as to which the change or amendment is desired. Action can be initiated by one of the following means:

1. The Board of Supervisors may initiate a text amendment or rezoning request itself.
2. The Planning and Zoning Commission may recommend to the Board of Supervisors to initiate a text amendment or rezoning request.
3. Affected persons, firms or corporations, the owner or authorized agent of the owner of property may submit a petition to the Planning and Zoning Commission for a change in zoning district boundaries (rezoning request). If the property for which rezoning is proposed is in more than one ownership, all the owners or their authorized agents shall join in filing the application.

Whenever any owner, firm or corporation or authorized agent of such desires that any amendment or change be made in this ordinance, including the text and/or map, as to any property in Clay County, there shall be presented to the Planning and Zoning Commission a petition requesting such change or amendment. Such petition shall be duly signed by the owners of at least fifty percent (50%) of the area of all real estate included within boundaries of said tract as described in the petition or that area lying immediately adjacent to said tract but within five hundred feet (500') of the boundaries thereof. Said petition shall contain a legal description of the area for which rezoning is requested, the existing zoning classification and the requested zoning classification.

Section 26.3. APPLICATION FOR CHANGE IN ZONING DISTRICT BOUNDARIES.

Applications for rezoning requests shall be filed with the zoning administrator on a form provided by the county and shall include the following data and maps:

1. Each application shall contain the following information:
 - a. The name and address of the owner and applicant.
 - a. The legal description and local address of the property.
 - c. If the applicant is not the legal owner of the property, statement that the applicant is the authorized agent of the owner.
 - d. The present zoning classification and the zoning classification requested for the property.
 - e. The existing use and proposed use of the property.
 - f. The names and addresses of the owners of all property within five hundred feet (500') of the property for which the change is requested.
 - g. A statement of the reasons why the applicant feels the present zoning classification is no longer appropriate.
 - h. A site plan, as prepared in accordance with Article XVIII.

The zoning administrator may require additional information or maps if they are necessary to enable the Planning and Zoning Commission to determine whether the change is consistent with the objectives of this ordinance.

2. Before any action shall be taken as provided in this section, the petitioner or petitioners seeking the change in districts or regulations shall pay to the County Treasurer a fee established by resolution of the Board of Supervisors for rezoning procedures. Failure to approve the requested change shall not be deemed cause to refund the fee to the applicant.
3. Upon receipt of the application by the zoning administrator a copy shall be forwarded immediately to the Planning and Zoning Commission for study and recommendation. The commission shall, prior to making a recommendation, determine the following:
 - a. Whether or not the current district classification of the property to be rezoned is valid.
 - b. Whether there is a need for additional land zoned for the purpose requested.
 - c. Whether the proposed change is consistent with the current comprehensive land use plan.
 - d. Whether there is intent on the part of the applicant to develop the property to be rezoned diligently and within a reasonable time.

Section 26.4. PROTEST PROVISION.

In case the proposed amendment, supplement or change is not approved by the Planning and Zoning Commission, or a protest be presented and duly signed by the owners of twenty percent (20%) or more of the area included in such proposed change, or, of the area immediately adjacent thereto and within five hundred feet (500') of the boundaries thereof, such amendment shall not become effective except by the favorable vote of four-fifths (4/5) of the members of the Board of Supervisors, even in the instance of absentee members or during conflicts of interest.

Section 26.5. NEW APPLICATION.

Whenever any petition for an amendment, supplement or change of the zoning districts or regulations herein contained or subsequently established shall have been denied by the Board of Supervisors, then no new petition covering the same property or the same property and additional property shall be filed with or considered by the Board of Supervisors for one (1) year thereafter unless it is signed by the owners of at least fifty percent (50%) of the property owners who previously objected to the change; this provision, however, shall not prevent the Board of Supervisors from acting on its own initiative in any case or at any time provided in this section.

**ARTICLE XXVII
Effective Date**

Section 27.1. EFFECTIVE DATE.

This ordinance shall be in full effect from and after its adoption and publication as required by law and as provided for in Chapter 380.6 and 380.7 of the Code of Iowa.
(Code of Iowa, Sec. 380.6[1]; Sec. 380.7[3]; and Sec. 362.3)

**ARTICLE XXVIII
Adoption**

ORDINANCE NO. _____

ZONING ORDINANCE OF CLAY COUNTY, IOWA

NOW THEREFORE, BE IT ORDAINED BY THE
BOARD OF SUPERVISORS OF CLAY COUNTY

Passed and approved this _____ day of _____, 2011.

Chair, Clay County Board of Supervisors

ATTEST:

Clay County Auditor

I hereby certify that the foregoing was published as Ordinance No. _____ in Clay County, Iowa on the _____ day of _____, 2011.

