

**CODE OF ORDINANCES**  
**OF**  
**FRANKLIN COUNTY, IOWA**

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**CODE OF ORDINANCES  
OF  
FRANKLIN COUNTY, IOWA**

*Adopted April 24, 2024, by Ordinance No. 2024A*

**SUPPLEMENT RECORD**

SUPPLEMENT		ORDINANCES AMENDING CODE		
Supp. No.	Repeals, Amends or Adds	Ord. No.	Date	Subject

**Place in the front of the Code of Ordinances along with the  
Adopting Ordinance and Table of Contents.**

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FRANKLIN COUNTY, IOWA**

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# CHAPTER 1

## CODE OF ORDINANCES

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**1.01 TITLE.** This code of ordinances shall be known and may be cited as the Code of Ordinances of Franklin County, Iowa.

**1.02 DEFINITIONS.** Where words and phrases used in this Code of Ordinances are defined in Chapter 4 and Chapter 331 of the *Code of Iowa*, such definitions apply to their use in this Code of Ordinances and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, have the following meanings, unless specifically defined otherwise in another portion of this Code of Ordinances.

1. “Amendment” means a revision or repeal of an existing ordinance or code of ordinances.
2. “Auditor” means the County Auditor of Franklin County, Iowa.
3. “Assessor” means the County Assessor of Franklin County, Iowa.
4. “Board,” “Board of Supervisors” or “Supervisors” means the Board of Supervisors of Franklin County, Iowa.
5. “Board of Health” means the Board of Health of Franklin County, Iowa.
6. “Code” means the specific chapter of this Code of Ordinances in which a specific subject is covered and bears a descriptive title word (such as the Building Code or a standard code adopted by reference).
7. “Code of Ordinances” means the Code of Ordinances of Franklin County, Iowa.
8. “County” means Franklin County, Iowa.
9. “County Attorney” means the Franklin County Attorney.
10. “County civil infraction” means a violation of a County ordinance which provides for a civil penalty as authorized by Section 331.307 of the *Code of Iowa*.
11. “County Engineer” means the Franklin County Engineer.
12. “May” confers a power.
13. “Measure” means an ordinance, amendment, resolution, or motion. For the purposes of this Code of Ordinances, “measure” and “legislation” are synonymous. Adoption of “legislation” or a “measure” is the method used by the Board of Supervisors to perform duties and exercise power granted by the Constitution and Laws of the State.

14. "Month" means a calendar month.
15. "Motion" means a statement of policy or an order for action to be taken. A "motion" is a proposal made to evoke action on the part of the Board of Supervisors, and if adopted, becomes the will and a resolution of the Board.
16. "Must" states a requirement.
17. "Oath" means an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" are equivalent to the words "swear" and "sworn."
18. "Occupant" or "tenant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
19. "Ordinance" means a County law of a general and permanent nature. An "ordinance" is a local law, a rule of conduct prospective in its operation, applying to persons and things of the County.
20. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof.
21. "Preceding" and "following" mean the next before and the next after, respectively.
22. "Property" includes real property and tangible and intangible personal property unless clearly indicated otherwise.
23. "Property owner" means a person owning private property in the County as shown by the County Auditor's plats of the County.
24. "Public place" includes in its meaning (but is not restricted to) any County-owned open place, such as parks and squares.
25. "Public property" means any and all property owned by the County or held in the name of the County by any of the departments, commissions, or agencies within the County government.
26. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
27. "Recorder" means the County Recorder of Franklin County, Iowa.
28. "Resolution" means a statement of policy or an order for action to be taken. A "resolution" is not a local law but merely the form in which the Board of Supervisors expresses an opinion or will as to some given matter or thing, and is only to have a temporary effect. A "resolution" may be used to govern the procedures of the Board in the case of their ministerial functions and may direct performance.
29. "Shall" imposes a duty.
30. "Sheriff" means the County Sheriff of Franklin County.
31. "State" means the State of Iowa.
32. "Statutes" or "laws" means the latest edition of the *Code of Iowa*, as amended.
33. "Street" or "highway" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.



34. “Treasurer” means the County Treasurer of Franklin County, Iowa.
35. “Writing” or “written” includes printing, typing, lithographing, or other mode of representing words and letters.
36. “Year” means a calendar year.

**1.03 RULES OF CONSTRUCTION.** In the construction of this Code of Ordinances, the rules of statutory construction as set forth in Chapter 4 of the *Code of Iowa*, shall be utilized to ascertain the intent of the Board of Supervisors with the understanding that the term “statute” as used therein will be deemed to be synonymous with the term “ordinance” when applied to this Code of Ordinances.

**1.04 EXTENSION OF AUTHORITY.** Whenever an officer or employee is required or authorized to do an act by a provision of this Code of Ordinances, the provision shall be construed as authorizing performance by a regular assistant, subordinate, or a duly authorized designee of said officer or employee.

**1.05 GENERAL POWERS.** The County may, except as expressly limited by the Iowa Constitution, and if not inconsistent with the laws of the Iowa General Assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the County and of its residents, and preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents and each and every provision of this Code of Ordinances shall be deemed to be in the exercise of the foregoing powers and the performance of the foregoing functions.

*(Code of Iowa, Sec. 331.301)*

**1.06 DELEGATION OF POWERS.** The Board of Supervisors shall not delegate legislative powers, or any power vested by State statute or rule exclusively in the Board or in any other County officer or agency, except as authorized by Chapter 28E of the *Code of Iowa*. The Board may delegate administrative functions and some discretion may be vested in a County official or agency in the exercise of these functions. County officers and agencies may review administrative decisions when requested by the Board and recommend action.

**1.07 LEGISLATIVE CONSIDERATION.** Legislation may be effectively introduced, filed, discussed, amended, changed, read, adopted, or otherwise considered at any session of the Board of Supervisors subject to the limitations of Section 331.302 of the *Code of Iowa*. Publication and notice requirements must be in compliance with Sections 331.302, 331.305 and Chapter 21 of the *Code of Iowa*. Legislation may be considered for a reasonable length of time after filing provided there is reasonable continuity in the consideration. Irregular acts of the Board may be corrected at subsequent meetings prior to final passage. Actions may be reconsidered until the final vote on that action. Actions may be rescinded before the legislation becomes effective or at any time unless vested personal or property rights will be affected. Actions may be repealed or amended in accordance with Section 331.302 of the *Code of Iowa*. Legislative acts are prospective.

**1.08 CERTIFYING, RECORDING, AND FILING.**

1. Motion. Action of the Board in the form of a motion will be recorded as required by Section 331.302 of the *Code of Iowa*, in summary form.
2. Resolution. Action of the Board in the form of a resolution will be certified, recorded, and filed as required by Section 331.302 of the *Code of Iowa*. A preamble,

prefatory statement, or explanation of a resolution, if employed, shall not be a substantive part of a resolution, and may be omitted from entry in the “minute book” and from publication of the Board of Supervisors proceedings. Copies of adopted resolutions will be delivered to agencies, officers, and other persons as required by law or as directed by the Board.

3. Ordinances and Amendments of Ordinances. Action of the Board in the form of an ordinance, amendment of an ordinance, Code of Ordinances or a supplement to the Code of Ordinances will be certified, recorded, and filed in accordance with Section 331.302 of the *Code of Iowa*.

**1.09 INDEMNITY.** The applicant for any permit or license under this Code of Ordinances, by making such application, assumes and agrees to pay for all injury to or death of any person or persons whomsoever, and all loss of or damage to property whatsoever, including all costs and expenses incident thereto, however arising from or related to, directly, indirectly, or remotely, the issuance of the permit or license, or the doing of anything thereunder, or the failure of such applicant, or the agents, employees, or servants of such applicant, to abide by or comply with any of the provisions of this Code of Ordinances or the terms and conditions of such permit or license, and such applicant, by making such application, forever agrees to indemnify the County and its officers, agents, and employees, and agrees to save them harmless from any and all claims, demands, lawsuits, or liability whatsoever for any loss, damage, injury, or death, including all costs and expenses incident thereto, by reason of the foregoing. The provisions of this section shall be deemed to be a part of any permit or license issued under this Code of Ordinances or any other ordinance of the County whether expressly recited therein or not.

**1.10 PERSONAL INJURIES.** When action is brought against the County for personal injuries alleged to have been caused by its negligence, the County may notify in writing any person by whose negligence it claims the injury was caused. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the County believes that the person notified is liable to it for any judgment rendered against the County, and asking the person to appear and defend. A judgment obtained in the suit is conclusive in any action by the County against any person so notified, as to the existence of the defect or other cause of the injury or damage, as to the liability of the County to the plaintiff in the first named action, and as to the amount of the damage or injury. The County may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the County in the suit.

**1.11 ORDINANCE ADOPTION PROCEDURE.**

1. Application of Section. The procedures in this section shall be used by the Board of Supervisors of Franklin County, Iowa, for the adoption or amendment of all ordinances in the County.

2. Procedure for Consideration; Adoption and Publication.

A. A proposed ordinance shall be considered and receive a favorable vote for passage in accordance with Section 331.302(6) of the *Code of Iowa*.

B. The title of the proposed ordinance shall be published in accordance with Section 331.305 of the *Code of Iowa*, prior to its first consideration by the Board. Copies of the full text of the ordinance shall be made available to the public at the time of publication at the office of the County Auditor, and the published notice shall specify where such copies may be obtained.

C. A summary of the ordinance or the complete text of the ordinance, in accordance with Section 331.302(8) of the *Code of Iowa*, shall be published not more than 10 days following its final passage.

D. If, during consideration of an ordinance, a substantial change is made by amendment, the amended ordinance shall be made available at the office of the County Auditor, with the change indicated, no less than three work days following the date of the change.

3. Amendment. All ordinances which amend, repeal, or in any manner affect this Code of Ordinances shall include proper reference to chapter, section, subsection, or paragraph to maintain an orderly codification of ordinances of the County, and shall set forth in full the chapter, section, subsection, or paragraph, as amended. Procedure for consideration and publication of amendments shall be as set forth in Subsection 2 above for proposed ordinances.

4. Majority Requirement. Passage of an ordinance or of an amendment to an existing ordinance requires an affirmative vote of at least a simple majority of all Franklin County Supervisors. Each member's vote on an ordinance must be recorded in the Board's official minutes.

5. Effective Date. Ordinances or amendments adopted pursuant to the procedures stated herein and signed by the supervisors voting for adoption shall become effective upon publication, unless a subsequent effective date is provided by the ordinance or amendment.

6. Maintenance and Publication. The County Auditor shall cause all publications required by Subsection 2 of this section to be published in at least one newspaper having general circulation in the County. Each ordinance or amendment concerning zoning or similar matters affecting land records and titles shall be recorded by the County Recorder. All adopted and amended ordinances shall be printed or otherwise reproduced for adequate distribution.

**1.12 CATCHLINES AND NOTES.** The catchlines of the several sections of the Code of Ordinances, titles, headings (chapter, section, and subsection), editor's notes, cross references, and State law references, unless set out in the body of the section itself, contained in the Code of Ordinances, do not constitute any part of the law, and are intended merely to indicate, explain, supplement, or clarify the contents of a section.

**1.13 ALTERING CODE.** It is unlawful for any unauthorized person to change or amend, by additions or deletions, any part or portion of the Code of Ordinances, or to insert or delete pages, or portions thereof, or to alter or tamper with the Code of Ordinances in any manner whatsoever which will cause the law of the County to be misrepresented thereby.

**1.14 STANDARD PENALTY.** Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section, or chapter, any person failing to perform a duty required by this Code of Ordinances, or otherwise violating any provision of this Code of Ordinances, or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least \$105.00 but not to exceed \$855.00. The court may order imprisonment not to exceed 30 days in lieu of a fine or in addition to a fine. †

*(Code of Iowa, Sec. 331.302[2])*

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† **EDITOR'S NOTE:** For civil penalty for violations of this Code of Ordinances, see Chapter 4.

**1.15 SEVERABILITY.** If any section, provision, or part of the Code of Ordinances is adjudged invalid or unconstitutional, such adjudication will not affect the validity of the Code of Ordinances as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**1.16 PROBATION FEES.** The Board of Supervisors finds that costs are incurred by the Center for Creative Justice (hereinafter CCJ) for supervising defendants placed on probation to CCJ by the Court. The Board of Supervisors further finds that, pursuant to Section 907.8(2)(a)(1) of the *Code of Iowa*, the Director of the Center for Creative Justice is a suitable resident who leads an appropriate agency for custody, care, and supervision of probation. CCJ shall charge an enrollment fee to the defendants supervised by CCJ, the amount of said fee to be set the CCJ's Board of Directors.

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## CHAPTER 2

# ORGANIZATION OF THE BOARD OF SUPERVISORS

### 2.01 Purpose

### 2.02 Board Membership; Qualifications; Term

**2.01 PURPOSE.** The purpose of this ordinance is to establish the membership, qualifications, organization, and compensation of the Franklin County Board of Supervisors.

### **2.02 BOARD MEMBERSHIP; QUALIFICATIONS; TERM.**

1. The Board shall consist of three members.
2. A supervisor must be a qualified elector of the supervisor district of the County which the supervisor represents.
3. The office of supervisor is an elective office except that if a vacancy occurs on the Board, a successor shall be appointed to the unexpired term.
4. The term of office of a supervisor is four years unless a change in the supervisor district representation plan or in the number of supervisors on the Board requires the election of one or two supervisors for an initial term of two years. The terms are staggered so that no more than a bare majority of the Board will be elected in any given election. To accommodate this, elections are held biennially.

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## CHAPTER 3

# ELECTION PRECINCTS

3.01 Precincts

3.02 Organization of the Board

3.03 Quorum - Majority Vote Required

3.04 Meetings of the Board

3.05 Vacancy of Supervisor's Office

3.06 Compensation and Expenses

3.07 Membership on Appointive Boards, Committees, and Commissions

**3.01 PRECINCTS.** The following supervisor district representation plan shall be used for the election of supervisors. The supervisors will be elected from single-member equal population districts, in which the electors of each district shall elect one member who must reside in that district. The Board approved the following 12 Precincts and their populations as per Ordinance 2021A, effective January 15, 2022, and according to the 2020 Federal Decennial Census, total population of the County being 10,019, and divided per the approval of the Temporary Redistricting Commission and the Board on December 27, 2021, the precincts are described as follows:

1. *Geneva/Ingham/East Mott: All of the unincorporated portions of Geneva Township and Ingham Township, the unincorporated portion of Mott Township started at Quail Avenue and proceeding east to the township boundary; and including all of the incorporated cities of Hansell and Geneva. Population 619.*
2. *Grant/Osceola: All of the unincorporated portions of Grant and Osceola township; and including the portions of the incorporated City of Ackley that lies within Franklin County. Population 565.*
3. *Hamilton/Reeve: All of the unincorporated portions of Hamilton and Reeve townships. Population 417.*
4. *Hampton 1: All that part of the City lying south of a line drawn beginning at the west corporate City limits through the center of Fourth Avenue Northwest to Tenth Street Northwest, thence south on Tenth Street Northwest to Second Avenue Northwest, thence east on Second Avenue Northwest to First Street Northwest, thence south on First Street Northwest to First Avenue Northwest, thence east on First Avenue Northwest to First Street Northeast, and, all that part of the City lying westerly of a line drawn southerly on First Street Southeast to Fourth Avenue Southeast, thence west on Fourth Avenue Southeast to Federal Street South, thence south on Federal Street South to the south corporate City limits located on 140th Street. Population 1,077.*
5. *Hampton 2: All that part of the City lying south of a line drawn westerly beginning at the east corporate City limits through the center of Central Avenue East to Eighth Street Northeast, thence north on Eighth Street Northeast to First Avenue Northeast, thence west on First Avenue Northeast to First Street Northeast, and, all that part of the City lying east of a line drawn southerly on First Street Southeast to Fourth Avenue Southeast, thence west on Fourth Avenue Southeast to Federal Street South, thence south on Federal Street South to the Corporate City limits to 140th Street. Population 1,085.*
6. *Hampton 3: All that part of the City lying north of a line drawn westerly beginning at the east corporate City limits through the center of Central Avenue East to Eighth Street Northeast, thence north on Eighth Street Northeast to First Avenue*

*Northeast, thence west on First Avenue Northeast to Second Street Northeast, and, all that part of the City lying east of a line drawn northerly on Second Street Northeast to Third Avenue Northeast, thence west on Third Avenue Northeast to First Street Northeast, thence north on First Street Northeast to Eleventh Place Northeast, thence west on Eleventh Place Northeast to Federal Street North, thence north on Federal Street North to Seventeenth Avenue Northeast, thence east on Seventeenth Avenue Northeast to Third Street Northeast, thence north on Third Street Northeast to Eighteenth Avenue Northeast, thence east on Eighteenth Avenue Northeast to Fourth Street Northeast, thence north on Fourth Street Northeast to the corporate City limits. Population 1,171.*

7. *Hampton 4: All that part of the City lying north of a line drawn beginning at the west corporate City limits through the center of Fourth Avenue Northwest to Tenth Street Northwest, thence south on Tenth Street Northwest to Second Avenue Northwest, thence east on Second Avenue Northwest to First Street Northwest, thence south on First Street Northwest to First Avenue Northwest, thence east on First Avenue Northwest to Second Street Northeast, and, all that part of the City lying west of a line drawn northerly on Second Street Northeast to Third Avenue Northeast, thence west on Third Avenue Northeast to First Street Northeast, thence north on First Street Northeast to Eleventh Place Northeast, thence west on Eleventh Place Northeast to Federal Street North, thence north on Federal Street North to Seventeenth Avenue Northeast, thence east on Seventeenth Avenue Northeast to Third Street Northeast, thence north on Third Street Northeast to Eighteenth Avenue Northeast, thence east on Eighteenth Avenue Northeast to Fourth Street Northeast, thence north on Fourth Street Northeast to the corporate City limits. Population 1,128.*

8. *Marion: All of the unincorporated portion of Marion township and the incorporated City of Latimer and excluding the incorporated City of Coulter. Population 733.*

9. *Morgan/Oakland/Coulter: All of the unincorporated portion of Oakland, Morgan, and Lee townships; and including the incorporated City of Popejoy, City of Coulter, and the portion of the City of Dows that lies within Franklin County. Population 826.*

10. *West Mott: The unincorporated portion of Mott Township beginning at Quail Avenue and traveling west to the township boundary. Population 343.*

11. *Richland/Ross/West Fork: All of the unincorporated portions of Richland, Ross, and West Fork townships; and the incorporated City of Sheffield. Population 1,707.*

12. *Wisner/Scott: All of the unincorporated portions of Wisner and Scott townships; and in the incorporated City of Alexander. Population 472.*

13. Whereas the County Supervisor Districts with population according to the 2020 Federal Decennial Census, total population of Franklin County being 10,019, and divided per the approval of the Temporary Redistricting Commission on September 8, 2011, and the Board on December 27, 2021, effective on January 15, 2012, are described as follows:

A. *Supervisor District No. 1. All of Grant Township, Osceola Township, Geneva Township, Ingham Township, all that portion of Mott Township east of Quail Avenue, Hampton Ward 2, Hampton Ward 3, City of Hansell, City of*



*Geneva, and all that portion of the City of Ackley located in Franklin County. Total population 3,344.*

*B. Supervisor District No. 2. All of Lee Township, Hamilton Township, Marion Township, Reeve Township, City of Latimer, Hampton Ward 1 and Hampton Ward 4. Total population 3,330.*

*C. Supervisor District No. 3. All of Oakland Township, Morgan Township, Scott Township, Wisner Township, Richland Township, Ross Township, West Fork Township, that portion of Mott Township lying west of Quail Avenue and the north and west of the Incorporated Hampton City limits, City of Popejoy, City of Alexander, City of Sheffield, City of Coulter, and that portion of the City of Dows located in Franklin County. Total population 3,348.*

An official map of the new Supervisor Districts and the new voting precincts shall be maintained in the office of the Auditor and shall be available for inspection on request.

**3.02 ORGANIZATION OF THE BOARD.** The Board, at its first meeting in each year, shall:

1. Organize by choosing one of its members as chairperson who shall preside at all of its meetings during the year. The Board may also select a vice chairperson who shall serve during the absence of the chairperson.
2. Choose one of its members to be a member of the Board of Directors of the Judicial District Department of Correctional Services.

The Auditor shall serve as clerk to the Board, but in the absence of the Auditor, a deputy auditor or an employee designated by the Auditor may serve as clerk, or the Board may appoint a temporary clerk.

**3.03 QUORUM - MAJORITY VOTE REQUIRED.** A majority of the members of the Board constitutes a quorum to transact the official business of the County. If the Board is equally divided on a question when less than the full membership is present, the question shall be continued until all of the members of the Board are present. The following actions of the Board require the affirmative vote of a majority of its membership.

1. Levying of a tax.
2. Entering into a contract for the erection of a public building.
3. Making a settlement with a County officer.
4. Buying or selling real estate.
5. Designating a new site for a County building.
6. Changing the boundaries of a township.
7. Appropriating money to aid in the construction of a highway or a bridge.
8. Appointing or removing an officer from office.

**3.04 MEETINGS OF THE BOARD.** The Board shall hold its first meeting of each year on the first day in January which is not a Saturday, Sunday, or holiday and shall hold all subsequent meetings of the year as scheduled by the Board. All meetings of the Board shall be scheduled and conducted in compliance with the *Code of Iowa*. If a quorum of the Board fails

to appear at a meeting, the Clerk shall adjourn the meeting from day to day until a quorum is present.

### **3.05 VACANCY OF SUPERVISOR'S OFFICE.**

1. A vacancy on the Board may occur in several ways. Death or resignation will leave the office vacant or, if a supervisor represents a district within the County, the supervisor's change of residence to a different county, or to a different district, automatically creates a vacancy.
2. In addition to the circumstances which constitute a vacancy in office, the absence of a supervisor from the County for 60 consecutive days shall be treated as a resignation of the office. At its next meeting after the 60-day absence, the Board, by resolution adopted and included in its minutes, shall declare the absent supervisor's seat vacant.
3. A vacancy on the Board is filled by either appointment or by election. If the unexpired term of the vacant seat has more than 70 days to run following the next pending election, the vacancy is filled at that election if the vacancy occurs 60 or more days prior to a regular or primary election or 40 or more days prior to a special election. If the vacancy does not occur within these time limits, the vacancy must be filled by appointment.
4. If the vacancy is filled by appointment, the appointment is made by the Treasurer, the Auditor, and the Recorder. The appointment must be in writing and filed in the office of the Clerk of the District Court. The appointee will serve until a successor qualified for office is elected.

### **3.06 COMPENSATION AND EXPENSES.**

1. The Supervisors shall receive an annual salary or per diem compensation. The annual salary or per diem shall be full payment for all services rendered to the County except for reimbursement for mileage and other expenses.
2. A Supervisor is entitled to reimbursement for mileage expenses incurred while engaged in the performance of official duties at the rate specified in the *Code of Iowa*. The total mileage expense for all supervisors in a County shall not exceed the product of the rate of mileage specified multiplied by the total number of Supervisors in the County times 10,000. The Board may also authorize reimbursement for mileage and other actual expenses incurred by its members when attending an educational course, seminar, or school which is related to the performance of their official duties.

**3.07 MEMBERSHIP ON APPOINTIVE BOARDS, COMMITTEES, AND COMMISSIONS.** Unless otherwise provided by State statute, a Supervisor may serve as a member of any appointive board, commission, or committee of this State, a political subdivision of this State, or a nonprofit corporation or agency receiving County funds.

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## CHAPTER 4

### STANDARD PENALTY/COUNTY INFRACTIONS

**4.01 COUNTY INFRACTIONS.** A violation of this Code of Ordinances or any ordinance or Code herein adopted by reference or the omission or failure to perform any act or duty required by the same, 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 punishable by civil penalty as provided herein.

*(Code of Iowa, Sec. 331.307)*

1. Penalties. A county infraction is punishable by the following civil penalties:
  - A. First Offense – Not to exceed \$750.00.
  - B. Each Repeat Offense – Not to exceed \$1,000.00.

Each day that a violation occurs or is permitted to exist constitutes a repeat offense.

2. Civil Citations. Any officer authorized by the County to enforce this Code of Ordinances may issue a civil citation to a person who commits a municipal infraction. The citation may be served by personal service as provided in Rule of Civil Procedure 1.305, by certified mail addressed to the defendant at defendant's last known mailing address, return receipt requested, or by publication in the manner as provided in Rule of Civil Procedure 1.310 and subject to the conditions of Rule of Civil Procedure 1.311. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the Clerk of the District Court. The citation shall serve as notification that a civil offense has been committed.

3. Alternative Relief. Seeking a civil penalty as authorized in this chapter does not preclude the County from seeking alternative relief from the court in the same action. Such alternative relief may include, but is not limited to, an order for abatement or injunctive relief.

4. Criminal Penalties. This section does not preclude a peace officer from issuing a criminal citation for a violation of this Code or regulation if criminal penalties are also provided for the violation. Nor does it preclude or limit the authority of the County to enforce the provisions of this Code by criminal sanctions or other lawful means.

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## CHAPTER 5

# LOCAL OPTION SALES AND SERVICE TAX

### 5.01 Imposition of Tax

### 5.02 Exceptions

**5.01 IMPOSITION OF TAX.** There is imposed a local option sales and services tax applicable to transactions within the incorporated areas of Coulter, the portion of Dows within Franklin County, Geneva, Hampton, Hansell, Latimer, Popejoy, and Sheffield, and within the unincorporated area of Franklin County.

1. The rate of tax shall be one percent upon the gross receipts taxed under Chapter 423 of the *Code of Iowa*, in the following jurisdictions: Coulter, the portion of Dows within Franklin County, Geneva, Hampton, Hansell, Latimer, Popejoy, Sheffield, and the unincorporated area, of Franklin County.
2. The local sales and services tax is imposed on transactions occurring on or after October 1, 1995, within the incorporated areas of Coulter, the portion of Dows within Franklin County, Geneva, Hansell, Latimer, and Sheffield.
3. The local sales and services tax is imposed on transactions occurring on or after October 1, 1996, within the incorporated areas of Hampton and Popejoy, and within the unincorporated area of Franklin County.

**5.02 EXCEPTIONS.** The tax shall be collected by all persons required to collect State gross receipts taxes. However, the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in Chapter 452A of the *Code of Iowa*, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under Chapter 423A of the *Code of Iowa*, during the period the hotel and motel tax is imposed, on the gross receipts from the sale of natural gas or electric energy in a city or county where the gross receipts are subject to a franchise fee or user fee during the period the franchise or user fee is imposed, on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to the *Code of Iowa*, or on any other item exempted by Chapter 423 of the *Code of Iowa*. All applicable provisions of the appropriate sections of Chapter 423 of the *Code of Iowa*, are adopted by reference.

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## CHAPTER 7

# INDUSTRIAL PROPERTY TAX EXEMPTIONS

7.01 Purpose  
7.02 Definitions  
7.03 Period of Partial Exemption  
7.04 Limitations

7.05 Applications  
7.06 Approval  
7.07 Dual Exemptions Prohibited  
7.08 Exemption Repealed

**7.01 PURPOSE.** The purpose of this chapter is to provide for a partial exemption from property taxation of the actual value added to qualifying real estate by the new construction of industrial real estate, research service facilities, warehouses, owner-operated cattle facilities, and distribution centers.

**7.02 DEFINITIONS.** For use in this chapter the following terms are defined:

1. “Actual value added” means the actual value added as of the first year for which the exemption is received.
2. “Distribution center” means a building or structure used primarily for the storage of goods which are intended for subsequent shipment to retail outlets. “Distribution center” does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods.
3. “New construction” means new buildings and structures and includes new buildings and structures that are constructed as additions to existing buildings and structures. The term does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue to competitively manufacture or process those products, which determination shall receive prior approval from the Board of Supervisors.
4. “Owner-operated cattle facilities” means a building or structure used primarily in the raising of cattle and which is operated by the person owning the facility.
5. “Qualified industrial real estate” means that which is zoned, classified, and assessed as industrial real estate entitled to the exemption created by Chapter 427B, of the *Code of Iowa*, and Iowa Department of Revenue Administrative Rules 730-71.1(6).
6. “Research-service facilities” means a building or group of buildings devoted primarily to research and development activities, including, but not limited to, the design and production or manufacture of prototype products for experimental use, and corporate research services which do not have a primary purpose of providing on-site services to the public.

7. “Warehouse” means a building or structure used as a public warehouse for the storage of goods pursuant to Chapter 554, Article 7, of the *Code of Iowa*, except that it does not mean a building or structure used primarily to store raw agricultural products or from which goods are sold at retail.

**7.03 PERIOD OF PARTIAL EXEMPTION.** The actual value added to industrial real estate, as specified in this chapter, is eligible to receive a partial exemption from taxation for a period of five years. The exemption shall also apply to the acquisition of or improvement to machinery and equipment assessed as real estate pursuant to Section 427A.1[1e] of the *Code of Iowa*, unless the machinery or equipment is part of the normal replacement or operating process to maintain or expand the existing operational status. However, if the property ceases to be classified as industrial real estate, the partial exemption shall not be allowed for subsequent assessment years. The amount of actual value added which is eligible to be exempt from taxation shall be as follows:

1. For the first year, 75 percent.
2. For the second year, 60 percent.
3. For the third year, 45 percent.
4. For the fourth year, 30 percent.
5. For the fifth year, 15 percent.
6. For the sixth year, zero percent.

**7.04 LIMITATIONS.** The granting of the exemption under this chapter for new construction constituting complete replacement of an existing building or structure shall not result in the assessed value of the industrial real estate being reduced below the assessed value of the industrial real estate before the start of the new construction added.

**7.05 APPLICATIONS.** An application shall be filed for each project resulting in actual value added for which an exemption is claimed.

1. The application for exemption shall be filed by the owner of the property with the Assessor by February 1 of the assessment year in which the value added is first assessed for taxation.
2. Applications for exemption shall be made on forms prescribed by the Director of Revenue, State of Iowa, and shall contain information pertaining to the nature of the improvement, its cost, and other information deemed necessary by the Director of Revenue.

**7.06 APPROVAL.** A person may submit a proposal to the Board of Supervisors to receive prior approval for eligibility for a tax exemption on new construction. The Board of Supervisors, by ordinance, may give its prior approval of a tax exemption for new construction if the new construction is in conformance with the Franklin County Land Development Regulations Ordinance. Such prior approval shall also be subject to the public hearing requirements of this code. Prior approval does not entitle the owner to exemption from taxation until the new construction has been completed and found to be qualified real estate. However, if the tax exemption for new construction is not approved, the person may submit an amended proposal to the Board of Supervisors to approve or reject.



**7.07 DUAL EXEMPTIONS PROHIBITED.** A property tax exemption under this chapter shall not be granted if the property for which the exemption is claimed has received any other property tax exemption authorized by law.

**7.08 EXEMPTION REPEALED.** When in the opinion of the Board of Supervisors, continuation of the exemption granted by this chapter ceases to be of benefit to the County, the Board of Supervisors may repeal the ordinance codified in this chapter, but all existing exemptions shall continue until their expiration.

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## CHAPTER 8

# SPECIAL ASSESSMENT REIMBURSEMENT

8.01 Purpose

8.02 Definitions

8.03 Fee for Collection of Special Assessment

8.04 Overlapping Districts

8.05 Certification

8.06 Special Account - Use of Account

**8.01 PURPOSE.** This chapter authorizes the Board of Supervisors of Franklin County to collect a fee from a person paying a special assessment levied by any political subdivision within the County to cover County administrative costs.

**8.02 DEFINITIONS.** For use in this chapter the following terms are defined:

1. "Political subdivision" means any municipality or school district or portions thereof within the boundaries of the County. For the purpose of this chapter, political subdivision shall not include the County.

**8.03 FEE FOR COLLECTION OF SPECIAL ASSESSMENT.** Any person against whom any political subdivision in the County has levied a special assessment to be collected by the County shall pay \$9.00 to the Treasurer at the time the special assessment is paid if the special assessment is paid in full. Any person opting to pay the special assessment in installments shall pay \$3.00 to the Treasurer each time an installment is paid.

**8.04 OVERLAPPING DISTRICTS.** In the case whereby any political subdivision overlaps into two or more counties and a county other than Franklin County collects the special assessment, the provisions of this Code shall not apply.

**8.05 CERTIFICATION.** The Treasurer shall, on or before February first of each year, certify to the Board a statement estimating the amount to be collected under the provisions of Section 8.03.

**8.06 SPECIAL ACCOUNT - USE OF ACCOUNT.** All fees and other monies available or paid to the County under the provisions of this chapter shall be placed in the County general fund and credited to a special agency account to be designated as the special assessment reimbursement account. This fund shall be available to the Board by appropriation and shall be expended for the administration and enforcement of this chapter and for any other expenses incurred by the County directly or indirectly due to the provisions set forth by this chapter. Any unencumbered and any unexpected balance of this account remaining at the end of any fiscal year shall not lapse, but shall be carried forward for the purposes of this chapter until expended or until appropriated by subsequent Board action.

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## CHAPTER 9

# ACCEPTANCE AND REPORTING OF GIFTS

9.01 Purpose  
9.02 Definitions

9.03 Gifts Solicited or Accepted  
9.04 Reporting of Gifts

**9.01 PURPOSE.** The purpose of this chapter is to limit the value of gifts that can be made to or received by County officials, employees, or their immediate family members, and to adopt rules, as mandated by Chapter 68B.22 of the *Code of Iowa*, requiring public disclosure of gifts exceeding \$3.00 in value.

**9.02 DEFINITIONS.** For use in this ordinance, certain terms or words used herein shall be interpreted or defined as follows:

1. “County official” and “County employee” means an official or employee of this County.
2. “Gift” means a rendering of money, property, services, discount, loan forgiveness, payment of indebtedness, or anything else of value in return for which legal consideration of equal or greater value is not given and received, if the donor is in any of the following categories:
  - A. Is doing or seeking to do business of any kind with the donee’s agency.
  - B. Is engaged in activities which are regulated or controlled by the donee’s agency.
  - C. Has interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the donee’s official duty.
  - D. Is a lobbyist with respect to matters within the donee’s jurisdiction.
  - E. However, “gift” shall not mean any of the following:
    - (1) Campaign contributions.
    - (2) Informational material relevant to a public servant’s official functions, such as books, pamphlets, reports, documents, or periodicals, and registration fees or tuition not including travel or lodging, for not more than three days, at seminars or other public meetings conducted in this State, at which the public servant receives information relevant to the public servant’s official functions. Information or participation received under the exclusion of this subparagraph may be applied to satisfy a continuing education requirement of the donee’s regulated occupation or profession if the donee pays any registration costs exceeding \$35.00.
    - (3) Anything received from a person related within the fourth degree by kinship or marriage, unless the donor is acting as an agent or intermediary for another person not so related.
    - (4) An inheritance.

- (5) Anything available to or distributed to the public generally without regard to official status of the recipient.
  - (6) Actual expenses for food, beverages, travel, lodging, registration, and scheduled entertainment of the donee for a meeting, which is given in return for participation in a panel or speaking engagement at the meeting.
  - (7) Plaques or items of negligible resale value given as recognition for public services.
3. “Immediate family members” means the spouse and minor children of a person required to file reports pursuant to this chapter.
  4. “Is doing business with the donee’s agency” means being a party to any one or any combination of sales, purchases, leases, or contracts to, from, or with the County or any agency thereof.
  5. “Public disclosure” means a written report filed by the fifteenth day of the month following the month in which a gift is received as required by this chapter.

### **9.03 GIFTS SOLICITED OR ACCEPTED.**

1. A County official or employee or that person’s immediate family member shall not directly or indirectly solicit, accept, or receive from any one donor in any one calendar day a gift or series of gifts having a value of \$3.00.
2. A person shall not, directly or indirectly, offer or make a gift or a series of gifts to a County official or employee or the official or employee’s immediate family member, in any one calendar day, if the gift or series of gifts has a value of \$3.00. A person shall not, directly or indirectly, join with one or more persons to offer to make a gift or series of gifts to a County official, employee, or the official or employee’s immediate family member, in any one calendar day, if the gift or series of gifts has a total value of \$3.00.
3. A person may give and a County official, employee, or the official or employee’s immediate family member may accept in any one calendar day a gift or a series of gifts which has a value of \$3.00 or more and not be in violation of this section if the gift or series of gifts is donated within 30 days to a public body, a bona fide educational or charitable organization, or the State Department of General Services.

### **9.04 REPORTING OF GIFTS.**

1. A County official, employee, or that person’s immediate family member who accepts a gift or series of gifts from any one donor which exceeds \$3.00 in any one calendar day shall publicly disclose the nature, amount, date, and donor of the gift or series of gifts.
2. A person who gives a gift or series of gifts to a County official, employee, or the official or employee’s immediate family member which exceeds \$3.00 in any one calendar day shall publicly disclose the nature, amount, date, and donee of the gift or series of gifts.
3. Public disclosure by both the donee and donor shall be made by filing a public disclosure report form by the fifteenth day of the month following the month in which a gift is received.

4. Copies of the completed forms shall be filed with the Auditor's office.
5. A County official, employee, or that person's immediate family member who accepts a gift of food or beverage provided for that person's immediate consumption in the presence of the donor is not required to report the gift. A person who gives a gift of food or beverage to a donor for their immediate consumption in the donee's presence is not required to report the gift.
6. Reporting and Valuation Guidelines.
  - A. In determining the value of a gift, an individual making a gift on behalf of more than one person shall not divide the value of the gift by the number of persons on whose behalf the gift is made.
  - B. The value of the gift to the donee is the value actually received.
  - C. A donor of a gift made by more than one individual to one or more donee's shall report the gift if the total value of the gift to the donee exceeds \$3.00.

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## CHAPTER 10

# URBAN RENEWAL

- |   |   |
|---|---|
| 10.01 Highway 65 Economic Development District                                  | 10.06 2015 Coop Urban Renewal Area              |
| 10.02 Northern Pipe Urban Renewal Area  | 10.07 2016 Addition to the 2015 Coop Urban Area |
| 10.03 Franklin County - Dows Urban Renewal Area                                 |   |
| 10.04 Whispering Willow Urban Renewal Area                                      |   |
| 10.05 2012 Addition to the Franklin County Whispering Willow Urban Renewal Area |   |

### 10.01 HIGHWAY 65 ECONOMIC DEVELOPMENT DISTRICT.

1. Purpose. The purpose of this chapter is to provide for the division of taxes levied on the taxable property in the Highway 65 Economic Development District, each year by and for the benefit of the State, City, County, school districts, or other taxing districts after the effective date of this chapter in order to create a special fund to pay the principal of and interest on loans, moneys advanced to, or indebtedness, including bonds proposed to be issued by Franklin County to finance projects in such area.

2. Definitions. For use in this chapter the following terms are defined:

A. "Urban renewal area" means the Highway 65 Economic Development District, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Board of Supervisors by resolution adopted on October 15, 2001:

*A tract of land in the West 40 rods of the Northwest Quarter (NW1/4) of Section Fifteen (15), Township Ninety-two (92) North, Range Twenty (20) West of the 5th P.M., Franklin County, Iowa, described as follows: Commencing at the Northwest corner of the NW1/4 of said Section 15 as the point of beginning; thence South 3,298.25 feet along the West line of said Section 15; thence East 668.34 feet; thence north 3,298.25 feet to the north line of said Section 15; thence west 668.34 feet along the North line of said Section 15 to Point of Beginning, containing approximately 50.60 acres. All adjoining public right-of-ways.*

3. Provisions for Division of Taxes Levied on Taxable Property in the Highway 65 Economic Development District. After the effective date of this chapter, the taxes levied on the taxable property in the Highway 65 Economic Development District each year by and for the benefit of the State, the County and any city, school district, or other taxing district in which the Highway 65 Economic Development District is located, shall be divided as follows:

A. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Highway 65 Economic Development District, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the County certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds

payable from the special fund referred to in Paragraph B below, shall be allocated to and, when collected, be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Highway 65 Economic Development District on the effective date of this chapter, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the chapter which amends the plan for the Highway 65 Economic Development District to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

B. That portion of the taxes each year in excess of such amounts shall be allocated to and, when collected, be paid into a special fund of the County to pay the principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, including bonds issued under the authority of Section 403.9(1), of the *Code of Iowa*, incurred by the County to finance or refinance, in whole or in part, projects in the Highway 65 Economic Development District, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this chapter. Unless and until the total assessed valuation of the taxable property in the Highway 65 Economic Development District exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in Paragraph A of this section, all of the taxes levied and collected upon the taxable property in the Highway 65 Economic Development District shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Highway 65 Economic Development District shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

C. The portion of taxes mentioned in Paragraph B of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the County for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the *Code of Iowa*, or indebtedness incurred by the County to finance or refinance in whole or in part projects in the Highway 65 Economic Development District.

D. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

## **10.02 NORTHERN PIPE URBAN RENEWAL AREA.**

1. Purpose. The purpose of this chapter is to provide for the division of taxes levied on the taxable property in the Northern Pipe Urban Renewal Area, each year by and for benefit of the State, City, County, school districts, or other taxing districts after the effective date of this chapter in order to create a special fund to pay the principal of and interest on loans, moneys advanced to, or indebtedness, including bonds proposed to be issued by Franklin County to finance projects in such area.

2. Definitions. For use in within this chapter, the following terms shall have the following meanings:

A. "Urban renewal area" means the Northern Pipe Urban Renewal Area, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Board of Supervisors by resolution adopted on December 9, 2002:

*Lots 1 and 2, except the South 170' of the West 150' of Lot 2, located in the Hampton Air Industrial Park, City of Hampton, Franklin County, Iowa.*

3. Provisions for Division of Taxes Levied on Taxable Property in the Urban Renewal Area. After the effective date of this chapter, the taxes levied on the taxable property in the Urban Renewal Area each year by and for the benefit of the State, the County, and any city, school district, or other taxing district in which the Urban Renewal Area is located, shall be divided as follows:

A. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the County certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in Paragraph B below, shall be allocated to and, when collected, be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the effective date of this chapter, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the chapter which amends the plan for the Urban Renewal Area to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

B. That portion of the taxes each year in excess of such amounts shall be allocated to and, when collected, be paid into a special fund of the County to pay the principal of and interest on loans, moneys advanced to or indebtedness; whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the *Code of Iowa*, incurred by the County to finance or refinance, in whole or in part, projects in the Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this chapter. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in Paragraph A of this section, all the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal

Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

C. The portion of the taxes mention in Paragraph B of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the County for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the *Code of Iowa*, or indebtedness incurred by the County to finance or refinance in whole or in part projects in the Urban Renewal Area.

D. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

### **10.03 FRANKLIN COUNTY - DOWS URBAN RENEWAL AREA.**

1. Purpose. The purpose of this chapter is to provide for the division of taxes levied on the taxable property in the Franklin County-Dows Urban Renewal Area, each year by and for the benefit of the State, City, County, school districts, or other taxing districts after the effective date of this chapter in order to create a special fund to pay the principal of and interest on loans, moneys advanced to, or indebtedness, including bonds proposed to be issued by Franklin County to finance projects in such area.

2. Definitions. For use in this chapter, the following terms shall have the following meanings:

A. “Urban renewal area” means the Franklin County-Dows Urban Renewal Area, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Board of Supervisors by resolution adopted on May 27, 2008. Certain real property situated in Franklin County, Iowa, more particularly described as follows:

*The Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4),  
Section Twenty (20), Township Ninety-One (91), Range  
Twenty-Two (22).*

3. Provisions for Division of Taxes Levied on Taxable Property in the Urban Renewal Area. After the effective date of this chapter, the taxes levied on the taxable property in the Urban Renewal Area each year by and for the benefit of the State, the County and any city, school district, or other taxing district in which the Urban Renewal Area is located, shall be divided as follows:

A. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the County certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in Paragraph B below, shall be allocated to and, when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the effective date of this chapter, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the chapter which

amends the plan for the Urban Renewal Area to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

B. That portion of the taxes each year in excess of such amounts shall be allocated to and, when collected, be paid into a special fund of the County to pay the principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, including bonds issued under the authority of Section 403.9(1), of the *Code of Iowa*, incurred by the County to finance or refinance, in whole or in part, projects in the Urban Renewal Area, and to provide assistance for low and moderate-income family housing as provided in Section 403.22 of the *Code of Iowa*, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the *Code of Iowa*, and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this chapter. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in Paragraph A of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

C. The portion of taxes mentioned in Paragraph B of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the County for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the *Code of Iowa*, or indebtedness incurred by the County to finance or refinance in whole or in part projects in the Urban Renewal Area.

D. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

#### **10.04 WHISPERING WILLOW URBAN RENEWAL AREA.**

1. Purpose. The purpose of this chapter is to provide for the division of taxes levied on the taxable property in the Franklin County Whispering Willow Urban Renewal Area, each year by and for the benefit of the State, City, County, school districts or other taxing districts after the effective date of Ordinance 1.12 in order to create a special fund to pay the principal of and interest on loans, moneys advanced to, or indebtedness, including bonds proposed to be issued by the County to finance projects in such area.

2. Definitions. For use within this chapter, the following terms shall have the following meanings:

A. “Urban Renewal Area” means the Franklin County Whispering Willow Urban Renewal Area, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Board of

Supervisors by resolution adopted on March 29, 2010. TIF District Boundary Description for the Whispering Willows Wind Farm, Phase I located in Franklin County, Iowa and more particularly described as follows:

*Beginning at the intersection of the east line of Mallard Avenue and north line of 80<sup>th</sup> Street; Thence East along the north line of 80<sup>th</sup> Street to a point 20 feet west of Turbine 114; Thence North to a point 20 feet west and 20 feet north of Turbine 114; Thence East to a point 20 feet east and 20 feet north of Turbine 114; Thence South to the north line of 80<sup>th</sup> Street; Thence East along said north line to the west line of Nettle Avenue;*

*Thence North along said west line to a point 20 feet south of Turbine 113; Thence West to a point 20 feet west and 20 feet south of Turbine 113; Thence North to a point 20 feet west and 20 feet north of Turbine 113; Thence East to the west line of Nettle Avenue;*

*Thence North along said west line to a point 20 feet north of Turbine 111; Thence East to a point 20 feet east and 20 feet north of Turbine 111; Thence South to a point 20 feet east and 20 feet south of Turbine 111; Thence West to the east line of Nettle Avenue; Thence South along said east line to the north line of 80<sup>th</sup> Street;*

*Thence East along said north line to a point 20 feet west of Turbine 110; Thence north to a point 20 feet west and 20 feet north of Turbine 110; Thence East to a point 20 feet east and 20 feet north of Turbine 110; Thence South to the north line of 80<sup>th</sup> Street; Thence East along said north line to the west line of Olive Avenue;*

*Thence North along said west line to a point 20 feet north of Turbine 106; Thence East along a line north of Turbine 106 to a point 20 feet north and 20 feet east of Turbine 105; Thence South to a point 20 feet east and 20 feet south of Turbine 105; Thence West along a line south of Turbine 106 to the east line of Olive Avenue; Thence South to the north line of 85<sup>th</sup> Street; Thence East along said north line to the west line of Highway 65;*

*Thence North along said west line to a point 20 feet south of Turbine 104; Thence West to a point 20 feet west and 20 feet south of Turbine 104; Thence North to a point 20 feet west and 20 feet north of Turbine 104; Thence East to the west line of Highway 65;*

*Thence North to a point 20 feet south of Turbine 107; Thence West along a line 20 feet south of Turbines 107, 108 and 109 to a point 20 feet west and 20 feet south of Turbine 109; Thence North to a point 20 feet west and 20 feet north of Turbine 109; Thence East along a line 20 feet north of Turbine 107, 108 and 109 to the east line of Highway 65; Thence South a long said east line to the south line of 85<sup>th</sup> Street;*

*Thence West along said south line to a point 20 feet east of Turbine 102; Thence South to a point 20 feet east and 20 feet south of Turbine 102; Thence West to a point 20 feet west and 20 feet south of Turbine 102; Thence North to the south line of 85<sup>th</sup> Street; Thence West along said south line to the east line of Olive Avenue;*

*Thence South along said east line to a point 160 feet north of Turbine 103; Thence East to a point 20 feet east and 160 feet north of Turbine 103; Thence South to a point 20 feet east and 20 feet south of Turbine 103; Thence West to a point 20 feet west and 20 feet south of Turbine 103; Thence North to a point 20 feet west and 155 feet north of Turbine 103; Thence West to the east line of Olive Avenue;*

*Thence South along said line to a point 20 feet north of Turbine 76; Thence East to a point 20 feet east and 20 feet north of Turbine 76; Thence South to a point 20 feet east and 20 feet south of Turbine 76; Thence West to the east line of Olive Avenue;*

*Thence South along said east line to a point 200 feet north of Turbine 73; Thence East to a point 20 feet east and 200 feet north of Turbine 73; Thence South to a point 20 feet east and 20 feet south of Turbine 73; Thence West to a point 20 feet west and 20 feet south of Turbine 73; Thence North to a point 20 feet west and 195 feet north of Turbine 73; Thence West to the east line of Olive Avenue; Thence South along said east line to the north line of 70<sup>th</sup> Street;*

*Thence East along said north line to a point 20 feet west of Turbine 71; Thence North to a point 20 feet west and 20 feet north of Turbine 71; Thence East to a point 20 feet east and 20 feet north of Turbine 71; Thence South to the north line of 70<sup>th</sup> Street;*

*Thence East along said north line to a point 20 feet west of Turbine 70; Thence North to a point 20 feet west and 20 feet north of Turbine 70; Thence East to a point 20 feet east and 20 feet north of Turbine 70; Thence South to the north line of 70<sup>th</sup> Street;*

*Thence East along said north line to a point 20 feet west of Turbine 69; Thence North to a point 20 feet west and 20 feet north of Turbine 69; Thence East to a point 20 feet east and 20 feet north of Turbine 69; Thence South to the north line of 70<sup>th</sup> Street; Thence East along said north line to the west line of Highway 65;*

*Thence North along said west line to a point 20 feet south of Turbine 72; Thence West to a point 20 feet west and 20 feet south of Turbine 72; Thence North to a point 20 feet west and 20 feet north of Turbine 72; Thence East to the west line of Highway 65;*

*Thence North along said west line to a point 20 feet south of Turbine 75; Thence West to a point 20 feet west and 20 feet south of Turbine 75; Thence North to a point 20 feet west and 20 feet north of Turbine 75; Thence East to a point 20 feet west of Turbine 74; Thence North to a point 20 feet north and 20 feet west of Turbine 74; Thence East to a point 20 feet east and 20 feet north of Turbine 74; Thence South to a point 20 feet north of Turbine 75; Thence East to the east line of Highway 65;*

*Thence South along said east line to a point 120 feet north of Turbine 62; Thence East to a point 20 feet east and 120 feet north of Turbine 62; Thence South to a point 20 feet east and 20 feet south of Turbine 62; Thence west to a point 20 feet west and 20 feet south of Turbine 62; Thence North to a point 20 feet west and 110 feet north of Turbine 62; Thence West to a point 20 feet east of Turbine 63; Thence South to a point 20 feet east and 20 feet south of Turbine 63; Thence West to a point 20 feet west and 20 feet south of Turbine 63; Thence North to a point 110 feet north of Turbine 62; Thence West to the east line of Highway 65; Thence South along said east line to the north line of 70<sup>th</sup> Street;*

*Thence East along said north line to a point 20 feet west of Turbine 61; Thence North to a point 20 feet west and 20 feet north of Turbine 61; Thence East to a point 20 feet east and 20 feet north of Turbine 61; Thence South to the north line of 70<sup>th</sup> Street; Thence East along said north line to the west line of Quail Avenue;*

*Thence North along said west line to a point 20 feet south of Turbine 64; Thence West along a line 20 feet south of Turbines 64, 65 and 66 to a point 20 feet west and 20 feet south of Turbine 66; Thence North to a point 20 feet west and 20 feet north of Turbine 66; Thence East along a line 20 feet north of Turbines 66, 65 and 64 to the west line of Quail Avenue; Thence North along said west line to a point 150 feet south of Turbine 68; Thence West to a point 2770 feet east and 150 feet south of Turbine 68; Thence North to a point 2770 feet east and 150 feet south of Turbine 68; Thence West along a line 20 feet south of Turbines 67 and 68 to a point 20 feet west and 20 feet south of Turbine 68; Thence North to a point 20 feet west and 20 feet north of Turbine 68; Thence East along a line 20 feet north of Turbines 68 and 67 to a point 2780 east and 20 feet north of Turbine 68; Thence South to a point 140 feet south of Turbine 68; Thence East to the west line of Quail Avenue;*

*Thence North along said west line to a point 20 feet south of Turbine 94; Thence West along a line 20 feet south of Turbines 94, 95, and 96 to a point 20 feet west and 20 feet south of Turbine 96; Thence North to a point 20 feet west and 20 feet north of Turbine 96; Thence East to a point 20 feet west of Turbine 98; Thence North to a point 20 feet west and 20 feet north of Turbine 98; Thence East to a point 20 feet west of*



*Turbine 99; Thence North to a point 20 feet west and 20 feet south of Turbine 99; Thence West to a point 20 feet west and 20 feet south of Turbine 100; Thence North to a point 20 feet west and 20 feet north of Turbine 100; Thence East to a point 20 feet east and 20 feet north of Turbine 99; Thence South to a point 20 feet north of Turbine 97; Thence East to a point 20 feet east and 20 feet north of Turbine 97; Thence South to a point 20 feet east and 20 feet south of Turbine 97; Thence East to a point 20 feet east and 20 feet south of Turbine 98; Thence South to a point 20 feet north of Turbine 96; Thence East along a line 20 feet north of Turbines 95 and 94 to the west line of Quail Avenue; Thence North to the centerline of 105<sup>th</sup> Street; Thence East to the east line of Quail Avenue;*

*Thence South along said east line to a point 20 feet north of Turbine 91; Thence East to a point 20 feet east and 20 feet north of Turbine 91; Thence South to a point 20 feet east and 20 feet south of Turbine 91; Thence West to the west line of Quail Avenue; Thence South along said west line to the north line of 70<sup>th</sup> Street; Thence East along said north line to the west line of Raven Avenue;*

*Thence North along said west line to a point 20 feet south of Turbine 58; Thence West to a point 20 feet west and 20 feet south of Turbine 58; Thence North to a point 20 feet west and 20 feet north of Turbine 58; Thence East to the east line of Raven Avenue; Thence South along said east line to the north line of 70<sup>th</sup> Street; Thence east along said north line to the east line of Spruce Avenue; Thence South along said east line to the centerline of Highway 57; Thence West to the southerly projection of the west line of Spruce Avenue; Thence North along said west line to the south line of 70<sup>th</sup> Street; Thence West along said south line to the east line of Raven Avenue;*

*Thence South along said east line to a point 20 feet north of Turbine 36; Thence East to a point 20 feet east and 20 feet north of Turbine 36; Thence South to a point 20 feet east and 20 feet south of Turbine 36; Thence West to the east line of Raven Avenue;*

*Thence South along said east line to a point 20 feet north of Turbine 11; Thence East to a point 20 feet east and 20 feet north of Turbine 11; Thence South to a point 20 feet east and 20 feet south of Turbine 11; Thence West to the east line of Raven Avenue;*

*Thence South along said east line to a point 20 feet north of Turbine 1; Thence East to a point 20 feet east and 20 feet north of Turbine 1; Thence South to a point 20 feet east and 20 feet south of Turbine 1; Thence West to the west line of Raven Avenue; Thence North along said west line to a point 20 feet south of Turbine 3; Thence west to a point 20 feet east of Turbine 2; Thence South to a point 20 feet east and 20 feet south*

*of Turbine 2; Thence West to a point 20 feet west and 20 feet south of Turbine 2; Thence North to a point 20 feet south of Turbine 3; Thence West to a point 20 feet west and 20 feet south of Turbine 3; Thence North to a point 20 feet west and 20 feet north of Turbine 3; Thence East to the west line of Raven Avenue; Thence North along said west line to the south line of 50th Street; Thence west along said south line to the east line of Quail Avenue;*

*Thence South along said east line to a point 20 feet south of Turbine 4; Thence West along a line 20 feet south of Turbine 4 and 5 to a point 20 feet west and 20 feet south of Turbine 5; Thence North to a point 20 feet west and 20 feet north of Turbine 5; Thence East along a line 20 feet north of Turbines 5 and 4 to the west line of Quail Avenue; Thence North along said west line to the south line of 50<sup>th</sup> Street; Thence West along said south line to the east line of Highway 65;*

*Thence South along said east line to a point 20 feet north of Turbine 6; Thence East to a point 20 feet east and 20 feet north of Turbine 6; Thence South to a point 20 feet east and 20 feet south of Turbine 6; Thence West to the west line of Highway 65;*

*Thence North along said west line to a point 20 feet south of Turbine 7; Thence West to a point 20 feet west and 20 feet south of Turbine 7; Thence North to a point 20 feet west and 20 feet north of Turbine 7; Thence East to the west line of Highway 65;*

*Thence North along said west line to a point 20 feet south of Turbine 22; Thence West to a point 20 feet west and 20 feet south of Turbine 22; Thence North to a point 20 feet west and 20 feet north of Turbine 22; Thence East to the west line of Highway 65;*

*Thence North along said west line to a point 20 feet south of Turbine 46; Thence West to a point 20 feet east of Turbine 45; Thence South to a point 20 feet east and 20 feet south of Turbine 45; Thence West to a point 20 feet west and 20 feet south of Turbine 45; Thence North to a point 20 feet south of Turbine 46; Thence West to a point 20 feet west and 20 feet south of Turbine 46; Thence North to a point 20 feet west and 20 feet north of Turbine 46; Thence East to the west line of Highway 65;*

*Thence North along said west line to a point 20 feet north of Turbine 41; Thence East to a point 20 feet east and 20 feet north of Turbine 41; Thence South to a point 20 feet east and 20 feet south of Turbine 41; Thence west to the east line of Highway 65;*

*Thence South along said east line to a point 20 feet north of Turbine 19; Thence East to a point 20 feet east and 20 feet north of Turbine 19; Thence South to a point 20 feet east and 20 feet south of Turbine 19; Thence West to the east line of Highway*

65; Thence South along said east line to the north line of 50<sup>th</sup> Street;

Thence East along said north line to a point 20 feet west of Turbine 17; Thence North to a point 20 feet west and 20 feet north of Turbine 17; Thence East to a point 20 feet east and 20 feet north of Turbine 17; Thence South to the north line of 50<sup>th</sup> Street; Thence East along said north line to the west line of Quail Avenue;

Thence North along said west line to a point 20 feet south of Turbine 18; Thence West to a point 20 feet west and 20 feet south of Turbine 18; Thence North to a point 20 feet west and 20 feet north of Turbine 18; Thence East to the west line of Quail Avenue; Thence North along said west line to the westerly extension of the north line of 60<sup>th</sup> Street;

Thence East along said north line to a point 20 feet west of Turbine 37; Thence North to a point 20 feet west and 20 feet north of Turbine 37; Thence East to a point 20 feet east and 20 feet north of Turbine 37; Thence South to the south line of 60<sup>th</sup> Street; Thence West along said south line to the east line of Quail Avenue;

Thence South along said east line to a point 20 feet north of Turbine 16; Thence East along a line 20 feet north of Turbines 16, 15 and 14 to a point 20 feet east and 20 feet north of Turbine 14; Thence South to a point 20 feet east and 20 feet south of Turbine 14; Thence West along a line 20 feet south of Turbines 14, 15 and 16 to the east line of Quail Avenue; Thence South along said east line to the north line of 50<sup>th</sup> Street;

Thence East along said north line to a point 20 feet west of Turbine 13; Thence North to a point 20 feet west and 20 feet north of Turbine 13; Thence East to a point 20 feet east and 20 feet north of Turbine 13; Thence South to the north line of 50<sup>th</sup> Street;

Thence East along said north line to a point 20 feet west of Turbine 12; Thence North to a point 20 feet west and 20 feet north of Turbine 12; Thence East to a point 20 feet east and 20 feet north of Turbine 12; Thence South to the north line of 50<sup>th</sup> Street; Thence East along said north line to the west line of Raven Avenue; Thence North along said west line to the south line of 70<sup>th</sup> Street;

Thence West along said south line to a point 20 feet east of Turbine 38; Thence South to a point 20 feet east and 20 feet south of Turbine 38; Thence West to a point 20 feet west and 20 feet south of Turbine 38; Thence North to the south line of 70<sup>th</sup> Street;

Thence West along said south line to a point 20 feet east of Turbine 39; Thence South to a point 20 feet east and 20 feet south of Turbine 39; Thence West to a point 20 feet west and 20

*feet south of Turbine 39; Thence North to the south line of 70<sup>th</sup> Street;*

*Thence West along said south line to a point 20 feet east of Turbine 42; Thence South to a point 20 feet east and 20 feet south of Turbine 42; Thence West to a point 20 feet west and 20 feet south of Turbine 42; Thence North to the south line of 70<sup>th</sup> Street;*

*Thence West along said south line to a point 20 feet east of Turbine 43; Thence South to a point 20 feet east and 20 feet south of Turbine 43; Thence West to a point 20 feet west and 20 feet south of Turbine 44; Thence North to a point 20 feet west and 20 feet north of Turbine 44; Thence East to a point 20 feet west and 20 feet north of Turbine 43; Thence North to the south line of 70<sup>th</sup> Street;*

*Thence West along said south line to a point 20 feet east of Turbine 48; Thence South to a point 20 feet east and 20 feet south of Turbine 48; Thence West to a point 20 feet west and 20 feet south of Turbine 48; Thence North to the south line of 70<sup>th</sup> Street;*

*Thence West along said south line to a point 20 feet east of Turbine 49; Thence South to a point 20 feet east and 20 feet south of Turbine 49; Thence West to a point 20 feet west and 20 feet south of Turbine 49; Thence North to the south line of 70<sup>th</sup> Street;*

*Thence West along said south line to a point 20 feet east of Turbine 53; Thence South to a point 20 feet east and 20 feet south of Turbine 53; Thence West to a point 20 feet west and 20 feet south of Turbine 53; Thence North to the south line of 70<sup>th</sup> Street;*

*Thence West along said south line to a point 550 feet east of the west line of the Northwest Quarter of Section 8, T90N, R20W; Thence South to a point 550 feet east of said west line and 475 feet south of the north line of said Northwest Quarter; Thence West to the east line of Nuthatch Avenue;*

*Thence South along said east line to a point 20 feet north of Turbine 203; Thence East to a point 20 feet east and 20 feet north of Turbine 203; Thence South to a point 20 feet east and 20 feet south of Turbine 203; Thence West to the east line of Nuthatch Avenue;*

*Thence South along said east line to a point 20 feet north of Turbine 47; Thence East to a point 20 feet east and 20 feet north of Turbine 47; Thence South to a point 20 feet east and 20 feet south of Turbine 47; Thence West to a point 20 feet east of Turbine 202; Thence South to a point 20 feet north of Turbine 24; Thence East along a line 20 feet north of Turbines 24 and 23 to a point 20 feet east and 20 feet north of Turbine 23; Thence South to a point 20 feet east and 20 feet south of Turbine 23;*

*Thence West along a line 20 feet south of Turbines 23 and 24 to a point 20 feet east of Turbine 30; Thence South to a point 20 feet east and 20 feet south of Turbine 30; Thence West to a point 20 feet west and 20 feet south of Turbine 30; Thence North to a point 20 feet west and 25 feet north of Turbine 30; Thence East to a point 20 feet west of Turbine 202; Thence North to a point 20 feet west of Turbine 202 and 20 feet south of Turbine 47; Thence West to a point 20 feet east of Turbine 201; Thence South to a point 20 feet east and 20 feet south of Turbine 201; Thence West to a point 20 feet west and 20 feet south of Turbine 201; Thence North to a point 20 feet south of Turbine 47; Thence West to the east line of Nuthatch Avenue;*

*Thence South along said east line to a point 20 feet north of Turbine 31; Thence East to a point 20 feet east and 20 feet north of Turbine 31; Thence South to a point 20 feet east and 20 feet south of Turbine 31; Thence West to the east line of Nuthatch Avenue;*

*Thence South along said east line to a point 20 feet north of Turbine 27; Thence East along a line 20 feet north of Turbines 27, 26, 21 and 20 to a point 20 feet east and 20 feet north of Turbine 20; Thence South to a point 20 feet east and 20 feet south of Turbine 20; Thence West along a line 20 feet south of Turbines 20, 21, 26 and 27 to the east line of Nuthatch Avenue; Thence South along said east line to the north line of 40<sup>th</sup> Street;*

*Thence East along said north line to a point 20 feet west of Turbine 9; Thence North to a point 20 feet west of Turbine 9 and 20 feet north of Turbine 8; Thence East to a point 20 feet east and 20 feet north of Turbine 8; Thence South to a point 20 feet east and 20 feet south of Turbine 8; Thence West to a point 20 feet east of Turbine 9; Thence South to the north line of 40<sup>th</sup> Street;*

*Thence East along the north line of 40<sup>th</sup> Street to the west line of Highway 65; Thence South to the south line of 40<sup>th</sup> Street; Thence West along said south line to the east line of Mallard Avenue; Thence North to the north line of 40<sup>th</sup> Street; Thence East along said north line to the west line of Nuthatch Avenue; Thence North along said west line to the south line of 50<sup>th</sup> Street; Thence West along said south line to the West line of Mallard Avenue; Thence North to the north line of 50<sup>th</sup> Street;*

*Thence East along said north line to a point 20 feet west of Turbine 33; Thence North to a point 20 feet south of Turbine 35; Thence West to a point 20 feet west and 20 feet south of Turbine 35; Thence North to a point 20 feet west and 20 feet north of Turbine 35; Thence East to a point 20 feet east and 20 feet north of Turbine 34; Thence South to a point 20 feet east and 20 feet south of Turbine 34; Thence West to a point 20 feet east of Turbine 33; Thence South to the north line of 50<sup>th</sup> Street;*

*Thence East along said north line to a point 20 feet west of Turbine 25; Thence North to a point 20 feet west and 20 feet north of Turbine 25; Thence East to a point 20 feet east and 20 feet north of Turbine 25; Thence South to the north line of 50<sup>th</sup> Street; Thence East to the west line of Nuthatch Avenue;*

*Thence North along said west line to a point 20 feet south of Turbine 29; Thence West to a point 20 feet west and 20 feet south of Turbine 29; Thence North to a point 20 feet west and 20 feet north of Turbine 29; Thence East to a point 20 feet west of Turbine 28; Thence north to a point 20 feet west and 20 feet north of Turbine 28; Thence East to a point 20 feet east and 20 feet north of Turbine 28; Thence South to a point 20 feet north of Turbine 29; Thence East to the west line of Nuthatch Avenue;*

*Thence North along said west line to a point 20 feet south of Turbine 32; Thence West to a point 20 feet west and 20 feet south of Turbine 32; Thence North to a point 20 feet west and 20 feet north of Turbine 32; Thence East to the west line of Nuthatch Avenue;*

*Thence North along said west line to a point 20 feet south of Turbine 50; Thence West along a line 20 feet south of Turbines 50 and 51 to a point 20 feet west and 20 feet south of Turbine 51; Thence North to a point 20 feet west and 20 feet north of Turbine 51; Thence East along a line 20 feet north of Turbines 51 and 50 to the west line of Nuthatch Avenue;*

*Thence North along said west line to a point 20 feet south of Turbine 52; Thence West to a point 20 feet west and 20 feet south of Turbine 52; Thence North to a point 20 feet west and 20 feet north of Turbine 52; Thence East to the west line of Nuthatch Avenue; Thence North to the south line of 70<sup>th</sup> Street;*

*Thence West along said south line to a point 20 feet east of Turbine 54; Thence South to a point 20 feet east and 20 feet south of Turbine 54; Thence West to a point 20 feet west and 20 feet south of Turbine 54; Thence North to the south line of 70<sup>th</sup> Street; Thence West to the east line of Mallard Avenue; Thence South along said east line to a point 400 feet north of the centerline of Harding Avenue; Thence East to a point 500 feet east of Mallard Avenue and 400 feet north of the centerline of Hardin Road; Thence South to the Centerline of Hardin Road; Thence west along said centerline to the west line of Grouse Avenue; Thence North along said west line to the north line of 40<sup>th</sup> Street; Thence East along said north line to the west line of Heather Avenue; Thence South to the south line of 40<sup>th</sup> Street; Thence West along said south line to the east line of Grouse Avenue; Thence South along said east line to the north line of Hardin Road; Thence East along said north line to the west line of Heather Avenue; Thence North along said west line to the North line of 85<sup>th</sup> Street; Thence East to the east line of Heather Avenue; Thence South along said east line to the north line of*

*Hardin Road; Thence East along said north line to the west line of Ironwood Avenue; Thence North along said west line to the south line of 70<sup>th</sup> Street; Thence East along said south line to the east line of 70<sup>th</sup> Street; Thence South along said east line to the north line of Hardin Road; Thence East along said north line to the west line of Mallard Avenue; Thence North along said west line to the south line of 70<sup>th</sup> Street; Thence West along said south line to the east line of Heather Avenue; Thence North along said east line to the north line of 70<sup>th</sup> Street; Thence East along said north line to the west line of Indigo Avenue; Thence North along said west line to the south line of 120<sup>th</sup> Street; Thence West along said south line to the west line of Heather Avenue; Thence North to the north line of 120<sup>th</sup> Street; Thence East along said north line to the west line of Indigo Avenue; Thence North along said west line to the south line of 130<sup>th</sup> Street; Thence East to the east line of Indigo Avenue; Thence South along said east line to the north line of 120<sup>th</sup> Street; Thence East along said north line to the west line of Mallard Avenue; Thence South along said west line to the south line of 120<sup>th</sup> Street; Thence West along said south line to the east line of Indigo Avenue; Thence South along said east line to the north line of 70<sup>th</sup> Street; Thence East along said north line to the west line of Jonquil Avenue;*

*Thence North along said west line to a point 20 feet south of Turbine 88; Thence West to a point 20 feet west and 20 feet south of Turbine 88; Thence North to a point 20 feet west and 20 feet north of Turbine 88; Thence East to the west line of Jonquil Avenue; Thence North along said west line to the south line of 90<sup>th</sup> Street; Thence West along said south line to the east line of Ironwood Avenue;*

*Thence South along said east line and southerly extension thereof to a point 20 feet north of Turbine 128; Thence East to a point 20 feet east and 20 feet north of Turbine 128; Thence South to a point 20 feet east and 20 feet south of Turbine 128; Thence West to said southerly extension of the east line of Ironwood Avenue;*

*Thence South along said extension to a point 20 feet north of Turbine 127; Thence East to a point 20 feet east and 20 feet north of Turbine 127; Thence South to a point 20 feet east and 20 feet south of Turbine 127; Thence West to the west line of the E ½ of Section 33, T91N, R21W of the 5<sup>th</sup> P.M.; Thence North along said west line to the north line of 90<sup>th</sup> Street;*

*Thence East along said north line to a point 20 feet west of Turbine 136; Thence North to a point 20 feet west and 20 feet north of Turbine 136; Thence East to a point 20 feet east and 20 feet north of Turbine 136; Thence South to the north line of 90<sup>th</sup> Street; Thence East along said north line to the west line of Jonquil Avenue; Thence North along said west line to the south*

*line of 120<sup>th</sup> Street; Thence East along said south line to the east line of Jonquil Avenue;*

*Thence South along said east line to a point 20 feet north of Turbine 135; Thence East to a point 20 feet east and 20 feet north of Turbine 135; Thence South to a point 20 feet east and 20 feet south of Turbine 135; Thence West to the east line of Jonquil Avenue;*

*Thence South along said east line to a point 20 feet north of Turbine 134; Thence East to a point 20 feet east and 20 feet north of Turbine 134; Thence South to a point 20 feet east and 20 feet south of Turbine 134; Thence West to the east line of Jonquil Avenue; Thence South along said east line to the north line of 90<sup>th</sup> Street;*

*Thence East along said north line to a point 20 feet west of Turbine 133; Thence North to a point 20 feet west and 20 feet north of Turbine 133; Thence East to a point 20 feet east and 20 feet north of Turbine 133; Thence South to the north line of 90<sup>th</sup> Street; Thence East along said north line to the west line of Mallard Avenue; Thence North along said west line to the south line of Highway 3; Thence East along said south line to the east line of Mallard Avenue; Thence South along said east line to the north line of 140<sup>th</sup> Street; Thence East along said north line to the east line of Highway 65; Thence South along said east line to the south line of 140<sup>th</sup> Street; Thence West along said south line to the east line of Mallard Avenue; Thence South along said east line to the north line of 75<sup>th</sup> Street; Thence East along said north line and extension thereof to the east line of Nettle Avenue; Thence South along said east line to the north line of 70<sup>th</sup> Street; Thence West along said north line to the west line of Nettle Avenue; Thence North along said west line to the south line of 75<sup>th</sup> Street and extension thereof; Thence West along said south line to the east line of Mallard Avenue; Thence South along said east line to the north line of 70<sup>th</sup> Street; Thence West along said north line to the west line of Mallard Avenue;*

*Thence North along said west line to a point 20 feet south of Turbine 117; Thence West to a point 20 feet west and 20 feet south of Turbine 117; Thence North to a point 20 feet west and 20 feet north of Turbine 117; Thence East to the west line of Mallard Avenue; Thence North along said west line to the south line of 90<sup>th</sup> Street;*

*Thence West along said south line to a point 20 feet east of Turbine 205; Thence South to a point 20 feet east and 20 feet south of Turbine 205; Thence West to a point 20 feet west and 20 feet south of Turbine 205; Thence North to the south line of 90<sup>th</sup> Street;*

*Thence West along said south line to a point 20 feet east of Turbine 118; Thence South to a point 20 feet east and 20 feet south of Turbine 118; Thence West to a point 20 feet west and*



*20 feet south of Turbine 118; Thence North to the south line of 90<sup>th</sup> Street; Thence West along said south line to the east line of Killdeer Avenue;*

*Thence South along said east line to a point 20 feet north of Turbine 85; Thence East along a line 20 feet north of Turbine 85 to a point 20 feet east of Turbine 84; Thence South to a point 20 feet east and 20 feet south of Turbine 84; Thence West to a point 20 feet west and 20 feet south of Turbine 84; Thence North to a point 20 feet south of Turbine 85; Thence West along a line 20 feet south of Turbine 85 to the west line of Killdeer Avenue;*

*Thence North along said west line to a point 20 feet south of Turbine 86; Thence West to a point 20 feet west and 20 feet south of Turbine 86; Thence North to a point 20 feet west and 20 feet north of Turbine 86; Thence East to the west line of Killdeer Avenue;*

*Thence North to a point 20 feet south of Turbine 122; Thence West along a line 20 feet south of Turbine 122 to a point 20 feet east of Turbine 119; Thence South along a line 20 feet east of Turbine 119 to a point 20 feet south of Turbine 120; Thence West to a point 20 feet west and 20 feet south of Turbine 120; Thence North to a point 20 feet west and 20 feet north of Turbine 120; Thence East to a point 20 feet west of Turbine 119; Thence North along a line 20 feet west of Turbine 119 to a point 20 feet south of Turbine 123; Thence West to a point 20 feet west and 20 feet south of Turbine 123; Thence North to a point 20 feet west and 20 feet north of Turbine 123; Thence East along a line 20 feet north of Turbines 123 and 122 to the west line of Killdeer Avenue;*

*Thence North along said west line to a point 20 feet south of Turbine 124; Thence West to a point 20 feet west and 20 feet south of Turbine 124; Thence North to a point 20 feet west and 20 feet north of Turbine 124; Thence East to the west line of Killdeer Avenue; Thence North along said west line to the south line of 90<sup>th</sup> Street;*

*Thence west along said south line to a point 20 feet east of Turbine 125; Thence South to a point 20 feet east and 20 feet south of Turbine 125; Thence West to a point 20 feet west and 20 feet south of Turbine 125; Thence North to the south line of 90<sup>th</sup> Street;*

*Thence west along said south line to a point 20 feet east of Turbine 126; Thence South to a point 20 feet east and 20 feet south of Turbine 126; Thence West to a point 20 feet west and 20 feet south of Turbine 126; Thence North to the south line of 90<sup>th</sup> Street; Thence West along said south line to the east line of Jonquil Avenue;*

*Thence South along said east line to a point 20 feet north of Turbine 121; Thence East to a point 20 feet east and 20 feet*

*north of Turbine 121; Thence South to a point 20 feet east and 20 feet south of Turbine 121; Thence West to the east line of Jonquil Avenue;*

*Thence South along said east line to a point 20 feet north of Turbine 87; Thence East to a point 20 feet east and 20 feet north of Turbine 87; Thence South to a point 20 feet east and 20 feet south of Turbine 87; Thence West to the east line of Jonquil Avenue; Thence South along said east line to the north line of 70<sup>th</sup> Street; Thence East along said north line to the west line of Lemon Avenue;*

*Thence North along said west line to a point 20 feet south of Turbine 80; Thence West to a point 20 feet west and 20 feet south of Turbine 80; Thence North to a point 20 feet west and 20 feet north of Turbine 80; Thence East to the west line of Lemon Avenue;*

*Thence North along said west line to a point 20 feet south of Turbine 82; Thence West to a point 20 feet west and 20 feet south of Turbine 82; Thence North to a point 20 feet west and 20 feet north of Turbine 82; Thence East to a point 20 feet west of Turbine 81; Thence North to a point 20 feet west and 20 feet north of Turbine 81; Thence East to a point 20 feet east and 20 feet north of Turbine 81; Thence South to a point 20 feet north of Turbine 82; Thence East to the west line of Lemon Avenue; Thence North along said west line to the north line of 80<sup>th</sup> Street;*

*Thence East along said north line to a point 20 feet west of Turbine 116; Thence North to a point 20 feet west and 20 feet north of Turbine 116; Thence East to a point 20 feet east and 20 feet north of Turbine 116; Thence South to the north line of 80<sup>th</sup> Street; Thence East along said north line to the west line of Mallard Avenue; Thence South along said west line to the south line of 80<sup>th</sup> Street; Thence West along said south line to the east line of Lemon Avenue; Thence South along said east line to the north line of 70<sup>th</sup> Street;*

*Thence East along said north line to a point 20 feet west of Turbine 77; Thence North to a point 20 feet west and 20 feet north of Turbine 77; Thence East to a point 20 feet east and 20 feet north of Turbine 77; Thence South to the north line of 70<sup>th</sup> Street; Thence East to the west line of Olive Avenue;*

*Thence North to a point 20 feet south of Turbine 78; Thence West to a point 20 feet west and 20 feet south of Turbine 78; Thence North to a point 20 feet west and 20 feet north of Turbine 78; Thence East to the west line of Olive Avenue; Thence North to the south line of 80<sup>th</sup> Street;*

*Thence West to a point 20 feet east of Turbine 79; Thence South to a point 20 feet east and 20 feet south of Turbine 79; Thence West to a point 20 feet west and 20 feet south of Turbine 79; Thence North to the south line of 80<sup>th</sup> Street; Thence West along*

*said south line to the east line of Mallard Avenue; Thence North along said east line to the north line of 80<sup>th</sup> Street and point of beginning;*

*AND County Route S25 from 85<sup>th</sup> Street to 140<sup>th</sup> Street;*

*AND County Route C47 from S25 to Wright Avenue;*

*AND Olive Avenue (County Route S43) from County Route C47 to County Route C25;*

*AND County Route C25 from County Route S33 to Franklin Avenue;*

*AND County Route S53 from County Route C25 to 220<sup>th</sup> Street;*

*AND County Route C47 from Olive Avenue to US Highway 65;*

*AND County Route C55 from County Route S55 to County Route S56;*

*AND County Route S56 from County Route C55 to 30<sup>th</sup> Street;*

*AND 30<sup>th</sup> Street from County Route S56 to Tulip Avenue;*

*AND Warbler Avenue from 40<sup>th</sup> Street to State Highway 57;*

*AND 40<sup>th</sup> Street from Violet Avenue to Warbler Avenue;*

*AND County Route C31 from County Route S43 to Mallard Avenue;*

*AND Mallard Avenue from County Route C31 to US Highway 3;*

*AND Beed's Lake Drive from County Route C31 to Lake Drive;*

*AND 165<sup>th</sup> Street from Lake Drive to County Route S42;*

*AND County Route S42 from 165<sup>th</sup> Street to US Highway 3;*

*AND County Route S33 from 180<sup>th</sup> Street to 220<sup>th</sup> Street;*

*AND Indigo Avenue from 130<sup>th</sup> Street to US Highway 3;*

*AND 130<sup>th</sup> Street from County Route S25 to Indigo Avenue;*

*AND County Route C65 from County Route S25 to County Route S41;*

*AND Vine Avenue from County Route S56 south to railroad tracks;*

*AND Railroad Street from 75<sup>th</sup> Street (2<sup>nd</sup> Avenue) to Main Street in Bradford;*

*AND Main Street from Railroad Street to Nettle Avenue in Bradford.*

3. Provisions for Division of Taxes Levied on Taxable Property in the Urban Renewal Area. After the effective date of this chapter, the taxes levied on the taxable property in the Urban Renewal Area each year by and for the benefit of the State, the

County, and any City, school district, or other taxing district in which the Urban Renewal Area is located, shall be divided as follows:

A. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the County Board of Supervisors certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in Paragraph B below, shall be allocated to and, when collected, be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the effective date of this chapter, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the chapter which amends the plan for the Urban Renewal Area to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

B. That portion of the taxes each year in excess of such amounts shall be allocated to and, when collected, be paid into a special fund of the County to pay the principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, including bonds issued under the authority of Section 403.9(1) of the *Code of Iowa*, incurred by the County to finance or refinance, in whole or in part, projects in the Urban Renewal Area, and to provide assistance for low and moderate-income family housing as provided in Section 403.22 of the *Code of Iowa*, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the *Code of Iowa*, and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this chapter. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in Paragraph A of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

C. The portion of taxes mentioned in Paragraph B of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the County for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the *Code of Iowa*, or indebtedness incurred by the County to finance or refinance in whole or in part projects in the Urban Renewal Area.

D. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

**10.05 2012 ADDITION TO THE FRANKLIN COUNTY WHISPERING WILLOW URBAN RENEWAL AREA.**

1. Purpose. The purpose of this chapter is to provide for the division of taxes levied on the taxable property in the 2012 Addition to the Franklin County Whispering Willow Urban Renewal Area, each year by and for the benefit of the State, City, County, school districts, or other taxing districts after the effective date of this chapter in order to create a special fund to pay the principal of and interest on loans, moneys advanced to, or indebtedness, including bonds proposed to be issued to finance projects in the area.

2. Definitions. For use within this chapter, the following terms shall have the following meanings:

A. “Urban renewal area amendment” means that portion of the property included in the 2012 Addition to the Franklin County Whispering Willow Urban Renewal Area, described as set out below, approved by the Board of Supervisors by resolution adopted on the 19<sup>th</sup> day of March, 2012. TIF District Boundary Description for the Franklin County Wind Farm, LLC located in Franklin County, Iowa, and more particularly described as follows:

*Beginning at the intersection of the west line of Mallard Avenue and south line of 30th Street; Thence East along the south line of 30th Street to a point 20 feet east of Turbine 301; Thence North to a point 20 feet east and 20 feet north of Turbine 301; Thence West to a point 20 feet north of Turbine 301 and 20 feet east of Turbine 302;*

*Thence North to a point 20 feet north and 20 feet east of Turbine 302; Thence West to a point 20 feet west and 20 feet north of Turbine 302; Thence South to the north line of 30th Street; Thence West along said north line to the east line of Mallard Avenue; Thence North along said east line to the south line of 40th Street; Thence East along said south line to a point 20 feet east of Turbine 317;*

*Thence North to a point 20 feet east and 20 feet north of Turbine 317; Thence West to a point 20 feet west and 20 feet north of Turbine 317; Thence South to the north line of 40th Street; Thence West along said north line to the east line of Mallard Avenue; Thence North along said east line to a point 20 feet north of Turbine 318;*

*Thence West to a point 20 feet west and 20 feet north of Turbine 318; Thence South to a point 20 feet west and 20 feet south of Turbine 318; Thence East to the west line of Mallard Avenue; Thence South along said west line to the north line of 40th Street; Thence West along said north line to a point 20 feet east of Turbine 319;*

*Thence North to a point 20 feet east and 20 feet north of Turbine 319; Thence West to a point 20 feet west and 20 feet north of*

*Turbine 319; Thence South to the north line of 40th Street; Thence West along said north line to the east line of Lark Avenue; Thence North along said east line to the north line of 60th Street; Thence West along said north line to a point 20 feet east of Turbine 345;*

*Thence North to a point 20 feet east and 20 feet north of Turbine 345; Thence West to a point 20 feet west and 20 feet north of Turbine 345; Thence South to the north line of 60th Street; Thence West along said north line to a point 20 feet east of Turbine 346;*

*Thence North to a point 20 feet east and 20 feet north of Turbine 346; Thence West to a point 20 feet west and 20 feet north of Turbine 346; Thence South to the north line of 60th Street; Thence West along said north line to a point 20 feet east of Turbine 347;*

*Thence North to a point 20 feet east and 20 feet north of Turbine 347; Thence West to a point 20 feet west and 20 feet north of Turbine 347; Thence South to the north line of 60th Street; Thence West along said north line to the east line of Jonquil Avenue; Thence north along said east line to a point 20 feet south of Turbine 349;*

*Thence East to a point 20 feet east and 20 feet south of Turbine 349; Thence North to a point 20 feet east and 20 feet north of Turbine 349; Thence West to the east line of Jonquil Avenue; Thence North along said east line to a point 20 feet north of Turbine 359;*

*Thence West to a point 20 feet north of Turbine 359 and 20 feet east of Turbine 360; Thence North to a point 20 feet east and 20 feet north of Turbine 360; Thence West to a point 20 feet west and 20 feet north of Turbine 360; Thence South to a point 20 feet west of Turbine 360 and 20 feet south of Turbine 359; Thence East to the west line of Jonquil Avenue; Thence South along said west line to the north line of 70th Street; Thence West along said north line to a point 20 feet east of Turbine 358;*

*Thence North to a point 20 feet east and 20 feet north of Turbine 358; Thence West to a point 20 feet west and 20 feet north of Turbine 358; Thence South to the north line of 70th Street; Thence West along said north line to the east line of Indigo Avenue; Thence North along said east line to the south line of 170th Street; Thence East along said south line to the west line of Beeds Lake Drive extended north; Thence North along said west line to the north line of 170th Street; Thence West along said north line to the east line of Jonquil Avenue; Thence North along said east line to the south line of 210th Street; Thence East along said south line to the west line of US Highway 65; Thence North along said west line to the north line of 210th Street; Thence West along said north line to the east line of Jonquil Avenue; Thence North along said east line to the south*

*line of 250th Street; Thence West along said south line to the west line of Jonquil Avenue; Thence South along said west line to the north line of 210th Street; Thence West along said north line to the east line of Grouse Avenue; Thence South along said east line to the south line of 210th Street; Thence East along said south line to the west line of Jonquil Avenue; Thence South along said west line to the north line of 190th Street; Thence West along said north line to the east line of Balsam Avenue; Thence North along said east line to the Cerro Gordo County Line; Thence West along said line to the west line of Balsam Avenue; Thence South along said west line to the north line of 230th Street; Thence West along said north line to the Wright County Line; Thence South along said line to the south line of 230th Street; Thence East along said south line to the west line of Balsam Avenue; Thence South along said west line to the north line of 190th Street; Thence west along said north line to the Wright County Line; Thence South along said line to the south line of 190th Street; Thence East along said south line to the west line of Balsam Avenue; Thence South along said west line to the north line of US Highway 3; Thence East along said north line to the east line of Balsam Avenue; Thence North along said east line to the south line of 190th Street; Thence East along said south line to the west line of Heather Avenue; Thence South along said west line to the north Corporate Limits of Latimer, Iowa; Thence East along said limits to the east line of Heather Avenue; Thence North along said east line to the south line of 190th Street; Thence East along said south line to the west line of Jonquil Avenue; Thence South along said west line to the north line of 170th Street; Thence West along said north line to the east line of Heather Avenue; Thence South along said east line to the south line of 170th Street; Thence East along said south line to the west line of Indigo Avenue; Thence South along said west line to the north line of 85th Street; Thence West along said north line to a point 20 feet east of Turbine 370;*

*Thence North to a point 20 feet east and 20 feet north of Turbine 370; Thence West to a point 20 feet west and 20 feet north of Turbine 370; Thence South to the north line of 85th Street; Thence West along said north line to a point 20 feet east of Turbine 371;*

*Thence North to a point 20 feet east and 20 feet north of Turbine 371; Thence West to a point 20 feet west and 20 feet north of Turbine 371; Thence South to the north line of 85th Street; Thence West along said north line to the east line of Heather Avenue; Thence North along said east line to a point 20 feet south of Turbine 372;*

*Thence East to a point 20 feet east and 20 feet south of Turbine 372; Thence North to a point 20 feet east and 20 feet north of Turbine 372; Thence West to the east line of Heather Avenue;*

*Thence North along said east line to the south line of 100th Street; Thence West along said south line to the west line of Heather Avenue; Thence South along said west line to the north line of 70th Street; Thence West along said north line to the east line of Grouse Avenue; Thence North along said east line to a point 20 feet north of Turbine 361;*

*Thence West to a point 20 feet west of Turbine 362 and 20 feet north of Turbine 361; Thence South to a point 20 feet west and 20 feet south of Turbine 362; Thence East to the west line of Grouse Avenue; Thence South along said west line to the north line of 70th Street; Thence West along said north line to a point 20 feet east of Turbine 363;*

*Thence North to a point 20 feet east and 20 feet north of Turbine 363; Thence West to a point 20 feet west and 20 feet north of Turbine 363; Thence South to the north line of 70th Street; Thence west along said north line to the east line of Finch Avenue; Thence North along said east line to a point 20 feet south of Turbine 364;*

*Thence East to a point 20 feet east and 20 feet south of Turbine 364; Thence North to a point 20 feet east and 20 feet north of Turbine 364; Thence West to the east line of Finch Avenue; Thence North along said east line to a point 20 feet south of Turbine 365;*

*Thence East to a point 20 feet east and 20 feet south of Turbine 365; Thence North to a point 20 feet east and 20 feet north of Turbine 365; Thence West to the west line of Finch Avenue; Thence South along said west line to the south line of 70th Street; Thence East along said south line to a point 20 feet west of Turbine 357:*

*Thence South to a point 20 feet west and 20 feet south of Turbine 357; Thence East to a point 20 feet east and 20 feet south of Turbine 357; Thence North to the south line of 70th Street; Thence East along said south line to the west line of Grouse Avenue; Thence South along said west line to a point 20 feet north of Turbine 356;*

*Thence West to a point 20 feet west and 20 feet north of Turbine 356; Thence South to a point 20 feet west and 20 feet south of Turbine 356; Thence East to the west line of Grouse Avenue; Thence South along said west line to a point 20 feet south of Turbine 340;*

*Thence East to a point 20 feet east of Turbine 341 and 20 feet south of Turbine 340; Thence North to a point 20 feet east and 20 feet north of Turbine 341; Thence West to the east line of Grouse Avenue; Thence North along said east line to the south line of 60th Street; Thence East along said south line to a point 20 feet west of Turbine 343;*



*Thence South to a point 20 feet west and 20 feet south of Turbine 343; Thence East to a point 20 feet east and 20 feet south of Turbine 343; Thence North to the south line of 60th Street; Thence East along said south line to a point 20 feet west of Turbine 344;*

*Thence South to a point 20 feet west and 20 feet south of Turbine 344; Thence East to a point 20 feet east and 20 feet south of Turbine 344; Thence North to the south line of 60th Street; Thence East along said south line to the west line of Heather Avenue; Thence South along said west line to a point 20 feet South of Turbine 326;*

*Thence East to a point 20 feet east and 20 feet south of Turbine 326; Thence North to a point 20 feet east and 20 feet north of Turbine 326; Thence West to the east line of Heather Avenue; Thence North along said east line to the south line of 50th Street; Thence East along said south line to a point 20 feet west of Turbine 325;*

*Thence South to a point 20 feet west and 20 feet south of Turbine 325; Thence East to a point 20 feet east and 20 feet south of Turbine 325; Thence North to the south line of 50th Street; Thence East along said south line to the west line of Ironwood Avenue; Thence South along said west line to a point 20 feet north of Turbine 323;*

*Thence West to a point 20 feet west and 20 feet north of Turbine 323; Thence South to a point 20 feet west and 20 feet south of Turbine 323; Thence East to the west line of Ironwood Avenue; Thence South along said west line to the north line of 40th Street; Thence West along said north line to point 20 feet west of Turbine 316;*

*Thence South to a point 20 feet west and 20 feet south of Turbine 316; Thence East to a point 20 feet east and 20 feet south of Turbine 316; Thence North to the south line of 40th Street; Thence East along said south line to a point 20 feet west of Turbine 314;*

*Thence South to a point 20 feet west and 20 feet south of Turbine 314; Thence East to a point 20 feet east and 20 feet south of Turbine 314; Thence North to the south line of 40th Street; Thence East along said south line to a point 20 feet west of Turbine 312;*

*Thence South to a point 20 feet west and 20 feet south of Turbine 312; Thence East to a point 20 feet east and 20 feet south of Turbine 312; Thence North to the south line of 40th Street; Thence East along said south line to the west line of Ironwood Avenue; Thence South along said west line to a point 20 feet north of Turbine 310;*

*Thence West to a point 20 feet west and 20 feet north of Turbine 310; Thence South to a point 20 feet west and 20 feet south of*

*Turbine 310; Thence East to the west line of Ironwood Avenue; Thence South along said west line to a point 20 feet north of Turbine 309;*

*Thence West to a point 20 feet west and 20 feet north of Turbine 309; Thence South to a point 20 feet west and 20 feet south of Turbine 309; Thence East to the east line of Ironwood Avenue; Thence North along said east line to a point 20 feet south of Turbine 311;*

*Thence East to a point 20 feet east and 20 feet south of Turbine 311; Thence North to a point 20 feet east and 20 feet north of Turbine 311; Thence West to the east line of Ironwood Avenue; Thence North along said east line to a point 20 feet south of Turbine 324;*

*Thence East to a point 20 feet east and 20 feet south of Turbine 324; Thence North to a point 20 feet east and 20 feet north of Turbine 324; Thence West to the east line of Ironwood Avenue; Thence North along said east line to the south line of 50th Street; Thence East along said south line to a point 20 feet west of Turbine 321;*

*Thence South to a point 20 feet west and 20 feet south of Turbine 321; Thence East to a point 20 feet east and 20 feet south of Turbine 321; Thence North to the south line of 50th Street; Thence East along said south line to the west line of Juniper Avenue; Thence South along said west line to the south line of 30th Street; Thence East along said south line to a point 20 feet east of Turbine 305;*

*Thence North to a point 20 feet east and 20 feet north of Turbine 305; Thence West to a point 20 feet west and 20 feet north of Turbine 305; Thence South to the north line of 30th Street; Thence West along said north line to the east line of Juniper Avenue; Thence North along said east line to a point 20 feet south of Turbine 307;*

*Thence east along a line staying at least 20 feet south of Turbine 307 to a point 20 feet east and 20 feet south of Turbine 306; Thence North to a point 20 feet east and 20 feet north of Turbine 306; Thence West along a line staying at least 20 feet north of Turbine 307 to the east line of Juniper Avenue; Thence North along said east line to the south line of 40th Street; Thence East along said south line to a point 20 feet west of Turbine 304;*

*Thence South to a point 20 feet west and 20 feet south of Turbine 304; Thence East to a point 20 feet east and 20 feet south of Turbine 304; Thence North to the north line of 40th Street; Thence West along said north line to the east line of Juniper Avenue; Thence North along said east line to the south line of 50th Street; Thence East along said south line to a point 20 feet west of Turbine 320;*

*Thence South to a point 20 feet west and 20 feet south of Turbine 320; Thence East to a point 20 feet east and 20 feet south of Turbine 320; Thence North to the north line of 50th Street; Thence West along said north line to a point 20 feet east of Turbine 328;*

*Thence North to a point 20 feet east and 20 feet north of Turbine 328; Thence West to a point 20 feet west and 20 feet north of Turbine 328; Thence South to the north line of 50th Street; Thence West along said north line to the east line of Juniper Avenue; Thence North along said east line to a point 20 feet north of Turbine 331;*

*Thence West to a point 20 feet west and 20 feet north of Turbine 331; Thence South to a point 20 feet west and 20 feet south of Turbine 331; Thence East to the west line of Juniper Avenue; Thence South along said west line to a point 20 feet north of Turbine 329;*

*Thence West to a point 20 feet west and 20 feet north of Turbine 329; Thence South to a point 20 feet west and 20 feet south of Turbine 329; Thence East to the west line of Juniper Avenue; Thence South along said west line to the north line of 50th Street; Thence West along said north line to the east line of Ironwood Avenue; Thence North along said east line to a point 20 feet north of Turbine 352;*

*Thence West to a point 20 feet west and 20 feet north of Turbine 352; Thence South to a point 20 feet west and 20 feet south of Turbine 352; Thence East to the west line of Ironwood Avenue; Thence South along said west line to a point 20 feet north of Turbine 351;*

*Thence West to a point 20 feet west and 20 feet north of Turbine 351; Thence South to a point 20 feet west and 20 feet south of Turbine 351; Thence East to the west line of Ironwood Avenue; Thence South along said west line to a point 20 feet north of Turbine 334;*

*Thence West to a point 20 feet west and 20 feet north of Turbine 334; Thence South to a point 20 feet west and 20 feet south of Turbine 334; Thence East to the west line of Ironwood Avenue; Thence South along said west line to the north line of 50th Street; Thence West along said north line to a point 20 feet east of Turbine 336;*

*Thence North to a point 20 feet east and 20 feet north of Turbine 336; Thence West to a point 20 feet west and 20 feet north of Turbine 337; Thence South to a point 20 feet west and 20 feet south of Turbine 337; Thence East to a point 20 feet west and 20 feet south of Turbine 336; Thence South to the north line of 50th Street; Thence West along said north line to a point 20 feet east of Turbine 335;*

*Thence North to a point 20 feet east and 20 feet north of Turbine 335; Thence West to a point 20 feet west and 20 feet north of Turbine 335; Thence South to the north line of 50th Street; Thence West along said north line to the east line of Heather Avenue; Thence North along said east line to the north line of 60th Street; Thence West along said north line to the east line of Grouse Avenue; Thence North along said east line to a point 20 feet south of Turbine 355;*

*Thence East to a point 20 feet east and 20 feet south of Turbine 355; Thence North to a point 20 feet east and 20 feet north of Turbine 355; Thence West to the east line of Grouse Avenue; Thence North along said east line to the south line of 70th Street; Thence East along said south line to a point 20 feet west of Turbine 354;*

*Thence South to a point 20 feet west and 20 feet south of Turbine 354; Thence East to a point 20 feet east and 20 feet south of Turbine 354; Thence North to the north line of 70th Street; Thence West along said north line to the east line of Heather Avenue; Thence North along said east line to a point 20 feet south of Turbine 368;*

*Thence East to a point 20 feet east and 20 feet south of Turbine 368; Thence North to a point 20 feet east and 20 feet north of Turbine 368; Thence West to the east line of Heather Avenue; Thence North along said east line to a point 20 feet south of Turbine 369;*

*Thence East to a point 20 feet east and 20 feet south of Turbine 369; Thence North to a point 20 feet east and 20 feet north of Turbine 369; Thence West to the east line of Heather Avenue; Thence North along said east line to the south line of 85th Street; Thence East along said south line to the west line of Indigo Avenue; Thence South along said west line to a point 20 feet north of Turbine 367;*

*Thence West to a point 20 feet West and 20 feet North of Turbine 367, thence South to a Point 20 feet West and 20 feet South of Turbine 367, thence East to the West Line of Indigo Avenue; thence South along said West Line to a point 20 feet North of Turbine 353;*

*Thence West to a point 20 feet west and 20 feet north of Turbine 353; Thence South to a point 20 feet west and 20 feet south of Turbine 353; Thence East to the west line of Indigo Avenue; Thence South along said west line to the north line of 60th Street; Thence West along said north line to a point 20 feet west of Turbine 339;*

*Thence South to a point 20 feet west and 20 feet south of Turbine 339; Thence East to a point 20 feet east and 20 feet south of Turbine 339; Thence North to the south line of 60th Street; Thence East along said south line to the east line of Indigo*

*Avenue; Thence North along said east line to the south line of 70th Street; Thence East along said south line to the west line of Jonquil Avenue; Thence South along said west line to the south line of 60th Street; Thence East along said south line to a point 20 feet west of Turbine 332;*

*Thence South to a point 20 feet west and 20 feet south of Turbine 332; Thence East to a point 20 feet east and 20 feet south of Turbine 332; Thence North to the south line of 60th Street; Thence East along said south line to the west line of Lark Avenue; Thence South along said west line to a point 20 feet north of Turbine 327;*

*Thence West to a point 20 feet west and 20 feet north of Turbine 327; Thence South to a point 20 feet west and 20 feet south of Turbine 327; Thence East to the west line of Lark Avenue; Thence South along said west line to the south line of 40th Street; Thence East along said south line to the west line of Mallard Avenue; Thence South along said west line to the point of beginning.*

- B. “Urban renewal area” means the entirety of the Whispering Willow Urban Renewal Area as amended from time to time.
3. Provisions for Division of Taxes Levied on Taxable Property in the Urban Renewal Area Amendment. After the effective date of this chapter, the taxes levied on the taxable property in the Urban Renewal Area Amendment each year by and for the benefit of the State, the County, and any school district, or other taxing district in which the Urban Renewal Area Amendment is located, shall be divided as follows:

D. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area Amendment, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the County Board of Supervisors certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in Paragraph B below, shall be allocated to and, when collected, be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area Amendment on the effective date of this chapter, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the chapter which amends the plan for the Urban Renewal Area Amendment to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

E. That portion of the taxes each year in excess of such amounts shall be allocated to and, when collected, be paid into a special fund of the County to pay the principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, including bonds issued under the authority of Section 403.9(1) of the *Code of Iowa*, incurred by the County to finance or refinance, in whole or in part, projects in the Urban Renewal Area,

and to provide assistance for low and moderate-income family housing as provided in Section 403.22 of the *Code of Iowa*, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the *Code of Iowa*, and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this chapter. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area Amendment exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in Paragraph A of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area Amendment shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area Amendment shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

F. The portion of taxes mentioned in Paragraph B of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the County for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the *Code of Iowa*, or indebtedness incurred by the County to finance or refinance in whole or in part projects in the Urban Renewal Area.

4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

#### **10.06 2015 COOP URBAN RENEWAL AREA.**

1. Purpose. The purpose of this chapter is to provide for the division of taxes levied on the taxable property in the 2015 Coop Urban Renewal Area, each year by and for the benefit of the State, City, County, school districts, or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to, or indebtedness, including bonds proposed to be issued by Franklin County to finance projects in such area.

2. Definitions. For use within this chapter, the following terms shall have the following meanings:

A. “Urban renewal area” means the 2015 Coop Urban Renewal Area, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Board of Supervisors by resolution adopted on January 5, 2015. Certain real property situated in Franklin County, Iowa, more particularly described as follows:

*The North 30 acres of the Northwest Quarter (NW ¼) of the Northwest Quarter (NW ¼) of Section Thirty-one (31), Township Ninety-Two (92), Range Twenty-two (22), West of the 5th P.M., Franklin County, Iowa (exclusive of road right-of-way).*

3. Provisions. Provisions for Division of Taxes Levied on Taxable Property in the Urban Renewal Area. After the effective date of this chapter, the taxes levied on

the taxable property in the Urban Renewal Area each year by and for the benefit of the State of Iowa, the County and any city, school district, or other taxing district in which the Urban Renewal Area is located, shall be divided as follows:

A. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the County certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in Paragraph B below, shall be allocated to and, when collected, be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the effective date of this chapter, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the chapter which amends the plan for the Urban Renewal Area to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

B. That portion of the taxes each year in excess of such amounts shall be allocated to and, when collected, be paid into a special fund of the County to pay the principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, including bonds issued under the authority of Section 403.9(1) of the *Code of Iowa*, incurred by the County to finance or refinance, in whole or in part, projects in the Urban Renewal Area, and to provide assistance for low and moderate-income family housing as provided in Section 403.22 of the *Code of Iowa*, except that taxes for the instructional support program of a school district imposed pursuant to Section 257.19 of the *Code of Iowa* and for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the *Code of Iowa*, and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this chapter. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in Paragraph A of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

C. The portion of taxes mentioned in Paragraph B of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the County for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the *Code of Iowa*, or

indebtedness incurred by the County to finance or refinance in whole or in part projects in the Urban Renewal Area.

D. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

#### **10.07 2016 ADDITION TO THE 2015 COOP URBAN RENEWAL AREA.**

1. Purpose. The purpose of this chapter is to provide for the division of taxes levied on the taxable property in the 2016 Addition to the 2015 Coop Urban Renewal Area of the County, each year by and for the benefit of the State, City, County, school districts, or other taxing districts after the effective date of this chapter in order to create a special fund to pay the principal of and interest on loans, moneys advanced to, or indebtedness, including bonds proposed to be issued by the County to finance projects in such Area.

2. Definitions. For use in this chapter, the following terms shall have the following meanings:

A. “Urban renewal area addition” means the 2016 Addition to the 2015 Coop Urban Renewal Area of Franklin County, Iowa, the legal description of which is set out below, approved by the Board of Supervisors by resolution adopted on the tenth day of October, 2016. A parcel located in the SW fractional  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 31, Township 92 North, Range 22 West of the 5th p.m., Franklin County, Iowa, described as follows:

*COMMENCING AT THE SOUTHWEST CORNER OF THE NW  $\frac{1}{4}$  OF SAID SECTION 31; THENCE NORTH 00'08'49" EAST 858.33 FEET ALONG THE WEST LINE OF THE SAID NW  $\frac{1}{4}$ ; TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 00'08'48" EAST 464.05 FEET ALONG THE SAID WEST LINE; THENCE NORTH 89'52'38" EAST 990.01 FEET; THENCE SOUTH 00'08'49" WEST 468.06 FEET; THENCE NORTH 89'53'26" WEST 990.00 FEET TO THE POINT OF BEGINNING, CONTAINING 10.59 ACRES.*

B. “Urban renewal area” means the entirety of the 2015 Coop Urban Renewal Area as amended from time to time.

3. Provisions for Division of Taxes Levied on Taxable Property in the 2016 Urban Renewal Area Addition. After the effective date of this chapter, the taxes levied on the taxable property in the 2016 Urban Renewal Area Addition each year by and for the benefit of the State, the County and any city, school district, or other taxing district in which the 2016 Urban Renewal Area Addition is located, shall be divided as follows:

A. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the 2016 Urban Renewal Area addition, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the County certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in Paragraph B below, shall be allocated to and, when collected, be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid.



For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the 2016 Urban Renewal Area Addition on the effective date of this chapter, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the chapter which amends the plan for the 2016 Urban Renewal Area Addition to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

B. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the County to pay the principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, including bonds issued under the authority of Section 403.9(1) of the *Code of Iowa*, incurred by the County to finance or refinance, in whole or in part, projects in the Urban Renewal Area, and to provide assistance for low and moderate-income family housing as provided in Section 403.22 of the *Code of Iowa*, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the *Code of Iowa*, taxes for the instructional support program levy of a school district imposed pursuant to Section 257.19 of the *Code of Iowa*, and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this chapter. Unless and until the total assessed valuation of the taxable property in the 2016 Urban Renewal Area Addition exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in Paragraph A of this section, all of the taxes levied and collected upon the taxable property in the 2016 Urban Renewal Area Addition shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area Addition shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

C. The portion of taxes mentioned in Paragraph B of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the County for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the *Code of Iowa*, or indebtedness incurred by the County to finance or refinance in whole or in part projects in the Urban Renewal Area.

[The next page is 111]

## CHAPTER 11

# URBAN REVITALIZATION

11.01 Chapin 2013 Urban Revitalization Area  
11.02 Franklin County - Bradford Urban Revitalization Area

11.03 Franklin County - Latham Hi-Tech Seed Urban Revitalization Area

### 11.01 CHAPIN 2013 URBAN REVITALIZATION AREA.

1. Purpose and Intent. Chapter 404 of the *Code of Iowa*, provides that a county may designate areas as revitalization areas eligible for property tax exemptions and authorizes counties to issue revenue bonds for improvements made within those revitalization areas. On March 12, 2013, the Franklin County Board of Supervisor's adopted Resolution No. 2013-12 identifying the need to establish an Urban Revitalization District in order to allow the incentives and tools provided in this chapter to be employed within a designated District in Franklin County. The Franklin County Board of Supervisors have complied with all the provisions of Chapter 404 of the *Code of Iowa*, relating to the designation of certain areas of counties as revitalization areas and has heretofore adopted a revitalization plan covering specific areas of Franklin County as described below.

2. Legal Description. The following described real estate is hereby designated as the Chapin 2013 Urban Revitalization Area. The boundaries for the Chapin Revitalization Area are as follows:

*Legal Description: A tract of land located in the East Half (E1/2) of Section Twenty-nine (29), Township Ninety-three (93) North, Range Twenty (20) West of the 5th P.M., Franklin County, Iowa, more particularly described as follows: Commencing at the East Quarter (E 1/4) Corner of said Section 29, thence S.05°43'35"W., 383.75 feet, along the east line of the Southeast Quarter of said Section 29, to the point of beginning; thence Northwesterly 670.45 feet, along a 676.62 foot radius curve concave southwesterly, having a chord bearing N.56°38'02"W., 643.36 feet; thence N.85°01'15"W., 1097.87 feet; thence Northwesterly 1302.94 feet, along a 914.93 foot radius curve northeasterly, having a chord bearing N.44°13'22"W., 1195.59 feet, to a point on the east railroad right-of-way line; thence S.04°59'09"W., 1648.00 feet, along said east right-of-way line; thence Northeasterly 1234.62 feet, along a 914.93 foot radius curve concave southeasterly, having a chord bearing N.52°13'30"E., 1143.05 feet; thence S.89°06'55"E., 151.85 feet; thence S.85°01'15"E., 1012.40 feet; thence Southeasterly 738.09 feet, along a 596.62 foot radius curve concave southwesterly, having a chord bearing S.49°34'46"E., 691.92 feet, to a point on said east line of the Southeast Quarter; thence N.05°43'35"E., 175.35 feet, along said east line, to the point of beginning, containing 13.00 acres total ( NOTE: For purposes of this survey, the east line of the SE 1/4 was assumed to bear S.05°43'35"W);*

*EXCEPT:*

*PARCEL LETTER 'A' as recorded INST#20130028 in the Franklin County, Iowa, Recorder's Office legally described as County Auditor's Parcel Letter 'A' located in the east One-half (E1/2) of Section Twenty-nine (29), Township Ninety-three (93) North, Range Twenty (20) West of the 5th P.M., Franklin County, Iowa, more particularly described as follows:*

*Commencing at the East Quarter Corner of said Section 29; thence South 00°50'31" West, 383.75 feet along the east line of the Southeast Quarter of said Section 29 to the Northeast Corner of an existing parcel as surveyed in County Recorder's INST. 010135; thence northwesterly along a north line of said existing parcel 670.45 feet along a 676.62 feet radius curve concave southwesterly having a central angle of 56°46'25" to a corner of said existing parcel; thence North 89°54'55" West, 1097.87 feet along a north line of said existing parcel to a corner thereof (said point also being the point of beginning); thence South 81°25'44" West, 72.59 feet; thence southwesterly 1064.53 feet along a 994.93 feet radius curve concave southeasterly having a central angle of 61°18'13" to a point on the west line of said existing parcel and the east line of the Union Pacific Railroad (as monumented); thence North 00°05'44" East, 1370.42 feet along said west line and said east line to a corner of said existing parcel; thence southeasterly along a north line of said existing parcel 1302.94 feet along a 914.93 feet radius curve concave northeasterly having a central angle of 81°35'39" to the point of beginning, containing 7.50 acres total. NOTE: For the purposes of this survey, the east line of said Southeast Quarter was determined to bear South 00°50'31" West using GPS;*

*AND,*

*PARCEL LETTER "B" as recorded INST #20130028 in the Franklin County, Iowa, Recorder's Office more particularly described as follows:*

*County Auditor's Parcel Letter "B" located in the Southeast Quarter of Section Twenty-nine (29), Township Ninety-three (93) North, Range Twenty (20) West of the 5th P.M., Franklin County, Iowa, more particularly described as follows:*

*Commencing at the East Quarter Corner of said Section 29; thence South 00°50'31" West, 559.10 feet along the east line of said Southeast Quarter to the Southeast Corner of an existing parcel as surveyed in County Recorder's INST. 010135 (said point also being the point of beginning); thence South 00°50'31" West, 27.18 feet along said east line; thence North 89°54'52" West, 2431.42 feet to a point on a south line of said existing parcel; thence northeasterly along said south line 848.85 feet along a 914.93 feet radius curve*

*concave southeasterly having a central angle of 53°09'27" to a corner of said existing parcel; thence North 86°01'38" East, 151.85 feet along a south line of said existing parcel to a corner thereof; thence South 89°54'52" East, 1012.52 feet along a south line of said existing parcel to a corner thereof; thence southeasterly along a south line of said existing parcel 738.09 feet along a 596.62 feet radius curve concave southwesterly having a central angle of 70°52'57" to the point of beginning;*

**EXCEPT:**

*A tract of land described in County Recorder's Book 79 Page 46 more particularly described as follows:*

*Beginning at a point North 1°14' East 1556.6 feet along the centerline of a Franklin County, Iowa, secondary road and North 0°51' West 531.8 feet continuing along centerline of said road and North 88°40' West 33.02 feet of the Southeast corner Section 29, Township 93 North, Range 20 West of the 5th P.M., said point being on the West right-of-way line of said road; thence North 88°40' West 100 feet; thence North 0°51' West 75 feet; thence South 88°40' East 100 feet; thence South 0°51' East 75 feet to the point of beginning, containing 0.17 acres, more or less, exclusive of present established roads.*

*The above contains 20.00 acres total including 0.15 acres existing right-of-way.*

*NOTE: For the purposes of this survey, the east line of said Southeast Quarter was determined to bear South 00°50'31" West using GPS;*

**AND,**

*that part of the Southwest Quarter (SW 1/4) of Section Twenty-eight (28), Township Ninety-three (93) North, Range Twenty (20) West of the 5th P.M., Franklin County, Iowa, described as follows, to wit: - Beginning at the point of intersection of South Line of said Section with the Westerly Line of First Street; thence Northerly along the Westerly Line of said First Street, a distance of 1523 feet to the South Line of North Street, thence West along the South Line of said North Street, a distance of 200 feet, more or less, to a point 50 feet Easterly of, as measured at Right Angles from the Center Line of the Main Track of the former Minneapolis & St. Louis Railway Company, now the Chicago and North Western Railway Company, as now located and established; thence Southerly along a line parallel with the Center Line of said Main Track to a point 9 feet Easterly of, as measured radially from the Center Line of Spur Track I, C.C. No. 153 of said Railway Company, as now located and established; thence Southerly along a line parallel with the Center Line of said Spur Track to a point 50 feet Easterly of, as measured at Right Angles from the Center Line of said Main Track; thence southerly along a line parallel with the Center Line of said Main*

*Track to the South Line of said Section, thence East along the South Line of said Section to the point of beginning.*

*(Chapter 404.2(2)(a), Code of Iowa)*

3. Benefits. The benefits of revitalization shall be only to the extent provided by the revitalization plan as heretofore adopted by the Franklin County Board of Supervisors and that any person, firm, corporation, or other entity seeking to utilize the benefits of revitalization shall comply with the requirements set forth in that revitalization plan as hereby adopted.

## **11.02 FRANKLIN COUNTY - BRADFORD URBAN REVITALIZATION AREA.**

1. Purpose. In accordance with the Act and in consideration of the recitations set out in the preamble hereof, the area formed by contiguous real estate parcels with a legal description as follows:

- A. A parcel of land located in the Southeast Quarter (SE ¼) of Section Six (6), Township Ninety (90) North, Range Twenty (20) West of the 5th P.M., being partially within the City of Bradford, Franklin County, Iowa, more particularly described as follows:

*Beginning at the South Quarter Corner of said Section 6; thence South 90°00'00" East, 2218.10 feet, along the south line of said Southeast Quarter, to a point 25.5 feet southwesterly and radially from the westerly right-of-way line of the former Chicago, Rock Island, and Pacific Railroad (aka CRI&P RR); thence Northwesterly 986.88 feet, parallel with and 25.5 feet southwesterly of said westerly right-of-way line, along a non-tangential curve concave southwesterly, having a radius of 2789.40 feet, a central angle of 20°16'15", a chord bearing of North 31°41'53" West, and a chord distance of 981.74 feet; thence North 41°26'08" West, 10.74 feet, parallel with and 25.5 feet southwesterly of said westerly right-of-way line; thence North 48°33'52" East, 50.50 feet, to a point 25.0 feet southwesterly measured perpendicularly from the centerline of the main track of said CRI&P RR; thence North 41°26'08" West, 661.60 feet, parallel with and 25.0 feet southwesterly of said centerline, to a point on the south line of Second Street of the City of Bradford; thence North 89°56'58" West, 180.21 feet, along said south line, to a point 160.0 feet southwesterly measured perpendicularly of said centerline; thence North 41°26'08" West, 39.85 feet, parallel with and 160.0 feet southwesterly of said centerline, to a point on the centerline of County Road C-55 (aka Second Street); thence North 89°56'58" West, 1039.62 feet, along said centerline; thence North 89°41'55" West, 3.40 feet, along said centerline, to a point on the west line of said Southeast Quarter; thence South 01°51'33" West, 1404.47 feet, along said west line, to the point of beginning, containing 57.15 acres total. Subject to easements.*

*NOTE: For the purposes of this survey, the south line of said Southeast Quarter was assumed to bear South 90°00'00" East*

*is hereby designated as a revitalization area under the Act, which shall be known as the Franklin County - Bradford Urban Revitalization Area.*

**11.03 FRANKLIN COUNTY - LATHAM HI-TECH SEED URBAN REVITALIZATION AREA.**

1. Description.

*The NWfr ¼ NWfr ¼ of Section 18, Township 92 North, Range 22 West of the 5th P.M. EXCEPT: A tract commencing at the NE Corner of the NW ¼ NWfr ¼ of Section 18, Township 92 North, Range 22 West of the 5th P.M., thence west along the north line of Sec. 18, 45 feet to point of beginning; thence South 245 feet; thence West 200 feet; thence North 245 feet; thence east along the north line of Section 18, 200 feet to the point of beginning AND EXCEPT: A tract commencing at the NE Corner of the NW ¼ NWfr ¼ of Section 18, Township 92 North, Range 22 West of the 5th P.M., thence West along north section line 245 feet to the point of beginning; thence South parallel to the east line of NWfr ¼ 694.74 feet; thence West 627 feet; thence North 694.74 feet to the North line of said Section 18; thence East along the North line 627 feet to the point of beginning*

*NOTE: For the purposes of this survey, the south line of said Southeast Quarter was assumed to bear South 90°00'00" East is hereby designated as a revitalization area under the Act, which shall be known as the Franklin County - Latham Hi-Tech Seed Urban Revitalization Area.*

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## CHAPTER 12

# WIND ENERGY CONVERSION PROPERTY

12.01 Purpose

12.02 Definitions

12.03 Authority to Establish

12.04 Establishment

12.05 Amount of Valuation

12.06 Declaration of Special Valuation

12.07 Reporting Requirements

12.08 Repeal of Special Valuation

**12.01 PURPOSE.** The purpose of this chapter is to provide for the special valuation of wind energy conversion property pursuant to Section 427B.26 of the *Code of Iowa*.

**12.02 DEFINITIONS.** For use in this chapter, certain terms and words used herein shall be interpreted or defined as follows:

1. “Net acquisition cost” means the acquired cost of the property including all foundations and installation cost less any excess cost adjustment.
2. “Wind energy conversion property” means the entire wind plant, including (but not limited to) a wind charger, windmill, wind turbine, tower and electrical equipment, pad mount transformers, power lines, and substation.

**12.03 AUTHORITY TO ESTABLISH.** The Board is authorized, pursuant to Section 427B.26 of the *Code of Iowa*, to provide, by ordinance, for special valuation of wind energy conversion property as provided in Section 12.04.

**12.04 ESTABLISHMENT.** Pursuant to Section 427B.26 of the *Code of Iowa*, a special valuation of wind energy conversion property is allowed in lieu of the valuation assessment provisions in Section 441.21(8)(b) and (c) and Sections 428.24 to 428.29 of the *Code of Iowa*. The special valuation shall only apply to wind energy conversion property first assessed on or after January 1, 1994, and on or after the effective date of the ordinance codified in this chapter.

**12.05 AMOUNT OF VALUATION.** Wind energy conversion property first assessed on or after the effective date of the ordinance codified in this chapter shall be valued by the Assessor for property tax purposes as follows:

1. For the first assessment year, at zero percent of the net acquisition cost.
2. For the second through sixth assessment years, at a percent of the net acquisition cost, which rate increases by five percent each assessment year.
3. For the seventh and succeeding assessment years, at 30 percent of the net acquisition cost.

**12.06 DECLARATION OF SPECIAL VALUATION.** The taxpayer shall file with the Assessor by February 1 of the assessment year in which the wind energy conversion property is first assessed for property tax purposes, a declaration of intent to have the property assessed at the value determined under Section 12.05 in lieu of the valuation assessment provisions in Section 441.21(8) (a), (b), and (c), and Sections 428.24 to 428.29 of the *Code of Iowa*. If the taxpayer does not file with the Assessor by February 1 of the assessment year for which the person files a declaration of intent to have the property assessed as provided above, then the declaration of intent shall be considered as a declaration filed for the following year.

**12.07 REPORTING REQUIREMENTS.** The following reports shall be filed annually with the Assessor by the taxpayer; in the first year, with the declaration of intent prescribed in Section 12.06; and by February 1 of each year thereafter:

1. Copy of asset ledger sheet to IRS;
2. Engineering breakdown of component parts;
3. Tower numbering system;
4. Name of contact person, phone number, fax number, and mailing address;
5. Report of all leased equipment, the name of the company it is leased from, and the agreement between the lessor and the lessee regarding who is responsible for the property tax on the leased equipment.

**12.08 REPEAL OF SPECIAL VALUATION.** If, in the opinion of the Board, continuation of the special valuation provided under Section 12.04 ceases to be of benefit to the County, the Board may repeal the ordinance. Property specially valued under Section 12.04 prior to repeal of the ordinance shall continue to be valued under Section 12.04 until the end of the nineteenth assessment year following the assessment year in which the property was first assessed.

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## CHAPTER 15

# GENERAL ASSISTANCE PROGRAM

15.01 Purpose

15.02 Definitions

15.03 Eligibility for General Assistance

15.04 General Assistance Manual

15.05 General Assistance Application

15.06 Review by the Board

15.07 Appeal

15.08 Appeal Hearings

**15.01 PURPOSE.** It is the position of the County that provision of assistance to poor or needy persons is a matter of public benefit as well as a statutory duty of the County, and to that end general assistance, as defined herein, shall be administered to poor or needy families and individuals, as identified by *General Assistance Manual* guidelines, promptly, humanely, and equitably, in order to assure those persons decent and healthful living situations.

**15.02 DEFINITIONS.** The definitions of terms used in this chapter are as follows:

1. “Designee” means qualified general assistance staff appointed by the Director to help administer the County's General Assistance program.
2. “Director” means the general assistance Director appointed or designated by the Franklin County Board of Supervisors to oversee the County’s General Assistance program.
3. “Family” means the person applying for general assistance, that person’s spouse, children under 18 years of age, older children who are dependent on the applicant due to school attendance or incapacity, and anyone else domiciled with the applicant and dependent upon the applicant according to guidelines used by the State Department of Revenue in collecting income tax.
4. “General assistance” means County payment made on behalf of poor or needy persons for rent, utilities, food, medical services, burial, and miscellaneous expenses.
5. “Poor” defined by Section 252.1 of the *Code of Iowa*, as persons who have no property, exempt, or otherwise and are unable, because of physical or mental disabilities, to earn a living by labor.
6. “Needy” means a lack of resources to maintain self or family in a decent, healthful situation defined, by Section 252.1 of the *Code of Iowa*, as persons who have some means when conducive to their welfare and the best interests of the public.
7. “Vendor payment” means a County Auditor’s warrant to the supplier of goods or services.

**15.03 ELIGIBILITY FOR GENERAL ASSISTANCE.** Eligibility for general assistance shall be determined on the basis of need as established and verified by the Director or designee, according to the guidelines set out in Sections III and IV of the *General Assistance Manual* and shall be determined without regard to race, creed, religion, national origin, sex, or age.

**15.04 GENERAL ASSISTANCE MANUAL.**

1. The rules, regulations, standards, and guidelines for administrating general assistance shall comprise the *General Assistance Manual*.

2. The *General Assistance Manual* shall be adopted by resolution of the Board.
3. Amendments to the *General Assistance Manual* shall be made by resolution pursuant to Section 331.302 of the *Code of Iowa*, following publication of notice of the proposed change and opportunity for the public to be heard.
4. Copies of the *General Assistance Manual* shall be available to the public in the office of the Director.

**15.05 GENERAL ASSISTANCE APPLICATION.** Application for general assistance shall be made to the Director or designee on forms supplied by the general assistance office. Upon receipt of a completed application, the Director or designee shall give written notification to the applicant of the decision to grant, pend, or deny the application within five working days. Such notice shall include the factual basis for the Director's or designee's decision, a statement of the right to appeal, and a recital of appeal procedures.

**15.06 REVIEW BY THE BOARD.** The Board may review the determination of eligibility made by the Director or designee. If the Board questions any allowance of assistance benefits allowed by the Director or designee, it shall take no action concerning such allowance until it conducts a hearing. Notice of the hearing shall be given to the applicant in the same manner as if the applicant had taken the appeal. This hearing shall proceed in the same manner as an appeal by the applicant from the Director's or designee's determination.

**15.07 APPEAL.**

1. Every applicant, whether granted assistance or not, shall be informed in the Director's or designee's written decision of the applicant's right to appeal from such decision to the Board of Supervisors. The applicant shall be informed: (i) of the method by which an appeal may be taken; and (ii) that they may represent themselves, or may be represented by counsel at the applicant's expense.
2. The written appeal or communication shall be made to the Director within 10 days after the Director's or designee's determination, shall provide applicant's current address and telephone number, and shall state the reasons for the appeal. Any written appeal or communication to the Director by or on behalf of an applicant requesting appeal of the Director's or designee's determination shall be received by the Director and put upon the Board's agenda in accordance with Chapter 21 of the *Code of Iowa*, for the next regular Board meeting, provided that such appeal shall not be heard sooner than five working days after appeal is taken. The applicant shall be informed immediately, by telephone and by ordinary mail, of the date and time of hearing before the Board. Applicant and applicant's attorney, upon written authorization from applicant, shall be granted access by the Director to applicant's case file upon request.

**15.08 APPEAL HEARINGS.**

1. The Board shall hear applicant's appeal at the time scheduled in the agenda unless continuance is requested by applicant and granted by the Board. Applicant shall be permitted to present any evidence desired in support of the appeal by personal testimony, by having other witnesses testify, by offering documentary evidence and by reasonable cross examination of other witnesses, if present. The technical rules of evidence shall not apply. The Board may set reasonable times for the present action of the parties at any appeal. The applicant's file shall be admitted into evidence. The Board may question the applicant, and the Director shall present the Board with the reasons for the determination. The appeal shall be tape recorded. The hearing before

the Board shall not be an open meeting under Chapter 21 of the *Code of Iowa*, since the confidential files of the applicant will be in evidence. When the Board deliberates on the appeal, no persons other than Board members shall be present. The Board's deliberations shall not be tape recorded.

2. The Board shall make a decision on the appeal within 10 working days after the hearing. The Board's findings of fact and decision shall be based only on the evidence submitted during the hearing. Immediately after making its decision, the Board shall mail to applicant at their last known address, by ordinary mail, its decision in writing. The decision shall state the reasons for the action and shall also state that an appeal may be taken to District Court from the Board's determination, and shall state the method by which such appeal may be taken.

3. Any appeal from the Board's decision to the District Court shall be allowed within the time and by the manner and procedures established under the Iowa Administrative Procedures Act, Chapter 17A, *Code of Iowa*.

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## CHAPTER 16

### MENTAL HEALTH ASSISTANCE

**16.01 ASSISTANCE PROVIDED THROUGH CICS.** It is the position of the County that provision of assistance to financially needy persons is a matter of public benefit, and to that end, the County is a member of Central Iowa Community Services (CICS) Region formed under Chapter 28E of the *Code of Iowa*, to create a mental health and disability service region in compliance with Section 331.390 of the *Code of Iowa*. Mental health assistance shall be administered to financially needy individuals, as identified by the *Central Iowa Community Services Policies and Procedures Manual*. It is the intent of the County that this chapter and the *Central Iowa Community Services Policies and Procedures Manual* fulfill the obligations and duties imposed upon the County by Chapters 229 and 230 of the *Code of Iowa*. The website address for the Central Iowa Community Services Region is [www.cicsmhds.org](http://www.cicsmhds.org).

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## CHAPTER 17

# VETERAN AFFAIRS PROGRAM

17.01 Purpose

17.02 Definitions

17.03 Application for Veteran Benefits

17.04 Review by the Commission

17.05 Appeal

17.06 Appeal Hearings

**17.01 PURPOSE.** It is the position of the County that provisions of assistance to needy veterans and their dependents is a matter of public benefit as well as a statutory duty of the County, and to that end, veteran benefits, as defined herein, shall be administered to needy veterans and their families, as identified by *Veteran Benefits Manual* guidelines, promptly, humanely, and equitably, in order to assure those veterans and their dependents decent, healthful living situations. Together, this chapter and the *Franklin County Veteran Benefits Manual* fulfill the duties imposed upon the County by Chapter 35B of the *Code of Iowa*.

**17.02 DEFINITIONS.** The definitions of terms used in this chapter are as follows:

1. “Commission” means the Franklin County Commission on Veteran Affairs.
2. “Director” means the Veteran Affairs Director hired by the Commission, subject to the approval of the Board, to administer the County’s veteran affairs program.
3. “Family” means the person applying for veteran benefits, that person’s spouse, children under 18 years of age, older children who are dependent on the applicant due to school attendance or incapacity, and anyone else domiciled with the applicant according to guidelines used by the State Department of Revenue in collecting income tax.
4. “Needy” means a lack of resources to maintain self or family in a decent, healthful situation.
5. “Vendor payment” means an Auditor’s warrant to the supplier of goods or services.
6. “Veteran assistance” means County payment made on behalf of needy veterans for rent, utilities, food, medical services, burial, and miscellaneous expenses.

**17.03 APPLICATION FOR VETERAN BENEFITS.** Application for veteran benefits shall be made to the Director on forms supplied by the Director.

**17.04 REVIEW BY THE COMMISSION.** The Commission will review all applications for a determination of benefits. The Director shall then notify the applicant of the Commission’s decision.

**17.05 APPEAL.**

1. Every applicant, whether granted relief or not, shall be informed in the Director’s written decision of the applicant’s right to appeal from such decision to the Commission. The applicant shall be informed:
  - A. Of the method by which an appeal may be taken; and

B. That he or she may represent himself, or may be represented by counsel at applicant's expense.

2. The written appeal or communication shall be made to the Director within 10 days after the Director's determination, shall provide applicant's current address and telephone number, and shall state the reasons for the appeal. Any written appeal or communication to the Director by or on behalf of an applicant requesting appeal of the Director's determination shall be received by the Director and put immediately upon the Commission's agenda in accordance with Chapter 21 of the *Code of Iowa*, for the next regular Commission meeting, provided that such appeal shall not be heard sooner than five working days after appeal is taken. The applicant shall be informed immediately, by telephone and by ordinary mail, of the date and time of hearing before the Commission. Applicant and applicant's attorney, upon written authorization from applicant, shall be granted access by the Director to applicant's case file upon request.

#### **17.06 APPEAL HEARINGS.**

1. The Commission shall hear applicant's appeal at the time scheduled in the agenda unless continuance is requested by applicant and granted by the Commission. Applicant shall be permitted to present any evidence desired in support of the appeal by personal testimony, by having other witnesses testify, by offering documentary evidence and by reasonable cross examination of other witnesses, if present. The technical rules of evidence shall not apply. The Commission may set reasonable times for the present action of the parties at any appeal. The applicant's file shall be admitted into evidence. The Commission may question the applicant, and the Director shall present the Commission with the reasons for the determination. The appeal shall be tape recorded. The hearing before the Commission shall not be an open meeting under Chapter 21 of the *Code of Iowa*, since the confidential files of the applicant will be in evidence. When the Commission deliberates on the appeal, no persons other than Commission members shall be present. The Commission's deliberations shall not be tape recorded.

2. The Commission shall make a decision on the appeal within 10 working days after the hearing. The Commission's findings of fact and decision shall be based only on the evidence submitted during the hearing. Immediately after making its decision, the Commission shall mail to applicant at their last known address, by ordinary mail, its decision in writing. The decision shall state the reasons for the action and shall also state that an appeal may be taken to District Court from the Commission's determination, and shall state the method by which such appeal may be taken.

3. Any appeal from the Commission's decision to the District Court shall be allowed within the time and by the manner and procedures established under the Iowa Administrative Procedures Act, Chapter 17A, *Code of Iowa*.

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## CHAPTER 20

# JUNK DEALERS

20.01 Purpose	20.06 Revocation of Permit
20.02 Definitions	20.07 Emergency Conditions
20.03 Permit Required	20.08 Right of Entry
20.04 Public Notification of Application	20.09 Other Requirements
20.05 Non-Transferable to New Owner or Operator	20.10 Violation - Penalty

**20.01 PURPOSE.** The purpose of this chapter is to regulate all junkyard operations to promote the public health, safety, and welfare in the County, and to require permits for junkyard operations and to provide a penalty. The provisions found herein shall apply only to the unincorporated area of the County.

**20.02 DEFINITIONS.** For use in this chapter, terms or words used herein shall be interpreted or defined as follows:

1. “Inoperable motor vehicle” means any motor vehicle which lacks current registration or two or more wheels or other component parts, the absence of which renders the vehicle totally unfit for legal use on the highways.
2. “Junk” means all old or scrap copper, brass, lead, or any other nonferrous metal; old rope, rags, batteries, paper, trash, rubber debris, waste; dismantled or inoperable vehicles, machinery and appliances or parts of such vehicles, machinery, or appliances; iron, steel, or other old scrap ferrous material; old discarded glass, tinware, plastic, or old discarded household goods or hardware.
3. “Junk dealer” means any person who buys, sells, transfers, delivers, or stores junk, including all persons who carry on such business at a junk shop or junkyard or as a peddler, and any person who by advertisement, sign, or otherwise holds himself out as a junk dealer, or dealer in old or discarded metals, machinery, rags, paper stock, and the like.
4. “Junk shop” means any building or structure in which a junk dealer stores or places junk in connection with a business of buying, selling, or trading junk.
5. “Junkyard” means any place not fully enclosed in a building, used in whole or in part for the storage or deposit of junk, whether in connection with a business or not, which encompasses a place where more than two inoperable motor vehicles, or used parts and materials thereof, when taken together equal the bulk of two motor vehicles, are stored or deposited.
6. “Sheriff” means the County Sheriff.

**20.03 PERMIT REQUIRED.** No person or firm shall carry on the business of junk dealer in the County without first having obtained a permit as herein required. Application for a junk dealer’s permit shall be made to the Board at least 20 days prior to the issuance of such permit. The application shall include: the name and permanent address of the owner, the name and address of the operator if different from the owner, the locations of the proposed site for a junkyard or junk shop, a sketch showing the specific area that will be covered by the permit, a list of the names and addresses of all adjacent property owners, and proof that a zoning permit

has been obtained for use of the proposed site as a junkyard or junk shop. Any person or firm wishing to expand a junkyard or junk shop beyond the specific area approved for a permit shall obtain a new permit and any person or firm conducting several or separate places of business as a junk dealer shall pay the permit fee and procure a permit for each such place. The fee for application for a junk dealer's permit shall be \$300.00 and is non-refundable. All junkyards or junk shops in existence at the time of adoption of this chapter shall apply for a permit within 60 days of the effective date of this chapter, but shall be granted an extension of 12 months within which to comply with all provisions found herein.

**20.04 PUBLIC NOTIFICATION OF APPLICATION.** The Board shall send written notification to all adjacent landowners of the proposed site of the junkyard or junk shop that an application for junk dealer's permit has been received for that location. The Board shall also publish notice in the County newspaper or newspapers stating that an application for junk dealer's permit has been received, the location of the proposed site, and when the application will be acted on. The Board shall consider all information and comments received concerning the application, but all final determinations shall rest with the Board.

**20.05 NON-TRANSFERABLE TO NEW OWNER OR OPERATOR.** If control of a junkyard is acquired by any owner or operator other than the person holding a permit for the junkyard or junk shop, that person shall, within 15 days, apply for a new permit in the name of the new owner or operator.

**20.06 REVOCATION OF PERMIT.** After giving a permit holder 30 days' notice and the opportunity for a hearing, the Board may revoke any permit issued under this chapter if the permit holder has violated this chapter or has otherwise conducted the business in an unlawful manner or if the permit holder has presented any false information to the County.

**20.07 EMERGENCY CONDITIONS.** As a condition of issuance of every permit, members of the Board or the Sheriff, shall have the right of entry to, upon, or through any junkyard or junk shop for the purpose of enforcing the provisions found herein.

**20.08 RIGHT OF ENTRY.** A junkyard, as defined in this chapter, must be surrounded with a solid opaque fence of uniform design and color and not less than six feet high, which substantially screens the area in which junk is stored or deposited. The fence must be kept in good repair and shall not be used for advertising displays or signs. Suitable gates, likewise opaque, are required, which shall be closed and locked after business hours or when the junkyard is unattended. A portion of the gate, not to exceed 10 feet in length, may be constructed of a non-opaque material to permit observation of the fenced premises after business hours. No junk shall be permitted to be stored or deposited outside the fence, nor may junk be stacked higher than the fence within 30 feet of the fence, nor may junk be stored in any flood hazard area. If a portion of the perimeter of the junkyard is not in any way subjected to public view, the Board may allow a buffer planting screen of coniferous trees in lieu of the solid opaque fence as required above.

**20.09 OTHER REQUIREMENTS.**

1. Segregation of Specific Items. Upon order of the Sheriff, each junk dealer shall segregate specific items, or categories of items, and hold such items until authorized to dispose of the items by the Sheriff. The holding period shall be a reasonable time and shall not exceed 45 days.

2. Concealing Articles to Prevent Identification. No junk dealer shall conceal, secrete, or destroy any article purchased or received by them to prevent identification thereof by law enforcement officers or any person claiming the same.
3. Disposing of Stolen Goods for Which There is Adverse Claim. No junk dealer shall sell, melt, break up, or otherwise dispose of any article which they have reason to believe has been stolen, or which is adversely claimed by any person, or which he has been notified not to sell or otherwise dispose of by any law enforcement officer, without first obtaining a permit, in writing, from the Sheriff.
4. Clerks, Agents, and Employees Subject to Chapter. Every clerk, agent, or employee of any junk dealer shall be subject to and bound by all the provisions of this chapter, and liable to the same penalties and to the same extent as his employer or principal, for any violation thereof.
5. Conditions Subject to Abatement. If any junkyard or junk shop is kept or operated in a way detrimental to the health and welfare of the public to the extent that a public or private nuisance exists, or is kept or operated contrary to the provisions of this chapter, the Board, in addition to other remedies, may find that the condition constitutes a nuisance and have it abated as provided for in Chapter 46 of this Code.

**20.10 VIOLATION - PENALTY.** Any person, firm, co-partnership, corporation, or other association of persons, whether acting directly or through employees or agents, that violates, disobeys, omits, or neglects the provisions of this title shall be given a Notice of Violation either by personally giving, certified mail, or served by law enforcement. This Notice of Violation shall identify the action required to correct the violation and give 20 days to correct it. If said violation is not corrected then a County citation shall be filed either by personally giving, certified mail, or served by law enforcement with fines of \$750.00 for the first offense and \$1,000.00 for the second and subsequent offences. A Notice of Violation may be in the form of a stop work order which shall instruct the violator to cease any activity until said violation is corrected. Situations where a stop work order may be used include, but are not limited to, incidences where business has begun without a junk dealer's permit or where proper documentation has not been filed. Each day the violation is permitted to exist shall constitute a separate offense. The Zoning Administrator shall keep a record of violations in their office. If any person, firm, co-partnership, corporation, or other association of persons, whether acting directly or through employees or agents violates, disobeys, omits, or neglects the provisions of this title three or more times in a three-year period, they shall be deemed a chronic offender. Chronic offenders shall be issued a County citation when the Zoning Administrator becomes aware of a violation. A Notice of Violation with a 20-day notice shall not be required in the case of chronic offenders. In case of a violation of any provision of this title, the proper authorities of the County, in addition to other remedies, may institute any appropriate action or proceedings to prevent or abate the illegal act.

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## CHAPTER 30

# SECONDARY ROAD RIGHT-OF-WAY

30.01 Purpose

30.02 Definitions

30.03 Violations Generally; Penalty

30.04 Administration

30.05 Abatement Costs

30.06 Attorney Authority

**30.01 PURPOSE.** The purpose of this chapter is to restrict the County landowners or their tenants adjoining secondary road right-of ways from farming, fencing, or otherwise abusing such right-of-way, which will damage the road and its shoulders, cause hazardous obstructions, create potential liability to the County, and unjustly enrich these owners at the expense of the County.

**30.02 DEFINITIONS.** For use in this chapter, terms or words used herein shall be interpreted or defined as follows:

1. "Obstruction" means anything that is placed in a secondary road right-of-way by persons other than persons authorized to do so by the Board. It includes, but is not limited to, property such as fences, growing crops, rocks, trash, corn cobs, piles of brush, abandoned vehicles or machinery, billboards, advertising signs or devices, open ditches, and water breaks, tile, and tile outlets, grazing of animals, and includes the cultivation of the right-of-way.

All other terms shall be interpreted and construed in accordance with the provisions of Chapter 4 of the *Code of Iowa*, and generally as an implementation of or in harmony with Chapter 318 of the *Code of Iowa*.

**30.03 VIOLATIONS GENERALLY; PENALTY.**

1. The creation by any person of an obstruction in the County is declared a public nuisance and is prohibited.
2. A person shall not excavate, fill, or make any physical change within the right-of-way of a secondary road without obtaining a permit from the Board. Any work performed under the permit shall be performed in conformity with the specifications prescribed by the Board, including the posting of bond. If the excavation, fill, or physical change within the right-of-way does not conform to the specifications that accompany the permit, the permittee shall be reasonably notified by the Board or Engineer to make such conforming changes. If after 20 days the changes have not been made, the Board or County Engineer may make the necessary changes and immediately send a statement of the cost to the permittee. If within 10 days after sending the statement the cost is not paid, the Board, through the Attorney, may institute proceedings in District Court to collect the cost of correction.
3. The County Engineer and utility companies are exempt from the provisions of this section.
4. Any person who violates the provisions of this section for a 24-hour period shall, upon conviction, be fined \$750.00 for the first offense and \$1,000.00 for the

second and subsequent offences. Each 24-hour period is a separate and distinct violation.

**30.04 ADMINISTRATION.** It shall be the duty of the Engineer to identify obstructions within the County. Upon such identification, they shall attempt to persuade the person responsible for the obstruction to remove it. If such an attempt is unsuccessful, the Engineer shall proceed under Section 30.05. The Engineer may request the assistance of other departments, agencies, and offices of County government in the investigation and enforcement of this chapter.

**30.05 ABATEMENT COSTS.**

1. If the Engineer deems an obstruction to constitute an immediate and dangerous hazard, he may without notice or liability in damages, cause the obstruction to be removed and the costs of removal to be assessed against:

- A. The owner of any billboard, advertising sign, or device so removed.
- B. The vehicle or machinery owner in the case of abandoned vehicles or machinery.
- C. The abutting property in the case of fences and other obstructions placed by the owner of, or tenant on, said property.
- D. The owner or person responsible for placement of all other obstructions.

2. If the Engineer does not deem an obstruction to be such a hazard, they may, without liability after 48 hours' notice to the person who would be assessed for County costs of removing the obstruction, this notice being served in the manner in which an original notice is served or in writing by certified mail, cause the obstruction to be removed and the costs of removal to be assessed in the same manner as specified in Subsection 1 of this section. Notice shall be reasonably calculated to apprise the recipient of the impending action and liability. If any person, firm, co-partnership, corporation, or other association of persons, whether acting directly or through employees or agents violates, disobeys, omits, or neglects the provisions of this chapter three or more times in a three-year period they shall be deemed a chronic offender. Chronic offenders shall be issued a citation when the County becomes aware of a violation. A notice shall not be required in the case of chronic offenders. In case of a violation of any provision of this chapter, the proper authorities of the County, in addition to other remedies, may institute any appropriate action or proceedings to prevent or abate the illegal act.

3. Upon removal of the obstruction, the Engineer may immediately send a statement of the cost of removal to the person assessed. If within 10 days after sending the statement, the cost is not paid, the Engineer, through the Attorney, may institute proceedings to collect the cost of removal.

**30.06 ATTORNEY AUTHORITY.** Upon request of the Board, the County Attorney may bring action to enjoin or abate an obstruction, to collect damages caused by an obstruction, including the costs of removal, and to pursue any other appropriate remedy, including criminal prosecution under Section 30.02(4) or Chapter 716 of the *Code of Iowa*.

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## CHAPTER 31

# UNIFORM RURAL ADDRESS SYSTEM

31.01 Purpose	31.06 Road Markers
31.02 Definitions	31.07 House Numbers
31.03 Establishment by Ordinance	31.08 Maintenance of Uniform Rural Address System
31.04 Extent of System	31.09 New Structures
31.05 Implementation of System	31.10 Penalty

**31.01 PURPOSE.** This chapter mandates the use of a Uniform Rural Address System for residents of the County in order to promote the convenience, safety, and general welfare of those residents and provides for a penalty.

**31.02 DEFINITIONS.** For use in this chapter, the following terms or words shall be interpreted or defined as follows:

1. "911 Board" means the Franklin County E911 Board.
2. "Base map" means the map used by the agency coordinating the Uniform Rural Address System in the County. Such a map shall indicate all addresses in Franklin County subject to the provisions of this ordinance.
3. "Building" means a roofed and walled structure built for permanent use.
4. "GIS Department" means the department and its employees handling the Uniform Rural Addressing duties.
5. "Subdivision" means the division of a tract of land into separate lots or parcels for the purpose of transfer of ownership or building development.

**31.03 ESTABLISHMENT BY ORDINANCE.** The 911 Board shall, by ordinance, establish the street and avenue type of Uniform Rural Address System to be used in the County.

**31.04 EXTENT OF SYSTEM.** The Uniform Rural Address System shall extend over the entire unincorporated areas of the County except for those areas already using the system of a nearby incorporated area. Any incorporated area, upon presentation of a written request from the governing body of such city to the 911 Board, may also be included in the Uniform Rural Address System.

**31.05 IMPLEMENTATION OF SYSTEM.** The Board shall direct the GIS Department to:

1. Verify the accuracy of the base map that shall be used in the assignment of addresses.
2. Make all necessary corrections and updates to that map.
3. Assign addresses in accordance with the system selected by the 911 Board.
4. Purchase sign assembly materials which meet Iowa Department of Transportation specifications.
5. Develop, print, and make available rural reference maps.

6. Notify post offices, rural emergency providers, dispatchers, emergency vehicles, and County offices, located in adjacent counties whereby such districts overlap into the County, of the effective date of the system and the address assignments.
7. Notify all residents affected by this mandatory system, by publication and posting, of the following:
  - A. How to use the system.
  - B. That road markers have been placed.
  - C. That permanent address markers have been placed indicating the assigned house number.
  - D. That maintenance of the system is required and where replacement markers can be obtained and how to place them.
  - E. How to obtain address markers for new structures.
  - F. There is a penalty for refusing to use the system and for removing, damaging, defacing, altering, or destroying the address markers.
8. Distribute the markers.

**31.06 ROAD MARKERS.** The GIS Department shall supervise the installation of road identification markers at each road intersection in the County whereby the provisions of this chapter apply. Such markers shall be in place on or before the date the system takes effect.

**31.07 HOUSE NUMBERS.** The County will provide for every person owning, controlling, occupying, or using any house, store, storeroom, or building situated on premises fronting any public way as provided in Section 31.04, a permanent marker on such premises indicating the assigned number. Any house number existing at the time the provisions of this chapter take effect and that is different than the newly assigned number shall be removed at the time the new number is installed. The permanent marker with the house number affixed shall be placed to the right of the driveway on the right-of-way line as you face the property from the road. The provisions of this chapter shall not apply to accessory buildings, but may apply to such buildings located on a separate unit of frontage if requested by the owner or proprietor and approved.

**31.08 MAINTENANCE OF UNIFORM RURAL ADDRESS SYSTEM.** The GIS Department shall be responsible for the enforcement and maintenance of the Uniform Rural Address System in the County. These duties shall include assignment of all new addresses, providing markers for new addresses, providing replacement markers, replacing street markers as needed and in conjunction with the County Engineer, updating maps, making available new maps on an annual basis, making periodic checks of the rural areas of the County to ensure that the provisions of this chapter are being complied with, and any other duties necessary to ensure the continued maintenance of the Uniform Rural Address System of the County. A fee for said replacement markers, covering the cost of said markers, shall be paid to the County by the property owner or proprietor.

**31.09 NEW STRUCTURES.** Every person erecting a building as set forth under the provisions of Section 31.07, but after the date the Uniform Rural Address System becomes effective, shall, within seven days of commencement of construction, notify the GIS Department who shall within 14 days assign a number to such structure. The provisions of Section 31.05 and Section 31.07 shall be applicable to any person subject to the provisions of this section.

**31.10 PENALTY.** Refusal to use the Uniform Rural Address System, or the removal, damaging, defacing, alteration, or destruction of the Uniform Rural Address marker which indicates a premises assigned number or the removal, damaging, alteration, or destruction of a Rural Address System marker intentionally by one who has no right to do such act may be punished by fine of not more than \$100.00 or by imprisonment of not more than 30 days. In addition, any violation of this section shall be a County infraction which is punishable by a civil penalty of not more than \$100.00 for each violation, or, if the infraction is a repeat offense, a civil penalty not exceeding \$200.00 for each repeat offense.

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## CHAPTER 32

# SNOW AND ICE REMOVAL AND MAINTENANCE OF SECONDARY ROADS

### 32.01 Purpose

### 32.02 Level of Service

### 32.03 Sequence of Service

### 32.04 Limitation of Service

### 32.05 Emergency Conditions

**32.01 PURPOSE.** The purpose of this chapter is to establish the County's policy and level of service in respect to clearance of snow or ice and maintenance of its secondary road system during the winter months, specifically defined as November through April, as provided in Section 668.10 of the *Code of Iowa*, and pursuant to the provisions of Section 309.67 of the *Code of Iowa*. This policy and level of service are to be implemented within the amount of money budgeted for this service, and as contained in the County's secondary road budget as submitted to and approved by the State Department of Transportation and adopted by the Board. The clearance of roads at any cost, under any circumstances, day or night, is not the County's policy.

**32.02 LEVEL OF SERVICE.** Clearance of snow or ice and maintenance of the secondary road system during the winter months is primarily for the benefit of the local residents of the County. Each storm has individual characteristics and must be dealt with accordingly. The portion of the roadway improved for travel will have upon it snow and ice in a compacted condition. These conditions may be continuous, or they may be more concentrated on hills, in valleys, curves, and intersections. The County's existing snow removal equipment will be utilized for this purpose. On occasion County personnel may be rendered unavailable due to the requirements of the Omnibus Transportation Employee Testing Act of 1991. Except for "emergencies" as determined by the County Engineer's professional judgment on a case-by-case basis, all clearance of snow or ice, sanding, and other maintenance respecting winter conditions shall be accomplished within the amount of money budgeted for this service. The entire width of that portion of the road improved for travel may not be cleared of snow, ice, compacted snow and ice, or frost. Snow cleared from that part of the roadway improved for travel shall be placed on or in the adjacent shoulder, ditch, or right-of-way. Snow can be expected to accumulate adjacent to the traveled portion to the extent that a motorist's sight distance to both the left and the right may be greatly reduced or impaired. The snow removed from intersections will be piled in its corners in piles of unequal height. The lines of sight, sight distance, or visibility of motorists approaching these intersections may be greatly reduced or impaired. The County shall not be responsible for snow pushed or otherwise placed on the roadway or shoulders by others. Motorists shall drive their vehicles during these conditions with additional caution and watchfulness, especially in respect to the surface of the roadway, and reduced or impaired visibility, and are advised to reduce their speed at least 25 miles per hour below that legally permitted or advised under normal conditions. In respect to roadways that have only one lane open, further extreme watchfulness and caution should be exercised by the motorist, and their speed should not exceed 10 miles per hour. During these conditions no additional warning or regulatory signs will be placed warning of impaired sight distances, visibility at intersections, road blockages, one-lane conditions, or that the road surface is slick or slippery, or what the advised speed should be.

**32.03 SEQUENCE OF SERVICE.** In the implementation of snow and ice removal and other maintenance of the County's secondary road system during the winter months, the County Engineer shall select the actual sequence of roads to be cleared as provided for in this section of this chapter, and shall determine when drifting, wind velocity, and additional snow or snowstorms require that the snow removal equipment be removed from the roadway, or that additional clearance or paved routes be accomplished prior to the clearance of gravel and dirt roads. The County Engineer's professional judgment shall prevail, unless it is clearly erroneous.

1. Paved Routes.
  - A. The initial effort will be to get all routes open to two-lane traffic as soon as possible and practicable. During initial snow removal operations, paved roads may only have one lane plowed for a period of time.
  - B. After two-lane travel is possible, subsequent snow removal will be carried on during normal working hours.
  - C. The truck-mounted snowplows and spreaders will not normally be in operation between the hours of 4:00 p.m. and 7:30 a.m. The trucks may be called off the road if snow and blowing reduces visibility to hazardous working conditions, in the professional judgment of the County Engineer.
  - D. When required, due to drifting snow, motor graders may be used to keep the paved roads open, and the opening of gravel roads may be delayed.
  - E. It is not the policy of the County to provide a "dry" pavement condition.
  - F. After roads have been plowed as provided in this section, intersections, hills, and curves may, but not necessarily, have placed on them, sand, salt, or other abrasive. These intersections, hills, valleys, and curves may not be re-sanded, re-salted, nor have other abrasives replaced on them between snowstorms.
  - G. There is no time limit after a snowstorm or ice event in which any of the above sequence of clearing should take place.
2. Unpaved Roads.
  - A. The initial effort will be to get all routes opened to one-lane traffic as soon as possible after a storm has passed. If, in the opinion of the County Engineer, it would be better to open the roads to two-way traffic because of weather conditions, this may be done as the initial effort. Routes not inhabited or of insufficient traffic, in the professional judgment of the County Engineer may not be opened until other routes are fully opened to two-way traffic with snow pushed back to the edge of the road. These routes will be opened during normal working hours, as time permits.
  - B. After the initial effort is completed, subsequent snow removal will be carried on during normal working hours.
  - C. Motor graders and truck plows will not normally be in operation between the hours of 4:00 p.m. and 7:30 a.m. The motor graders and truck plows may be called off the road if snow and blowing reduces visibility to hazardous conditions, in the professional judgment of the Engineer. Granular roads may not be plowed if the wind is causing continual drifting.

- D. Snow will not normally be removed from roads designated as Level B, Level C, or unpaved routes posted to have no snow removal.
3. Private Drives. The County will not clear snow from private drives. Normal snow removal operations may result in snow being deposited in private drives. Snow from private drives shall not be placed on the roadway or shoulders.
  4. Mailbox Replacement. The County will assume no liability for mailboxes and fences damaged because of snow removal unless such action can be determined to be malicious. The County will not replace mailboxes damaged or knocked down by the force of snow thrown from the plow.

There is no time limit after a snowstorm or ice event in which any of the above sequence of clearance, on paved or unpaved roads, shall take place.

**32.04 LIMITATION OF SERVICE.** Notwithstanding anything else stated in this chapter, the policy and level of service provided for in this chapter shall not include the following, and the following services shall not be performed:

1. Sanding, salting, or placing of other abrasives upon the roadways that are slick, slippery, and dangerous due to the formation of frost.
2. Sanding, salting, or placing other abrasives upon paved roadways due to freezing rain that occurs outside the County's usual working hours.
3. Placing of additional warning or regulatory signs warning of impaired sight distances, visibility at intersections, road blockages, one-lane conditions, that road surfaces may be slick or slippery, or what the advised speed should be.
4. Sanding, salting, or placing abrasives upon any road, except for paved roads. If, in the opinion of the County Engineer, an "emergency" exists, and ice has built up on hills and intersections on the granular system that slope down to another road so as to become dangerous, abrasive material may be applied at these locations as crew and equipment availability allows and only as a last resort. This condition will not, under any circumstances, take a higher priority than placing of abrasive material on the paved road system and will only be done after the paved roads are cleared of ice and snow. Abrasive material will also only be placed after other mechanical means have been tried and failed, such as scraping with motor graders.
5. Removing of sand, salt, or other abrasives.

**32.05 EMERGENCY CONDITIONS.** Service or the level or sequence of service may be suspended during "emergency" conditions. An "emergency" condition shall be considered as one where a loss of life is probable, where a serious injury has occurred, or where extensive loss of property is imminent. These conditions should be verified through the 911 dispatcher or Sheriff's office. The County may respond to all "emergency" conditions, either during or after a snowstorm. Any person who makes a false report of an "emergency" to an officer, official, or employee of the County, or who causes a false report to be so made, shall, upon conviction, be subject to a fine of not more than \$100.00 or imprisonment of not more than 30 days. Service or the level or sequence of service shall be further suspended in the event the Governor, by proclamation, implements the *State Disaster Plan*, or the Chairperson of the Board, by proclamation, implements the *County Disaster Plan*. If such occurs, the County personnel and equipment shall be immediately subject to the direction of the Governor or the Chairperson of the Board.

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## CHAPTER 33

# VEHICLES PARKING ON PUBLIC RIGHT-OF-WAY DURING SNOW REMOVAL

33.01 Purpose

33.02 Snowfall Defined

33.03 Vehicles Declared a Public Nuisance

33.04 Removal of Vehicles Authorized

33.05 Notice

33.06 Reclaiming Vehicle

33.07 Penalty

**33.01 PURPOSE.** This chapter prohibits vehicle parking on streets and roads in the County during snow removal operations and provides a penalty.

**33.02 SNOWFALL DEFINED.** Whenever snowfall on the streets or roads of the County, has accumulated, it shall be unlawful for any person to park, abandon, or leave unoccupied or unattended, any vehicle on the streets or roads in the County until such streets and roads have been completely plowed.

**33.03 VEHICLES DECLARED A PUBLIC NUISANCE.** Any vehicle parked or abandoned or left unoccupied or unattended in violation of Section 33.01 hereof, is hereby declared to be an obstruction to the public streets or roads and is a public nuisance.

**33.04 REMOVAL OF VEHICLES AUTHORIZED.** In the event that any vehicle is so parked or abandoned or left unoccupied or unattended in violation of Section 33.01 hereof, the Sheriff is hereby authorized to remove or cause to be removed the said vehicle from the street or road and to have towed or otherwise remove the said vehicle to any public or private garage or parking area, until claimed by the owner thereof as hereinafter provided.

**33.05 NOTICE.** Within 24 hours after the removal of any vehicle as provided in Section 33.03 hereof, the Sheriff shall notify in writing the owner of said vehicle as shown by the registration thereof the following facts:

1. A general description of the vehicle together with license number.
2. The time and reason for removal and place to which removed.
3. The charge for removal.

The said notice from the Sheriff to the owner shall be addressed to the registered owner of the vehicle and deposited in the post office in Hampton, Iowa, within 24 hours after such removal.

**33.06 RECLAIMING VEHICLE.** Before any vehicle so removed and stored shall be reclaimed, the owner or other claimant shall satisfactorily identify themselves and establish their right, title, or interest in said vehicle and shall further pay all costs or charges in connection with the removal and storage of the vehicle and the notice thereof. It shall be unlawful for any person to reclaim the vehicle so removed and stored, without first paying all of said costs or charges.

**33.07 PENALTY.** The registered owner of any motor vehicle parked or standing in violation of the provisions of this chapter shall be guilty of a simple misdemeanor and shall receive a

penalty of up to \$100.00 fine or up to 30 days in jail plus incurred costs identified above. Each day of any violation of the provisions of the chapter shall constitute a separate offense.

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## CHAPTER 34

# UTILITY LINE INSTALLATION

34.01 Purpose

34.02 Definitions

34.03 Powers of the Board

34.04 County Engineer to Administer

34.05 Authority to Establish

34.06 Penaltyn

**34.01 PURPOSE.** The purpose of this chapter is to adopt provisions for the inspection and regulation of utility line installations, including the issuance of permits and the collection of inspection fees, and to provide penalties for the violation of this chapter in order to protect public safety, health, and welfare.

**34.02 DEFINITIONS.** For use in this chapter, certain terms and words used herein shall be interpreted or defined as follows:

1. “Applicant” means a person, persons, company, corporation, or governmental entity desirous of placing a utility line on or under the County’s secondary road system.
2. “Utility line” means a telecommunications, electric, gas, water, or sewer line.

**34.03 POWERS OF THE BOARD.** An applicant shall not place a utility line on or under the secondary road system without a utility permit issued by the Board. Any applicant shall not place a utility line on or under the secondary road system which violates a Utility Permit issued by the Board. All jurisdiction and control over the issuance of a utility permit shall rest with the Board.

**34.04 COUNTY ENGINEER TO ADMINISTER.** The County Engineer may make such rules and regulations, not inconsistent with this chapter, as are necessary to carry out the administration of this chapter. The Utility Permit Form, and all amendments thereto, shall be adopted by the Board of Supervisors by resolution.

**34.05 AUTHORITY TO ESTABLISH.** The Board is empowered to establish and acquire a Utility Permit under the authority of Chapters 306, 318, 320, 331, 477, 478, 479, 479A, and 480 of the *Code of Iowa*.

**34.06 PENALTY.** Any person who violates the provisions of this section shall, upon conviction, be fined \$750.00 for the first offense and \$1,000.00 for the second and subsequent offences. Each 24-hour period is a separate and distinct violation.

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## CHAPTER 36

### AREA SERVICE SYSTEM B ROAD CLASSIFICATION

36.01 Purpose

36.02 Definitions

36.03 Powers of the Board

36.04 Authority to Establish

36.05 Notice and Hearing

36.06 Hearing - Area Service System B Road Established  
by Resolution

36.07 Maintenance Policy

36.08 Exemption from Liability

**36.01 PURPOSE.** The purpose of this chapter is to classify certain roads on the area service system in the County to provide for a reduced level of maintenance, pursuant to Section 309.57 of the *Code of Iowa*.

**36.02 DEFINITIONS.** For use in this chapter, certain terms and words used herein shall be interpreted or defined as follows:

1. “Area service system” means those public roads outside of municipalities not otherwise classified.

A. Area Service System A Roads. These roads shall be maintained in conformance with applicable State statutes.

B. Area Service System B Roads. These roads shall not require standards of maintenance equal to trunk, trunk collector, or Area Service System A Roads. Area Service System B Roads shall not mean what is construed in the normal sense as a driveway or private lane to a farm building or dwelling.

**36.03 POWERS OF THE BOARD.** All jurisdiction and control over Area Service System B Roads as provided by this chapter shall rest with the Board.

**36.04 AUTHORITY TO ESTABLISH.** The Board is empowered under the authority of Chapter 309.57 of the *Code of Iowa*, to classify secondary roads on the area system to provide for a reduced level of maintenance on roads so designated. The Board shall, by resolution, declare its intention to establish an Area Service System B Road in the County after consultation with the County Engineer.

**36.05 NOTICE AND HEARING.** The Board shall fix a time and place for a hearing and cause notice to be published as provided by law. The notice shall set forth the termini of the Area Service System B Road as set out in the resolution of the Board, and shall state that all persons interested may appear and be heard at such hearing.

**36.06 HEARING - AREA SERVICE SYSTEM B ROAD ESTABLISHED BY RESOLUTION.** On the day fixed for the hearing or any day to which the hearing has been adjourned, upon proof to its satisfaction made by affidavit of due publication and posting of the notice of hearing, the Board shall consider any and all relevant evidence, and if the Board finds that the proposed Area Service System B Road is practicable, it may establish it by proper resolution.

**36.07 MAINTENANCE POLICY.** Only the minimum effort, expense, and attention will be provided to keep Area Service System B Roads open to traffic. Bridges may not be maintained

to carry legal loads, but will be posted as appropriate to advise of any load limitations. For the various maintenance activities, the minimum maintenance on Area Service System B Roads will be as follows:

1. Blading. Blading or dragging will not be performed on a regular basis.
2. Snow and Ice Removal. Snow and ice will not be removed, nor will the road surface be sanded or salted on a regular basis.
3. Signing. Except for load limit posting for bridges, signing shall not be continued or provided. All Area Service System B Roads shall be identified with a sign at all points of access to warn the public of the lower level of maintenance.
4. Weeds, Brush, and Trees. Mowing or spraying weeds, cutting brush and tree removal will not be performed on a regular basis. Adequate sight distances may not be maintained.
5. Structures. Bridges and culverts may not be maintained to carry legal loads. Upon failure or loss, the replacement structure will be appropriate for the traffic thereon.
6. Road Surfacing. There will be no surfacing materials applied to Area Service System B Roads on a regular basis.
7. Shoulders. Shoulders will not be maintained on a regular basis.
8. Crown. A crown will not be maintained on a regular basis.
9. Repairs. There will be no road repair on a regular basis.
10. Uniform Width. Uniform width for the traveled portion of the road may not be maintained.
11. Inspections. Regular inspections will not be conducted.

**36.08 EXEMPTION FROM LIABILITY.** As provided in Chapter 309.57 of the *Code of Iowa*, the County and its officers, agents, and employees are not liable for injury to any person or for damage to any vehicle or equipment, which occurs proximately as a result of the maintenance of a road which has been classified as Area Service System B, if the road has been maintained as provided in Section 36.07 of this chapter.

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## CHAPTER 37

### AREA SERVICE SYSTEM C ROAD CLASSIFICATION

37.01 Purpose

37.02 Authority to Establish

37.03 Access

37.04 Signs

37.05 Trespass

37.06 Reclassification

37.07 Powers of the Board

37.08 Exemption from Liability

**37.01 PURPOSE.** The purpose of this chapter is to classify certain roads on the Area Service System in the County as Area Service C Roads so as to provide for a reduced level of maintenance effort and restricted access, pursuant to Section 309.57 of the *Code of Iowa*.

**37.02 AUTHORITY TO ESTABLISH.**

1. Resolution. Roads may only be classified as Area Service C by ordinance or resolution of the Board. The resolution shall specify the level of maintenance effort and the persons who will have access rights to the road. The resolution shall only allow access to the road to the owner, lessee, or person in lawful possession of any adjoining land, or the agent or employee of the owner, lessee, or person in lawful possession, to the agent or employee of any public utility, or to any peace officer, magistrate, or public employee whose duty it is to supervise the use or perform maintenance of the road.

2. Notice of Action. Before the Board may take action on a petition to establish an Area Service C Road, a notice of the proposed action, including the location of the Area Service C Road and the time and place of the meeting at which the Board proposes to take action on the petition, shall be published as provided in Section 331.305 of the *Code of Iowa*.

3. Board Action. At the meeting, the Board shall receive oral or written objections from any resident or property owner of the County. After all objections have been received and considered, the Board, at that meeting or a date to which it is adjourned, may take action on the ordinance or resolution after consultation with the County Engineer.

**37.03 ACCESS.** Access to any Area Service C Road shall be restricted by means of a gate or other barrier, as determined by the County Engineer. The gate shall be purchased and installed by the County, and maintained by the adjoining landowners. If not so maintained, the County may remove the gate.

**37.04 SIGNS.** Area Service C Roads shall have signs conforming to the *Manual of Uniform Traffic County Devices* installed and maintained by the County at all access points to Area Service C Roads from other public roads, to warn the public they are entering a section of road which has a lesser level of maintenance effort than other public roads, and to warn the public that access is limited.

**37.05 TRESPASS.** Entering an Area Service C Road without justification after being notified or requested to abstain from entering or to remove or vacate the road by any person lawfully allowed access shall be a trespass as defined in Section 716.7 of the *Code of Iowa*.

**37.06 RECLASSIFICATION.** A road with an Area Service C classification shall retain the classification until such time as a petition for reclassification is submitted to the Board. The petition shall be signed by one or more adjoining landowners. The Board shall approve or deny the request for reclassification within 60 days of receipt of the petition.

**37.07 POWERS OF THE BOARD.** All jurisdiction and control over Area Service C Roads shall rest with the Board, pursuant to Section 309.67 of the *Code of Iowa*.

**37.08 EXEMPTION FROM LIABILITY.** As provided in Section 309.57 of the *Code of Iowa*, the County and its officers, agents, and employees are not liable for injury to any person or for damage to any vehicle or equipment, which occurs proximately as a result of the maintenance of a road which has been classified as Area Service C, if the road has been maintained to the level of maintenance described in the establishing resolution.

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## CHAPTER 38

# RESTRICTING RIDING AND LEADING ANIMALS ON SECONDARY ROADS AFTER DARK

### 38.01 Purpose

### 38.02 Animals Defined

### 38.03 Restricted Actions

### 38.04 Penalty

**38.01 PURPOSE.** Regulation of nighttime use of secondary roads by various animals.

**38.02 ANIMALS DEFINED.** For the purpose of this chapter, “animal” and “animals” means any equine, bovine, or other animal used for riding or conveyance. This includes, but is not limited to, horses, donkeys, mules, oxen, cattle, ostriches, etc.

**38.03 RESTRICTED ACTIONS.** No person shall ride or lead an animal or to use any such animal to convey a wagon, carriage, or other similar conveyance on the secondary roads under the jurisdiction of the County between half an hour before sunset and half an hour after sunrise, unless such animal is both preceded and followed by a motorized vehicle with fully illuminated lights within 50 feet in front of and 50 feet behind such animal.

**38.04 PENALTY.** The person riding or leading or using any such animal in violation of the provisions of this chapter shall be guilty of a simple misdemeanor and shall receive a penalty of up to \$100.00 fine or up to 30 days in jail plus incurred costs identified above. Each day on any violation of the provisions of the chapter shall constitute a separate offense.

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## CHAPTER 39

# OFF-ROAD UTILITY AND ALL-TERRAIN VEHICLES

39.01 Purpose

39.02 Definitions

39.03 Operation on Roadways

39.04 Unlawful Operation

39.05 Exempt Vehicles

39.06 Penalties

**39.01 PURPOSE.** The purpose of this chapter is to designate County highways and roadways, as designated by the Board of Supervisors, upon which all-terrain vehicles or off-road utility vehicles may be operated and with specific regulations.

**39.02 DEFINITIONS.** For purposes of this chapter the following terms are defined:

1. “All-terrain vehicle” or “ATV” means a motorized vehicle with not less than three and not more than six nonhighway tires, that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,200 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

*(Code of Iowa, Sec. 321I.1(1)(a))*

2. “Off-road utility vehicle” or “UTV” means a motorized vehicle, with not less than four and not more than eight nonhighway tires or rubberized tracks, that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. “Off-road utility vehicles” or “UTV” includes the following vehicles:

*(321I.1.17.a.1-3 IAC)*

A. “Off-road utility vehicle - Type 1” includes vehicles with a total dry weight of 1,200 pounds or less with a width of 50 inches or less.

B. “Off-road utility vehicle - Type 2” includes vehicles, other than a Type 1 vehicle with a total dry weight of 2,000 pounds or less and a width of 65 inches or less.

C. “Off-road utility vehicles - Type 3” includes vehicles with a total dry weight of more than 2,000 pounds or a width of more than 65 inches, or both.

3. “Roadway” means that portion of a County right-of-way improved, designed, or ordinarily used for vehicular travel.

**39.03 OPERATION ON ROADWAYS.** A registered all-terrain vehicle or off-road vehicle may be operated on the County graveled or paved roadways.

**39.04 UNLAWFUL OPERATION.**

1. A person shall not drive or operate an all-terrain vehicle and off-road utility vehicle:

A. At a rate of speed greater than the posted speed limit, nor greater than reasonable or proper under all existing circumstances.

- B. In a careless, reckless, or negligent manner as to endanger the person or property of another or to cause injury or damage thereto.
  - C. While under the influence of intoxicating liquor or narcotics or habit-forming drugs.
  - D. Without a lighted headlight and taillight at such times when conditions provide insufficient lighting to render clearly discernable persons and vehicles at a distance of 500 feet.
  - E. In any tree nursery or planting in a manner which damages or destroys growing stock.
  - F. On any public land, ice, or snow in violation of official signs posted by the Sheriff prohibiting such operation in the interest of safety for persons, property, or the environment. The Sheriff or his designee may post an official sign in an emergency for the protection of persons, property, or the environment.
  - G. In any park, wildlife area, preserve, refuge, game management area, or any portion of a meandered stream, or any portion of the bed of a non-meandered stream, which has been identified as a navigable stream or river by rule adopted by the department and which is covered by water, except on designated riding trails. This paragraph does not prohibit the use of ford crossing of public roads or any other ford crossing when used for agricultural purposes; the operation of construction vehicles engaged in lawful construction, repair, or maintenance in a streambed; or the operation of all-terrain vehicles on ice.
  - H. Upon an operating railroad right-of-way. An all-terrain vehicle may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law, may, if necessary, use the improved portion of the established crossing after yielding to oncoming traffic. This paragraph does not apply to law enforcement officer or railroad employee in the lawful discharge of the officers' or employees' duties or to an employee of a utility with authority to enter upon the railroad right-of-way in the lawful performance of the employee's duties.
  - I. On any section of the Rolling Prairie Trail or spurs thereof located within the County except for segments clearly marked for operation of such vehicles.
2. A person shall not operate an all-terrain vehicle and an off-road utility vehicle:
    - A. With more persons on the vehicle than it was designed to carry.
    - B. Paragraph A does not apply to a person who operates an all-terrain vehicle as part of a farm operation as defined in Section 352.2 of the *Code of Iowa*.
  3. A person shall not operate an off-road utility vehicle on a designated riding area or designated trail unless the riding area or trail is signed as open to off-road utility vehicle operation.
  4. A person shall not operate a vehicle other than an all-terrain vehicle on a designated riding trail unless the riding area or trail is signed as open to such other use.

5. A person shall not operate an all-terrain vehicle and off-road utility vehicle unless the operator has a State driver's license; unless the vehicle is duly registered; unless the operator has proof of insurance, and unless the operator, under age 18, is wearing a safety helmet and seat belt.

**39.05 EXEMPT VEHICLES.** Registration shall not be required for all-terrain vehicles used exclusively as farm implements.

**39.06 PENALTIES.** Violation of this chapter may constitute a simple misdemeanor, punishable by a fine of at least \$65.00 and no more than \$625.00 and up to 30 days in jail, plus court costs.

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## CHAPTER 45

# COUNTY CONSERVATION OFFICERS LAW ENFORCEMENT AUTHORITY

45.01 Purpose  
45.02 Definitions

45.03 Police Powers Outside the Park System

**45.01 PURPOSE.** This chapter authorizes the County conservation officers to exercise law enforcement authority outside County Conservation Board areas in the County.

**45.02 DEFINITIONS.** For use in this chapter, certain terms or words used herein are defined as follows:

1. “County Conservation Board” means the County Conservation Board of Franklin County, Iowa.
2. “Peace officer” means the employees of the County Conservation Board designated as peace officers by the County Conservation Board.

**45.03 POLICE POWERS OUTSIDE THE PARK SYSTEM.** All peace officers designated under the provisions of Chapter 350 of the *Code of Iowa*, shall have all the police powers conferred by law on police officers, peace officers, or sheriffs in the enforcement of the laws of the State and the apprehension of violators thereof through the County for violations having occurred outside the County Conservation Board areas.

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## CHAPTER 46

# NUISANCES TO PUBLIC AND PRIVATE PROPERTY

46.01 Purpose	46.07 Request for Hearing
46.02 Definitions	46.08 Abatement in Emergency
46.03 Nuisances Prohibited	46.09 Collection of Costs of Abatement
46.04 Notice to Abate Nuisance	46.10 Penalty
46.05 Contents or Notice to Abate	46.11 Chronic Offenders
46.06 Method of Service	

**46.01 PURPOSE.** The purpose of this chapter is to define and prohibit nuisances to public and private property in the unincorporated area of the County and provide for their abatement.

**46.02 DEFINITIONS.** For use in this chapter, certain terms or words used herein shall be interpreted or defined as follows:

1. "Nuisance" means whatever is injurious to health, indecent, or offensive to the senses, or an obstacle to the free use of property so as to essentially interfere with the comfortable enjoyment of life or property. The following, but not limited to the following, may be found to be nuisances:

A. Offensive Smells. The erecting, continuing, or using of any building or other place for the exercise of any trade, employment, or manufacture, which, by occasioning noxious exhalations, offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.

B. Offal or Filthy Substance. The causing or suffering of any offal or filthy substance to be collected or to remain in any place to the prejudice of others.

C. Air Pollution. The emission of dense smoke, noxious fumes, fly ash, or other particulate matter.

D. The maintaining of any accumulations of refuse, junk, or inoperable vehicles and equipment, except in a junkyard operated under a County permit as provided in Chapter 306C of the *Code of Iowa*.

E. Trees infected with a disease, or dead trees that may pose a hazard.

F. Impeding Passage of River. The obstructing or impeding, without legal authority, the passage of any river or body of water.

G. Water Pollution. The corrupting or rendering unwholesome or impure the water of any stream, pond, or aquifer or unlawfully diverting a stream from its natural course or state, to the injury or prejudice of others.

H. Effluent from a septic tank or drain field or ponding of polluted water over an overloaded or non-operating drain-field or to a waterway or the ground surface.

I. Obstruction of View. All trees, hedges, billboards, or other obstructions which prevent persons from having a clear view of traffic approaching an intersection from cross roads in sufficient time to bring a motor

vehicle driven at a reasonable speed to a full stop before the intersection is reached.

J. All buildings, walls, and other structures which have been damaged by fire, decay, or otherwise to such an extent that the same endanger the safety of the public.

K. Blocking Public and Private Ways. The obstructing or encumbering by fences, building, or otherwise, the public roads, rights-of-way, streets, alleys, private ways, landing places, or burying grounds.

L. Airport Air Space. Any object or structure hereafter erected within 1,000 feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.

M. Any use of property abutting on a public roadway which causes large crowds of people to gather, obstructing traffic and free use of the roadways.

N. Any use of property or storage or disposal of any materials and substances of any nature whatsoever on such property which creates an unsanitary, immoral, or unsafe condition on such property or which endangers the free use and enjoyment of property by adjoining owners, or which creates any condition injurious to be public health, safety, comfort, or morals.

O. Any discharge of liquids or placing of rocks, trees, snow, or debris within the right-of-way of public roadways which may prove to be a safety hazard, be offensive, or interfere with the maintenance of the public roadway and right-of-way.

2. "Property owner" means the contract purchaser if there is one of record, otherwise the record holder of legal title.

**46.03 NUISANCES PROHIBITED.** The creation or maintenance of a nuisance is hereby prohibited, and a nuisance, public or private, may be abated in the manner provided in this chapter.

**46.04 NOTICE TO ABATE NUISANCE.** Whenever a nuisance exists, a written notice to abate the nuisance shall be served. The property owner will be given 20 days after receiving notice to correct the violation.

**46.05 CONTENTS OR NOTICE TO ABATE.** The notice to abate shall contain:

1. A description of what constitutes the nuisance.
2. A location of the nuisance.
3. A statement of the act or acts necessary to abate the nuisance.
4. A reasonable time within which to complete the abatement.
5. A statement that, if the nuisance is not abated as directed and no request for hearing is made within the time prescribed, the County will abate it and assess the costs against such person.

**46.06 METHOD OF SERVICE.** The notice shall be served by the Sheriff to the property owner as shown by the records of the Auditor.

**46.07 REQUEST FOR HEARING.** Any person ordered to abate a nuisance may have a hearing with the Board as to whether a nuisance exists, to request a change in the acts necessary to abate the nuisance, or to request an extension of time for the prescribed abatement. A request for a hearing must be made in writing and delivered to the County Auditor within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Board at a time and place fixed by the Board. The findings of the Board shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.

**46.08 ABATEMENT IN EMERGENCY.** If it is determined that an emergency exists by reason of the seriousness of the nuisance or condition, the County may perform any action which may be required under this chapter without prior notice. The County shall assess the costs as provided in Section 46.09 of this chapter, after giving notice to the property owner under the applicable provisions of Sections 46.04, 46.05, and 46.06 and providing for a hearing as provided in Section 46.07.

**46.09 COLLECTION OF COSTS OF ABATEMENT.** The Auditor shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within 30 days, they shall certify that the costs shall then be collected with, and in the same manner, as general property taxes.

**46.10 PENALTY.** Any person, firm, co-partnership, corporation, or other association of persons, whether acting directly or through employees or agents found in violation of this chapter and does not abate the nuisance or submit a written request for a hearing within 20 days of receiving the notice, shall be guilty of a simple misdemeanor and shall cause a County citation to be issued against them and served by law enforcement. This carries a penalty of \$750.00 for the first infraction and \$1,000.00 for any subsequent infractions or a penalty of up to 30 days in jail. Each day the violation is permitted to exist shall constitute a separate offense.

**46.11 CHRONIC OFFENDERS.** The appropriate department shall keep a record of violations in their office. If any person, firm, co-partnership, corporation, or other association of persons, whether acting directly or through employees or agents violates, disobeys, omits, or neglects the provisions of this title three or more times in a three-year period, they shall be deemed a chronic offender. Chronic offenders shall be issued a County citation when the appropriate department becomes aware of a violation. A Notice of Violation with a 20-day notice shall not be required in the case of chronic offenders. In case of a violation of any provision of this title, the proper authorities of the County, in addition to other remedies, may institute any appropriate action or proceedings to prevent or abate the illegal act.

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## CHAPTER 47

# PERMIT SCHEDULE AND REGULATIONS FOR PUBLIC ACTIVITIES

47.01 Purpose

47.02 Definitions

47.03 Permit Required

47.04 Permit Procedure

47.05 Permit Fees

47.06 Conditional Issuance of Permits

47.07 Revocation of Permit

47.08 Regulations

47.09 County Sheriff - Duties

47.10 Abatement as Nuisance

**47.01 PURPOSE.** This chapter provides for the regulations, in the unincorporated area of the County, of public activities including the prohibition of festival or general admission seating at certain public activities on private or public property in order to prevent disorder and to protect the public health, safety, and welfare. This chapter also requires permits for such public activities and provides a permit fee schedule and penalties for violations of the provisions found herein.

**47.02 DEFINITIONS.** For use in this chapter, certain terms or words used herein shall be interpreted or defined as follows:

1. "Chairperson" means the Chairperson of the Board of Supervisors.
2. "Festival seating" or "general admission seating" means the seating at an event wherein persons are admitted without assigning them a particular seat or individual seating place.
3. "Public activity" means an activity organized on public or private property for public attendance which may attract a large gathering of people and have the potential of creating disorder, or have an impact on the public health, safety, or welfare.

**47.03 PERMIT REQUIRED.** No person shall conduct a public activity which is covered by the provisions of this chapter unless such person has obtained a permit from the Board. A separate permit is required for each place at which a herein defined public activity is conducted.

**47.04 PERMIT PROCEDURE.** Written application for a permit shall be made to the Board at least 15 days in advance of the proposed date of the activity. The application shall be signed and sworn to by the applicant, or, if the applicant is a partnership, by an authorized partner, or, if a corporation or association, by an authorized officer of the corporation or association. The applicant shall state:

1. Name and address of the applicant;
2. The nature of the public activity and the estimated attendance;
3. The location, including a legal description of the property within the County, where the activity is proposed to be held;
4. The period of time during which the public activity is proposed to be conducted;
5. A statement as to whether any person having a financial interest in the proposed public activity has ever been convicted of any offense against the laws of the United

States, or any state or territory thereof, or any political subdivision of any state or territory;

6. A statement as to whether any alcoholic beverages will be sold or allowed at the proposed public activity;
7. Information regarding the provision of adequate parking area and sanitation facilities;
8. Proof of liability insurance; and
9. Such other information as the Board may reasonably require.

**47.05 PERMIT FEES.** The following permit fees are imposed and shall be submitted to the Board at the time of making application for a permit:

Public Activity	Permit Fee
Concerts or Music Festivals	\$100.00
Circuses or Carnivals	\$50.00
Consignment Auctions*	\$25.00
*This shall not apply to farm, household, and livestock auctions.	

Any other public activity not covered by this listing shall be charged a fee as determined appropriate by the Board. The Board may waive the payment of the permit fee upon a finding by the Board that the public activity is to be conducted by a civic, educational, or charitable organization and any proceeds of the public activity will be used exclusively for the purposes of the organization.

**47.06 CONDITIONAL ISSUANCE OF PERMITS.** Upon receipt of an application, the Board shall review the application and make any investigation deemed necessary and appropriate in considering said application. The Board may refuse to issue a permit if they determine that public order would not be adequately assured or that the public health, safety, or welfare is not adequately protected. In approving a permit, the Board may set such reasonable conditions of approval which must be complied with the same as if those conditions were fully set forth in this chapter, and a violation of those conditions, as set by the Board, will be considered the same as a violation of any other provisions of this chapter. All Public Activities Permits shall be valid only for the time period and place specified in the permit.

**47.07 REVOCATION OF PERMIT.** Any permit issued may be revoked upon finding by the Board that any conditions of issuance of permit or provisions of this chapter have been violated, or that any other County, State, or federal law, ordinance, or regulation has been violated.

**47.08 REGULATIONS.** All public activities shall:

1. Have adequate off-street parking facilities to prevent the obstruction of traffic on public roads;
2. Have containers for the disposal of solid waste generated in connection with the public activity and provide for daily collection and disposal of such solid waste;
3. Be conducted without any acts of omissions of fraud or misrepresentation;
4. Comply with all County, State, and federal laws, rules, and regulations;

5. Not be conducted in such a manner as to breach the peace, invade privacy, disrupt the quietude of residential areas surrounding the location of the public activity, or otherwise interfere with or endanger the health, safety, and welfare of the citizens of the County;
6. Be conducted in compliance with any license conditions imposed by the Board; and
7. Not allow festival or general admission seating wherein persons are admitted without assigning them a particular reserved seat, when the seating capacity or attendance is 2,000 or more, except when an exemption to this provision is granted by the Board.

**47.09 COUNTY SHERIFF - DUTIES.** The Sheriff is hereby authorized and directed to make periodic inspections of any public activity licensed under the provisions of this chapter, to determine whether all laws of the State and ordinances, rules, and regulations of the County are being observed, and to investigate complaints. The Sheriff is directed to make recommendations to the Chairperson concerning revocation of licenses issued under this chapter. The Sheriff and their designees shall have the right of entry to any premises covered by a public activities permit for purposes of investigation and enforcement.

**47.10 ABATEMENT AS NUISANCE.** If the Board shall find that a violation of the provisions of this chapter constitutes a nuisance, the activity or condition creating the nuisance may be abated in the manner as provided for in Chapter 46 of this Code of Ordinances.

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## CHAPTER 48

### CONTROLLING LITTER IN PUBLIC PLACES

48.01 Purpose	48.05 Litter Discarded from Vehicles
48.02 Definitions	48.06 Litter from Wrecked or Damaged Vehicles
48.03 Litter in Public Places	48.07 Litter on Private Property
48.04 Placement of Litter in Receptacles so as to Prevent Scattering	48.08 Special Account - Use of Account
	48.09 Penalty

**48.01 PURPOSE.** The purpose of this chapter is to control the litter problem in public places within the County and to promote the health, safety, and general welfare in the County.

**48.02 DEFINITIONS.** For use in this chapter, certain terms or words used herein shall be interpreted or defined as follows:

1. "Authorized receptacle" means a storage and collection receptacle designed for litter.
2. "Discard" means to place, cause to be placed, throw, deposit, or drop.
3. "Garbage" means animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food.
4. "Litter" means garbage, refuse, rubbish, and other similar solid or semi-solid materials including, but not limited to, such materials resulting from industrial, commercial, agricultural, and domestic activities.
5. "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.
6. "Public place" means any and all streets, sidewalks, alleys, or other public ways and any and all public spaces, grounds, or buildings.
7. "Refuse" means any and all putrescible solid or semi-solid materials including, but not limited to, garbage, ashes, street cleanings, dead animals, yard clippings, leaves, or wood.
8. "Rubbish" means any and all non-putrescible solid or semi-solid materials including, but not limited to, paper, wrappings, cigarettes, cardboard, tin cans, clothing, glass, metal, and crockery.

**48.03 LITTER IN PUBLIC PLACES.** No person shall discard litter in or upon any public place within the County except in authorized receptacles or in official dumps.

**48.04 PLACEMENT OF LITTER IN RECEPTACLES SO AS TO PREVENT SCATTERING.** Persons placing litter in authorized receptacles shall do so in such a manner that the elements of nature will not carry the litter upon public places or private property.

**48.05 LITTER DISCARDED FROM VEHICLES.** No person, while a driver or passenger in a vehicle, shall discard litter upon any street or other public place or upon private property. This section includes any litter which is dropped or blown from any truck or piece of farm equipment whether intentional or otherwise.

**48.06 LITTER FROM WRECKED OR DAMAGED VEHICLES.** Any person removing a wrecked or damaged vehicle from or over a street or other public place shall remove any glass or other substance dropped upon the street or other public place from such vehicle.

**48.07 LITTER ON PRIVATE PROPERTY.** No person shall discard litter upon private property except in such manner as to prevent the litter from being carried by the elements of nature upon any street or other public place, or upon other private property.

**48.08 SPECIAL ACCOUNT - USE OF ACCOUNT.** All fines and other monies available or paid to the County under the provisions of this chapter shall be placed in the County general fund and credited to a special agency account to be designated as the “anti-litter” account. This fund shall be available to the Board by appropriation and shall be expended for the administration and enforcement of this chapter and for any other expenses incurred by the County directly or indirectly due to the provisions set forth by this chapter. Any unencumbered and any unexpended balance of this account remaining at the end of any fiscal year shall not lapse, but shall be carried forward for the purposes of this chapter until expended or until appropriated by subsequent Board action.

**48.09 PENALTY.** Any person found in violation of this chapter shall be guilty of a simple misdemeanor and shall receive a penalty of up to \$100.00 fine or up to 30 days in jail.

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## CHAPTER 50

# HAZARDOUS MATERIALS CLEANUP

50.01 Purpose

50.02 Definitions

50.03 Cleanup Responsibility

50.04 Notification

50.05 Police Authority

50.06 County Liability

**50.01 PURPOSE.** In order to reduce the danger to public health, safety, and welfare from the spills of hazardous substances, these regulations are promulgated to establish responsibility for the removal and cleanup of spills within the County limits.

**50.02 DEFINITIONS.** For use in this chapter, certain terms or words used herein shall be interpreted or defined as follows:

1. “Cleanup” means the removal of the hazardous wastes or substances to a place where the waste will not cause any danger to persons or the environment, in accordance with State rules thereof or the treatment of the material as defined herein to eliminate the hazardous condition, including the restoration of the area to a general good appearance without noticeable odor as far as practicable.
2. “Hazardous condition” means the same as set out in Section 455B.381 of the *Code of Iowa*.
3. “Hazardous substance” means any substance as defined in Section 455B.411 of the *Code of Iowa*.
4. “Hazardous waste” means any substance as defined in Section 455B.411 of the *Code of Iowa*.
5. “Responsible person” means the party, whether the owner, agent, lessor, tenant, in charge of the hazardous substance or hazardous wastes being stored, processed, or handled, or the owner or bailee transporting hazardous wastes or substances whether on public ways or grounds or on private property where the spill would cause danger to the public or to any person or to the environment.
6. “Treatment” means a method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of a hazardous substance so as to neutralize it or to render the substance non-hazardous, safer for transport, amendable for recovery, amendable for storage, or to reduce it in volume.

Treatment includes any activity or processing designed to change the physical form or chemical composition of hazardous substance to render it non-hazardous.

**50.03 CLEANUP RESPONSIBILITY.** Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking, or placing of a hazardous waste or substance which may enter the environment or be emitted into the air or discharged into any waters, including groundwater, the responsible person shall cause the condition to be remedied by a cleanup, as defined in the preceding section, as rapidly as feasible to an acceptable, safe condition. The costs of cleanup shall be borne by the responsible person. If the responsible person does not cause the cleanup to begin in a reasonable time in relation to the hazard and

circumstances of the incident, the County may, by an authorized officer, give reasonable notice, based on the hazardous condition, said notice setting a deadline for accomplishing the cleanup or that the County will proceed to procure cleanup services and setting forth a reasonable estimate of the costs of cleanup and bill the responsible person for all costs associated with the cleanup including, but not limited to, equipment rendered unserviceable; personnel costs, including overtime; disposal costs; and any other costs associated therewith. If the bill for those services is not paid within 30 days, the County will proceed after service of notice by certified mail and, if the responsible person does not acknowledge the certified letter by either failure to respond, sign or accept, the County will proceed with one publication in the local newspaper and a hearing before the Board, to obtain payment by all legal means. If the cost of the cleanup is beyond the capacity of the County to finance it, the authorized officer shall report to the Board and immediately seek any State or federal funds available for said cleanup.

**50.04 NOTIFICATION.** The first County officer or employee arriving at the scene of an incident involving hazardous substances, if not a peace officer, shall notify the office of the Sheriff which shall notify the proper State offices in the manner established by the State.

**50.05 POLICE AUTHORITY.** If the circumstances reasonably so require, the Sheriff or their representative, may:

1. Evacuate persons, even from their homes, to areas away from the site of a hazardous condition, and
2. Establish perimeters or other boundaries at or near the site of a hazardous condition beyond which no person shall cross.

**50.06 COUNTY LIABILITY.** The County shall not be liable for any losses occurring due to any hazardous condition created which may be claimed by any person, firm, or corporation.

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## CHAPTER 52

# DISPOSAL OF SOLID WASTE

52.01 Definitions	52.06 Excluded Materials
52.02 Public Disposal Sites	52.07 Receiving Payments
52.03 Rules and Regulations	52.08 Burners and Incinerators
52.04 Disposal of Solid Waste	52.09 Fees
52.05 Solid Waste at Agency Landfill Site	52.10 Enforcement

**52.01 DEFINITIONS.** For use in this chapter, certain terms or words used herein shall be interpreted or defined as follows:

1. “Agency” means the Landfill of North Iowa.
2. “Garbage” means the solid or semi-solid animal and vegetable waste resulting from the handling, preparation, cooling, and serving foods, including cans, bottles, and cartons in which it was received and wrappings in which it may be placed for disposal.
3. “Person” means any individual, firm, association, syndicate, co-partnership, corporation, trust, or other legal entity having proprietary interest in a premise, or other legal entity having responsibility for an act.
4. “Solid waste” means unwanted or discarded materials resulting from commercial, industrial, domestic, and agricultural operations and normal community activities. Wastes which are solid or semi-solid containing insufficient liquid to be free-flowing are considered to be solid wastes; and include, in part, the following: garbage, rubbish, ashes, and other residue of incineration; street refuse or sweepings; dead animals; solid animal waste; abandoned automobiles; agricultural, commercial and industrial wastes; construction and demolition wastes; and sewage treatment solid residue.

**52.02 PUBLIC DISPOSAL SITES.** By virtue of an agreement dated June 27, 1994, between the County and the Agency, the sanitary landfill sites now and hereafter operated by the Agency are hereby designated as the public disposal sites for all garbage and refuse collected within the corporate limits of the County.

**52.03 RULES AND REGULATIONS.** The rules and regulations governing the use of the sanitary landfill sites shall be as determined by the Agency to be in the best interests of the general public.

1. The landfill sites shall normally be open to the public on such days and hours as the Agency may designate; however, the Agency may alter the days and hours so scheduled to satisfy unusual conditions or emergencies.
2. The Agency shall be responsible for the operation of the landfill sites in a manner which will assure sanitary and safe conditions at all times.
3. The operation of the landfill sites shall comply with all regulations of all local, State, County, or federal agencies which may have jurisdiction over such operation.

**52.04 DISPOSAL OF SOLID WASTE.** No person, firm, or corporation shall permanently dispose of solid waste of any kind upon any land outside the incorporated areas of the County

and within the boundaries of the County unless such land has been designated by the Agency as a public landfill site; provided, however, that the prohibition contained in this paragraph shall not apply to the deposit of inert wastes, not potentially injurious to health or the public welfare where permission to make such a deposit has been obtained from the owner or responsible agent, nor to the filling in or grading of property with earth, mud, ashes, or similar materials; providing all other applicable local and State laws have been complied with.

**52.05 SOLID WASTE AT AGENCY LANDFILL SITE.** No person, firm, or corporation shall deposit any solid waste at any Agency landfill site, except in compliance with posted instructions or instructions of an attendant in charge.

**52.06 EXCLUDED MATERIALS.** Certain materials may be excluded from those refuse materials, which may be deposited at an Agency landfill site. These excluded materials may include junk automobile bodies and similar bulky objects, which may require special processing prior to disposal; trees and tree limbs, unless they have been cut into pieces not exceeding 10 feet in length; burning materials or material containing hot or live coals; hazardous materials; and other materials which the Agency deems necessary to exclude. However, hazardous materials may be deposited upon the receipt of written permission of a responsible official or attendant of the Agency and subject to any special instruction issued with said permission. Hazardous materials shall include explosive materials, materials contaminated by infectious or contagious disease, fly ash or other fine or powdery material, and other material which may present a special hazard to landfill personnel, equipment, or to the public.

**52.07 RECEIVING PAYMENTS.** It shall be unlawful for any person, firm, or corporation, other than the Agency or County on its behalf, to receive payment of any kind or request payment of any kind for the disposal of any solid waste at any sanitary landfill site within the County. The charging fee for the collection of any garbage or other solid waste from a customer by a private refuse collector, shall not be construed as a violation of the section since the disposal is considered to be incidental to the total collection and disposal service, provided, however, such collection and disposal shall be conducted entirely by forces with equipment owned or operated by the private refuse collector.

**52.08 BURNERS AND INCINERATORS.** It shall be unlawful for any person, firm, or corporation within the County to sell or offer for sale, or to install, any device intended for use as a garbage or solid waste burner or incinerator; except when the intended user of such a device has secured a license to operate or use such a device from the County or when the device will be operated by or for the County.

**52.09 FEES.** Fees paid to or for the benefit of the Agency for the use of the public landfill facilities shall be in accordance with the posted and published schedule of fees of the Agency or County, as provided in the Agreement referenced in Section 52.02.

**52.10 ENFORCEMENT.** It shall be the duty of the Sheriff's Department and its officers to enforce the provisions of this chapter.

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## CHAPTER 53

### SEPARATION OF YARD WASTES

53.01 Definition of Yard Wastes

53.03 Collection of Yard Wastes

53.02 Separation of Yard Wastes Required

**53.01 DEFINITION OF YARD WASTES.** Yard wastes means all vegetative debris consisting of grass clippings, leaves, brush, trees, and wastes from garden residues.

**53.02 SEPARATION OF YARD WASTES REQUIRED.** All yard wastes shall be separated by the owner or occupant from all other garbage and refuse accumulated on the premises, and shall be composted, mulched, or utilized on the premises in such a manner so as not to cause a public nuisance, or placed in suitable containers and set out for collection by public or private hauler(s).

**53.03 COLLECTION OF YARD WASTES.** All yard wastes that are collected shall be kept separate from all other garbage and refuse.

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## CHAPTER 54

# OPEN BURNING

54.01 Purpose

54.02 Definitions

54.03 Regulatory Authority

54.04 Restrictions

54.05 Compliance

54.06 Enforcement

54.07 Penalty

**54.01 PURPOSE.** The purpose of this chapter is to provide for the safety and welfare of residents and property in the County during controlled open burning and to define the provisions and procedures for implementing penalties for non-compliance.

**54.02 DEFINITIONS.** For use in this chapter, the following words or terms shall be interpreted or defined as follows:

1. “Building” means any roofed and walled structure built for temporary or permanent use.
2. “Controlled open burning” means the intentional setting of a fire with supervision to dispose of property, or for the maintenance of brush, grass, or farmlands, or for any other lawful purpose in the County, outside the corporate limits of cities within the County.
3. “Fire suppression” means providing ample water supply to spray or dump water directly onto a fire for suppression and control, or having equipment available to impede the progress of a fire. Equipment may be farm machinery, farm implements, or other general equipment or implements capable of creating firebreak to suppress or control a fire.
4. “Penalty” means the amount of fine, surcharge, and other costs imposed upon any individual found in violation of this chapter.
5. “Recreational fire” means the amount of fire no larger than four by four by four feet.
6. “Regulatory authority” means any peace officer of the Sheriff’s Department, the Fire Chief of the fire district involved or their designated representative.

**54.03 REGULATORY AUTHORITY.** The authorities responsible for implementation and enforcement of this chapter shall be the Sheriff, the Fire Chief of the individual district in which a fire is located within the County and these officers are hereby authorized to issue civil citations for the violation of this chapter.

**54.04 RESTRICTIONS.** Any person who intentionally ignites a fire shall provide fire suppression sufficient to control the fire from spreading out of control. The fire supervision and suppression method shall be in place prior to ignition of the fire. Other than the supervised use of outdoor fireplaces, barbeque grills, properly supervised landfills, or the burning of trash incinerators or trash burners made of metal, concrete, masonry, or heavy one-inch mesh with no opening greater than one-inch square, or according to other local ordinances, all persons engaging in open burning shall be required to give notification to the County on-emergency or Sheriff’s Department number, whom will notify the Sheriff’s Department and Fire Department

personnel prior to the ignition of the controlled open burn. No burning shall be allowed during Red Flag warning periods. Notification shall be given as to the name, address, location, and time when the controlled burn is to take place and the fire suppression methods to be utilized. Any person who fails to give proper notification to the proper authorities prior to the controlled open burn may be found in non-compliance with this chapter.

**54.05 COMPLIANCE.** In the event additional fire suppression is requested or required from the jurisdictional fire department to extinguish any fire that is out of control, the person responsible for the controlled open burn may be deemed in non-compliance with this chapter.

**54.06 ENFORCEMENT.** In the event additional help is requested or required from the jurisdictional fire department to extinguish a controlled open burn, an officer of the Sheriff's Department or the Fire Department of the fire district or their designated representative, shall be dispatched to the scene of the fire to file a report of the incident. If after investigation and finding that fire suppression was not sufficiently provided prior to the ignition of the fire, or the fire was out of control, or entered upon other person's property, the person responsible for the fire may be cited for non-compliance with this chapter.

**54.07 PENALTY.** Violations of this chapter constitute County infractions pursuant to Section 331.307 of the *Code of Iowa*, and are punishable by civil penalty of not more than \$500.00 for each violation or \$750.00 for each repeat offense. Penalties collected for non-compliance of this chapter shall, to the extent provided by law, be payable to the Sheriff's Department for deposit into a fund for reimbursement to the individual departments for their response to the fire scene. Any fire left unsupervised which causes a fire department to respond may be subject to an assessment or restitution by the responding fire department.

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## CHAPTER 55

# DRUG PARAPHERNALIA

55.01 Purpose

55.02 Definitions

55.03 Possession of Drug Paraphernalia

55.04 Manufacture or Delivery of Drug Paraphernalia

55.05 Delivery of Drug Paraphernalia to a Minor

55.06 Advertisement of Drug Paraphernalia

**55.01 PURPOSE.** It is the purpose and intent of the Board to promote the health, safety, and morals of the citizens of the County. Except as authorized by Chapter 124 of the *Code of Iowa*, the use or administration of controlled substances is clearly illegal. Objects in close connection and adapted for the use of controlled substances should also be controlled because of the lack of social or practical purposes of such objects or paraphernalia, whether the use be by adults or minors. It is also strong public policy to protect children from the unsupervised exposure and familiarity of drug paraphernalia. In addition to education about the items in school and at home, it is also essential to discourage open use, possession, manufacture, and commerce of these drug related items.

**55.02 DEFINITIONS.** For use within this chapter, the following words and terms are defined:

1. “Deliver” means to transfer from one person to another.
2. “Drug paraphernalia” means:
  - A. All equipment, products, and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, as defined in Chapter 124 of the *Code of Iowa*. The term includes, but is not limited to:
    - (1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting, of any species of plant which is a controlled substance or from which a controlled substance can be derived.
    - (2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
    - (3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.
    - (4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled substances.
    - (5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.

- (6) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances.
- (7) Separation gins and sifters used, designed for use, or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.
- (8) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances.
- (9) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.
- (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
- (11) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.
- (12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
  - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
  - b. Water pipes;
  - c. Carburetion tubes and devices;
  - d. Smoking and carburetion masks;
  - e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;
  - f. Miniature cocaine spoons, and cocaine vials;
  - g. Chamber pipes;
  - h. Carburetor pipes;
  - i. Electric pipes;
  - j. Air-driven pipes;
  - k. Chillums;
  - l. Bongs; and
  - m. Ice pipes or chillers.

B. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use.
- (2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any State or federal law relating to any controlled substance.
- (3) The proximity of the object, in time and space, to a direct violation of this chapter.
- (4) The proximity of the object to controlled substances.
- (5) The existence of any residue of controlled substances on the object.
- (6) Direct or circumstantial evidence of the intent of any owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intent to use the object to facilitate a violation of this chapter, the innocence of any owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.
- (7) Instructions, oral or written, provided with the object concerning its use.
- (8) Descriptive materials accompanying the object which explain or depict its use.
- (9) National and local advertising concerning its use.
- (10) The manner in which the object is displayed for sale.
- (11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community such as a licensed distributor or dealer of tobacco products.
- (12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
- (13) The existence and scope of legitimate uses for the object in the community.
- (14) Expert testimony concerning its use.

**55.03 POSSESSION OF DRUG PARAPHERNALIA.** It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.

**55.04 MANUFACTURE OR DELIVERY OF DRUG PARAPHERNALIA.** It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that

it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.

**55.05 DELIVERY OF DRUG PARAPHERNALIA TO A MINOR.** Any person 18 years of age or over who violates Section 55.03 by delivering drug paraphernalia to a person under 18 years of age, who is at least three years their junior, is guilty of a special offense and, upon conviction, may be imprisoned for not more than 30 days, fined not more than \$100.00, or both.

**55.06 ADVERTISEMENT OF DRUG PARAPHERNALIA.** It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication, any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

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## CHAPTER 56

# INTOXICATION FROM INHALATION IN PUBLIC PLACES

### 56.01 Definitions

### 56.02 Intoxication from Inhalation

**56.01 DEFINITIONS.** As used in this chapter unless the context otherwise required:

1. "Inhalant" means any substance which, when inhaled, causes intoxication.
2. "School" means a public or private school or that portion of a public or private school including all grades.

### 56.02 INTOXICATION FROM INHALATION.

1. A person shall not intentionally use or consume any inhalant upon the public streets or highways, or intentionally use or consume any inhalant in any public place and school, and a person shall not be intoxicated by the intentional use or consumption of any inhalant in a public place and school. A person violating this subsection is guilty of a simple misdemeanor.
2. A person shall not intentionally use or consume any inhalant intending to become intoxicated or possess an inhalant with the intent to use for intentional intoxication anywhere within the County. A person violating this subsection is guilty of a simple misdemeanor.

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## CHAPTER 57

# SOCIAL HOST AND UNDERAGE CONSUMPTION

57.01 Definitions

57.02 Affirmative Duties

57.03 Prohibitions

57.04 Exceptions

57.05 Enforcement

57.06 Penalties

57.07 Jurisdiction

**57.01 DEFINITIONS.** For use in this chapter, certain terms or words used herein shall be interpreted or defined as follows:

1. “Alcoholic beverage” means the same as defined in Section 123.3(4) of the *Code of Iowa*.
2. “Event,” “gathering” or “party” means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.
3. “Juvenile” means a person under the age of 18.
4. “Legal age” means the same as defined in Section 123.3(28) of the *Code of Iowa*.
5. “Parent” means any person having legal custody of a juvenile: (i) as a natural parent, adoptive parent, or step-parent; (ii) as a legal guardian; or (iii) as a person to whom legal custody has been given by order of the court.
6. “Possession” or “control” means actual possession or constructive possession based on facts which permit the inference of intent to possess or control alcoholic beverages.
7. “Premises” means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, other dwelling unit, hall or meeting room, garage, barn, park, or any other place conducive to assembly, public or private, whether occupied on a permanent or temporary basis, whether occupied as a dwelling or specifically for an event, gathering, or party, and whether owned, leased, rented, or used with or without permission or compensation.
8. “Public place” means the same as defined in Section 123.3(43) of the *Code of Iowa*.
9. “Social host” means any person who aids, allows, entertains, organizes, supervises, controls, or permits an event, gathering, or party. This includes but is not limited to: (i) the person(s) who owns, rents, leases, or otherwise has control of the premises where the event, gathering, or party takes place; (ii) the person(s) in charge of the premises; or (iii) the person(s) responsible for organizing the event, gathering, or party.
10. “Underage person” means any person under the legal age.

**57.02 AFFIRMATIVE DUTIES.** It is the duty of the social host of an event, gathering, or party to take all reasonable steps to prevent alcoholic beverages from being possessed or consumed by underage persons on the premises. Reasonable steps include, but are not limited to:

1. Controlling underage persons' access to alcoholic beverages;
2. Controlling the quantity of alcoholic beverages;
3. Verifying the age of persons being served, in the possession of, or consuming alcoholic beverages at the event, gathering, or party by inspecting drivers' licenses or other government-issued identification cards;
4. Supervising the activities of underage persons at the party; and
5. Notifying law enforcement of underage possession or consumption of alcoholic beverages, and allowing law enforcement to enter the premises for the purpose of stopping the possession or consumption by an underage person.

**57.03 PROHIBITIONS.**

1. It is unlawful for any social host of an event, gathering, or party on the social host's premises to knowingly permit or allow underage persons to consume alcoholic beverages, or knowingly permit or allow underage persons to possess alcoholic beverages on the premises, whether or not the social host is present on the premises.
2. A person or persons under the legal age shall not purchase or attempt to purchase, or individually or jointly have alcoholic liquor, wine, or beer in their possession or control. (As set out in Section 123.47(3) of the *Code of Iowa*.) A person under the legal age who has consumed alcoholic liquor, wine, or beer shall be presumed to have had the same in their possession or control prior to its consumption.

**57.04 EXCEPTIONS.**

1. This chapter shall not apply to:
  - A. Conduct solely between an underage person and their parents while present in the parents' household;
  - B. Legally protected religious observances; or
  - C. Situations where underage persons are lawfully in possession of alcoholic beverages during the course and scope of employment.
2. The exceptions outlined in Section 57.04(1) shall not apply under circumstances in which the underage person leaves the home, religious gathering, or place of employment and subsequently violates Section 123.46(2) of the *Code of Iowa*, consumption or intoxication in public places.

**57.05 ENFORCEMENT.** The provisions of this chapter shall be enforced by the Sheriff's Department. The Sheriff's Department shall have primary but not exclusive enforcement responsibility for this chapter.

**57.06 PENALTIES.**

1. Violations of Section 57.03(1) are declared to be County infractions, punishable by civil penalty. A \$750.00 civil penalty shall be imposed for a social host's first offense. A \$1,000.00 civil penalty shall be imposed for a social host's second or

subsequent offense. The County may also seek reimbursement for enforcement services provided by emergency responders related to the event, gathering, or party.

2. A person who violates Section 57.03(2) commits the following:
  - A. A simple misdemeanor, a scheduled violation under Section 805.8 of the *Code of Iowa*, punishable by a fine or not more than \$250.00 for the first offense.
  - B. A second offense shall be a simple misdemeanor punishable by a fine of not more than \$500.00.
  - C. A third or subsequent offense shall be a simple misdemeanor punishable by a fine of not more than \$500.00.
  - D. The court may, in its discretion, order the person who is under the legal age to perform community service work under Section 909.3A of the *Code of Iowa*, of an equivalent value to the fine imposed under this section (As set out in Section 123.47(4)(b) of the *Code of Iowa*).
  - E. In determining if a violation charged is a second or subsequent offense, conviction for violation of this section, Section 123.47 of the *Code of Iowa*, or an ordinance of any city or county in the State that substantially corresponds to this section or Section 123.47 of the *Code of Iowa*, shall be counted as previous offenses.

**57.07 JURISDICTION.** The provisions of this chapter shall apply throughout the County, including municipalities that have not enacted a municipal ordinance dealing with similar subject matter.

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## CHAPTER 58

# LIVESTOCK

### 58.01 Definitions

### 58.02 Habitual Trespass

### 58.03 Fences

**58.01 DEFINITIONS.** For purposes of this chapter, the following terms are defined:

1. “Fence” means a fence as described in Chapter 359A of the *Code of Iowa*, which is lawful and tight as provided in that chapter including, but not limited to, a partition fence. For purposes of this chapter, “fence” includes a fence bordering a public road.
2. “Landowner” means a person who holds an interest in land, including a titleholder or tenant.
3. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species; ostriches, rheas, or emus; farm deer as defined in Section 170.1 of the *Code of Iowa*; or poultry.
4. “Livestock owner” means the person who holds title to livestock or who is primarily responsible for the care and feeding of the livestock as provided by the livestock.
5. “Public road” means a thoroughfare and its right-of-way, whether reserved by public ownership or easement, for use by the traveling public.

**58.02 HABITUAL TRESPASS.** A habitual trespass occurs when livestock trespasses from the land where the livestock are kept onto the land of a neighboring landowner or strays from the land where the livestock are kept onto a public road, and on three or more separate occasions within the prior 12-month period the same or different livestock kept on that land have trespassed onto the land of the same neighboring landowner or strayed from the land where the livestock are kept on the same public road. The local authority upon its own initiative or upon receipt of a complaint shall determine whether livestock are trespassing or straying from the land where the livestock are kept on a public road, and make record of its findings.

**58.03 FENCES.** A landowner of land where livestock are kept or an owner of adjoining land shall be liable to erect or maintain a fence if the livestock trespasses upon the land of a neighboring landowner or strays from the land where the livestock are kept onto a public road, as provided in Section 169C.6 of the *Code of Iowa*.

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## CHAPTER 70

# ZONING REGULATIONS

70.01 Purpose	70.10 “R-1” Single-Family Residential District
70.02 Title	70.11 “R-2” Multi-Family Residential District
70.03 Definitions	70.12 “R-PUD” Residential Planned Unit Development
70.04 Permits and Enforcement	70.13 “C-1” Commercial District
70.05 General Provisions	70.14 “C-PUD” Commercial Planned Unit Development
70.06 Adult Use Standards	70.15 “RE” Resort District
70.07 Wind Energy Conversion Systems	70.16 “I-1” Light Industry District
70.08 Districts and District Regulations	70.17 “I-2” Heavy Industry District
70.09 “A” Agricultural District	70.18 “F-C” Floodplain Conservation District

**70.01 PURPOSE.** This chapter is adopted for the purpose of promoting public health, safety, comfort, order, and general welfare; to conserve and protect natural and man-made environment; to secure and provide the social and economic advantages resulting from an orderly planned use of land resources; and to facilitate adequate but economical provisions for public improvements, all in accordance with and as permitted by the provisions of Chapter 335 of the *Code of Iowa*.

**70.02 TITLE.** This chapter shall be known as the “Zoning Code of Franklin County, Iowa.”

**70.03 DEFINITIONS.** For use in this chapter, certain terms or words are herein defined. Words used in the present tense shall include the future, the singular number shall include the plural, and the plural the singular.

1. Words beginning with “A.”
  - A. “Accessory building” means a subordinate building which is incidental to and customary in connection with the principal building or use of the premises.
  - B. “Accessory use” means a subordinate use which is incidental to and customary in connection with the principal building or use of the premises.
  - C. “Administrative officer” means the individual designated by this chapter to administer the Zoning Code and who is responsible for the enforcement of the regulations imposed by said Zoning Code. The person may also be referred to as the “Zoning Administrator.”
  - D. “Adult use” see Section 70.06:
2. Words beginning with “B.”
  - A. “Billboard” means an advertising sign for a business, commodity, or service located or offered elsewhere than upon the premises where such sign is located.
  - B. “Board of Adjustment” means as created under this chapter, acts on variance, special uses, and conditional uses consistent with provisions found elsewhere in this chapter, all as provided for in Chapter 414 of the *Code of Iowa*.

- C. “Building” means any structure having a roof supported by columns or walls built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind but not including any vehicle, trailer (with or without wheels), nor any movable device such as furniture, machinery, or equipment.
- D. “Building, height of” means the vertical distance from grade to the highest point of the building or any structure attached thereto.
3. Words beginning with “C.”
- A. “Commercial feedlot” means a commercial venture involving the assemblage of livestock for the express purpose of preparation for market, purchasing over 75 percent of its feed.
- B. “Commission” means the Zoning Commission of Franklin County.
- C. “Conditional use” means a use of property that will be permitted by the Board of Adjustment subject to the applicant meeting certain conditions and safeguards which will assure that the use will be in harmony with the general intent and purpose of the Zoning Code.
4. Words beginning with “D.”
- A. “Dwelling” means any building or portion thereof which is designed and used exclusively for residential purposes.
5. Words beginning with “E.”
- A. “Earth sheltered home” means a building designed to be used as a dwelling utilizing earth to shelter the building. The roof can be of conventional construction or covered with earth as a completed residential dwelling, as opposed to a basement with a temporary roof.
6. Words beginning with “F.”
- A. “Family” means a group of one or more persons occupying a premises and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house, or hotel as defined herein.
- A. “Family home” means a community-based residential home which is licensed as a residential care facility under Chapter 135C of the *Code of Iowa*, or as a child foster care facility under Chapter 237 of the *Code of Iowa*, to provide room and board, personal care, habilitation services and supervision in a family environment exclusively for not more than eight developmentally disabled persons and any necessary support personnel. However, family home does not mean an individual foster care family home licensed under Chapter 237 of the *Code of Iowa*.
- B. “Farm” means an area comprised of 10 or more acres which is used and primarily adapted, by reason of nature and area, for the growing of the usual farm products such as vegetables, fruits and grains, and their storage on the area, as well as the raising thereon of the swine, while so used. The term “farming” includes the operating of such an area for one or more of the above uses, including dairy farms with the necessary accessory uses for treating or storing the produce; provided, however, that the operation of such accessory uses shall be secondary to that of the normal farming activities, and provided further, that farming does not include the feeding of collected garbage or offal to swine or other animals.



- C. “Farmstead” means the service area of a farm which typically includes the farmhouse, outbuildings, and some trees.
- D. “Front yard” means a yard across the full width of the lot extending in depth from the front line of the main building to the edge of the street or road right-of-way if the street or road right-of-way is by easement, or to the front line of the lot if the street or road is dedicated public property.
7. Words beginning with “G.”
8. Words beginning with “H.”
- A. “Home occupation” means any occupation or profession carried on by a member of a household organization residing on the premises, in connection with which there is used no sign other than a nameplate not exceeding two square feet in area; provided that the occupation or profession does not occupy more than the equivalent of 50 percent of the floor areas of one story of the dwelling; there is no display that would indicate from the exterior that the building is being utilized in whole or part for any purpose other than that of a dwelling.
9. Words beginning with “I.”
10. Words beginning with “J.”
- A. “Junkyard” means an area of any lot which is used for the storage, abandonment, or keeping of junk, including scrap metals or scrap material; or for the abandonment or dismantling of machinery, automobiles or other vehicles or parts thereof with a business of buying, selling, or trading such items or materials.
11. Words beginning with “K.”
12. Words beginning with “L.”
- A. “Lot” means a piece, plot, or parcel of land or contiguous parcels of land as established by survey, plot, or deed, occupied or to be occupied by a use, a building, or a unit group of buildings and accessory buildings thereto, together with such open spaces as are required under this chapter.
- (1) “Lot, depth of” means horizontal distance between the front and rear lot lines.
- (2) “Lot, double frontage” means a lot having a frontage on two non-intersecting streets.
- (3) “Lot lines” means the property lines bounding a lot.
- (4) “Lot of record” means a lot which is part of a subdivision recorded in the office of the Recorder or a lot or parcel described by metes and bounds, the description of which has been so recorded.
- (5) “Lot width” means the width of a lot measured at the building line and at right angles to its depth.
13. Words beginning with “M.”
- A. “Mineral extraction” means the extraction of coal, gypsum, clay, stone, sand, gravel, or other ores or mineral liquids or solids for sale, borrow, or for processing or consumption in the regular operation of a business or

governmental agency by removing any earth overburden lying above natural deposits thereof and mining directly from deposits lying exposed in their natural state, or by subsurface extraction. Removal of overburden and mining of limited amounts of any ores or mineral solids shall not be considered surface mining when done only for the purpose and to the extent necessary to determine the location, quantity, or quality of any natural deposit, so long as no ores or minerals removed during exploratory excavation or mining are sold, processed for sale, or consumed in the regular operation of a business or agency.

B. “Mobile home” means a transportable, single-family dwelling unit suitable for year-round occupancy, of a size of eight feet by 32 feet or greater, having been designed with no foundation other than wheels, jacks, piers, or skirtings and containing water supply, waste disposal, heating, and electrical convenience.

C. “Mobile home park” means an approved site, lot, field or tract of land designed, maintained, or used for the purpose of supplying location and accommodations for mobile homes and shall include any building, structure, vehicle, or enclosure used or intended for use as a part of the equipment of such parks; unoccupied mobile homes which are parked for the purposes of inspection and sale may be placed in a mobile home park if they are incidental to the operation of said mobile home park.

D. “Mobile home space” or “mobile home lot” means a parcel of ground within a mobile home park designed for the accommodation of one mobile home.

E. “Multi-family dwelling” means a building or buildings designed for or occupied exclusively by more than two individual housekeeping organizations. This definition will include, but not be limited to, such buildings as are commonly referred to as apartment buildings.

14. Words beginning with “N.”

A. “Nonconforming use” means any building or land lawfully occupied by a use at the time of passage of this Zoning Code or amendment thereto which does not conform after the passage of this zoning chapter or amendment thereto with the use regulation of the district in which it is situated.

B. “Nursing home” means a home for the aged or infirm, in which three or more persons not of the immediate family are received, kept, or provided with food and shelter or care, for compensation; but not including hospitals, clinics, or similar institutions.

15. Words beginning with “O.”

16. Words beginning with “P.”

A. “Parking space” means an area of not less than 200 square feet, plus necessary maneuvering space for the parking of a motor vehicle. Space for maneuvering, incidental to parking or un-parking, shall not encroach upon any public right-of-way.

B. “Planned unit development” means a tract of land which contains or will contain two or more principle buildings or uses, the development of which is unique and of a substantially different character than that of the surrounding areas.

- C. “Principal permitted use” means those uses of property allowed as a right in the district and which may be approved by the Zoning Administrator if the other requirements of this chapter are met, as differentiated from a “conditional use” that can only be approved by the Board of Adjustment after they have set conditions which must be met by the applicant to ensure that the intent and purpose of this chapter will be met.
17. Words beginning with “Q.”
18. Words beginning with “R.”
- A. “Rear yard” means a yard extending the full width of the lot between the main building and the rear lot line, or to the edge of right-of-way of any street or road easement.
- B. “Recreational vehicle” means a transportable overnight or short-term sleeping or dwelling unit of a size less than eight feet by 32 feet when in transport. The term includes, but is not limited to, travel trailer, pickup camper, fold-down camper, and mobilized camper.
- C. “Recreational vehicle park” means an approved site, lot, field, or tract of land designed, maintained, or used for the purpose of supplying location and accommodations for recreational vehicles and shall include any building, structure, vehicle, or enclosure used or intended for use as a part of the equipment of such parks; unoccupied recreational vehicles which are parked for the purposes of inspection and sale may be placed in a recreational vehicle park if they are incidental to the operation of said recreational vehicle park.
- D. “Recreational vehicle space or lot” means a parcel of ground within a recreational vehicle park designed for the accommodation of one recreational vehicle.
- E. “Restricted use” means a specific use not designated for specified zones.
19. Words beginning with “S.”
- A. “Side yard” means a yard between the main building and the side line of the lot, or to the edge of right-of-way of any street or road, and extending from the front yard line to the rear yard line.
- B. “Single-family dwelling” means a detached building arranged, designed, or intended to be occupied as the residence of an individual housekeeping organization and having no wall in common with an adjacent house or houses.
- C. “Special use” means a “conditional use” for the purposes of this chapter.
- D. “Structure” means anything constructed, erected, or built, the use of which requires location on the ground and designed for the support, enclosure, shelter, or protection of persons, animals, chattels, or properties of any kind, including, but without limiting the generality of the foregoing installations, such as signs, billboards, radio towers and other facilities not designed for

storage of property or occupancy of persons. This definition does not include fences or walls less than six feet in height.

E. “Supervisors” means the Board of Supervisors of Franklin County, Iowa.

20. Words beginning with “T.”

A. “Two-family dwelling” means a detached building that is arranged, designed, or intended to be occupied as the residence of two individual housekeeping organizations living independently of each other.

21. Words beginning with “U.”

22. Words beginning with “V.”

A. “Variance” means an exception to the distance, area, and height requirements of this chapter, granted by the Board of Adjustment, in appropriate cases and subject to appropriate conditions and safeguards.

23. Words beginning with “W.”

24. Words beginning with “X.”

25. Words beginning with “Y.”

A. “Yard” means an open space on the same lot with a building unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise permitted in this chapter.

26. Words beginning with “Z.”

A. “Zoning Administrator” means the administrative officer designated or appointed to administer and enforce the regulations contained in this chapter.

B. “Zoning permit” means a permit issued by the enforcing officer authorizing the use of land in the manner and for the purpose specified in the application.

#### **70.04 PERMITS AND ENFORCEMENT.**

1. Permit Required. No building or part thereof shall be erected, constructed, reconstructed, converted, altered, enlarged, extended, razed, moved, or used, and no land shall be used except in conformity with the regulations herein prescribed for the district in which such building or land may be situated and until a Zoning Permit has been issued by the Zoning Administrator as provided herein.

2. Application for Zoning Permit. Each application for a Zoning Permit shall be in writing, on the standard forms of the County, and filed in the office of the Zoning Administrator. The application shall be accompanied with a plot plan of the lot upon which the building or structure is to be placed, reconstructed, enlarged, or converted, showing the size of the lot, foundation dimensions, proposed front, side, and rear yard depths of the proposed building or structure and any other existing accessory buildings on the lot and the floodplain delineation on the lot. The floodplain delineation shall be approved by the County Engineer and Soil Conservation Director.

3. Issuance of Zoning Permit. If, after reviewing the application, the Zoning Administrator finds the application complies with all of the provisions of these regulations, they shall, upon payment of the required fee as prescribed herein, issue a

zoning permit therefore and retain a copy thereof as a part of the permanent records of their office.

4. Refusal of Zoning Permit. If, after reviewing the application, the Zoning Administrator finds the building or structure in the proposed location does not comply with the provisions of the regulations, they shall furnish the applicant with a statement, signed by the Zoning Administrator, refusing to issue such permit, and setting forth the reason for such refusal. The refusal by the Zoning Administrator to issue a permit may be appealed by the applicant to the Board of Adjustment in the manner as provided herein.

5. Enforcement. The Zoning Administrator shall be appointed by the Board to hold office for such term as the Board shall determine. Said Zoning Administrator shall issue all zoning permits and enforce all provisions of these regulations and shall have the right to enter public and private property for purposes of investigation or enforcement. Appeals from their decision may be made to the Board of Adjustment as provided herein.

6. Records. The Zoning Administrator shall keep a record in their office of all applications filed, permits issued or refused, and if refused, the reason for such refusal and the final action thereon. They shall keep a record in their office of all zoning permit fees collected and shall remit the amount of such fees to the office of the Treasurer each day.

7. Fees. Each application for a Zoning Permit shall be accompanied by a fee according to the Fee Schedule most recently approved by the Board.

8. Violation - Penalty. Any person, firm, co-partnership, corporation, or other association of persons, whether acting directly or through employees or agents, that violates, disobeys, omits, or neglects the provisions of this chapter shall be given a Notice of Violation either by personally giving, certified mail, or served by law enforcement. This Notice of Violation shall identify the action required to correct the violation and give 20 days to correct it. If said violation is not corrected, then a County citation shall be filed either by personally giving, certified mail, or served by law enforcement with fines of \$750.00 for the first offense and \$1,000.00 for the second and subsequent offences. A Notice of Violation may be in the form of a stop work order which shall instruct the violator to cease any activity until said violation is corrected. Situations where a stop work order may be used include, but are not limited to, incidences where construction has begun without a Building Permit or where proper documentation has not been filed. Each day the violation is permitted to exist shall constitute a separate offense. The Zoning Administrator shall keep a record of violations in their office. If any person, firm, co-partnership, corporation, or other association of persons, whether acting directly or through employees or agents violates, disobeys, omits, or neglects the provisions of this chapter three or more times in a three-year period they shall be deemed a chronic offender. Chronic offenders shall be issued a County citation when the Zoning Administrator becomes aware of a violation. A Notice of Violation with a 20-day notice shall not be required in the case of chronic offenders. In case of a violation of any provision of this chapter, the proper authorities of the County, in addition to other remedies, may institute any appropriate action or proceedings to prevent or abate the illegal act.

**70.05 GENERAL PROVISIONS.** The regulations hereinafter set forth in this section qualify or supplement, as the case may be, the district regulations appearing elsewhere in this chapter.

1. Interpretation of Standards. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of this chapter shall control. Where for specific land, the requirements of any other legal provisions are more stringent or restrictive than the requirements set forth herein, nothing herein shall be construed to waive compliance with such other legal provisions.
2. Farms Exempt. Except to the extent required to implement Section 335.2 of the *Code of Iowa*, no provisions adopted under this chapter applies to land, farmhouses, farm barns, farm outbuildings, or other buildings or structures which are primarily adopted, by reason of nature and area, for use for agricultural purposes, while so used. However, the provisions of this chapter may apply to any structure, building, dam, obstruction, deposit, or excavation in or on any floodplains of any river or stream.
3. Cross Compliance. No Zoning Permit shall be issued for any use, building, or structure that would be in violation or create a violation of any other County or State regulations or other legal provisions. Also, no Zoning Permit shall be issued for any development which will involve a private on-site sewage disposal system until the County Sanitarian has conducted a site evaluation and given a preliminary approval to the proposed sewage system.
4. Construction of Progress. If actual construction has legally been started on any building or structure at the time of adoption of this chapter, nothing contained herein shall require any change in the plans, construction, or designated use of such building or part thereof.
5. Nonconforming Uses. The purpose of these nonconforming use provisions is to recognize those developments and property uses that are already in existence, but which may not conform to all of the other provisions of this chapter regarding permitted uses. It is not the intent of this chapter to create undue hardship or to unduly restrict property uses that are in existence and not creating any appreciable problems.
  - A. The lawful use of a building existing at the time of the adoption of this chapter, or the last previous use if not being used, may be continued, even though such use does not conform with the provisions hereof. Such uses will be referred to as “existing nonconforming.”
  - B. The lawful nonconforming use of a building may be expanded throughout the building, however, the building may not be enlarged or replaced, or the use of the building changed to any other nonconforming use without first having received a permit from the Board of Adjustment for a conditional use for the district in which the building is located.
  - C. When a nonconforming use has been changed to a conforming use or to a more restricted nonconforming use, such use shall not thereafter be changed to a less restricted use.
6. Structures Considered Part of Building. Any portion of a building or any structure attached to the building shall be considered as part of the building for purposes of height and yard requirements of this chapter unless otherwise provided.

7. Mobile Homes. Mobile homes may only be located in districts where they are specifically provided for and subject to meeting all County and State regulations pertaining to mobile homes. All mobile homes shall have tie-down systems installed that will meet the standards of the *State Building Code* as provided for in Chapter 103A in the *Code of Iowa*.

8. Mobile Home Parks. It is unlawful for any person or firm to operate a mobile home park without the owner or lessee having first obtained a license to operate and maintain a mobile home park from the State Department of Health.

A. Each yard abutting on a perimeter public right-of-way shall be considered a perimeter yard and shall be a minimum of 50 feet in depth. All other perimeter yards shall have a minimum depth of 20 feet. Yard requirements may be increased where the Board of Adjustment deems necessary.

B. The Board of Adjustment may require that an area with a minimum of 10 feet in width be reserved along the perimeter of the mobile home park and may require the erection of a decorative fence or wall six feet in height within said area, to be constructed of a material which will provide a significant visual and sound barrier, or screen plantings to be provided and maintained with a minimum height of eight feet at maturity, or as otherwise required by the Board of Adjustment. This area may be included as part of the perimeter yard depth. The minimum mobile home space shall be 3,200 square feet and shall measure at least 40 feet by 80 feet. Mobile homes shall be located on each space so that there will be at least a 20-foot clearance between each mobile home including any permanently enclosed appendage, and any driveway, walkway, or mobile home space boundary, and a 10-foot open space at the rear of the mobile home.

C. One parking space per mobile home unit shall be provided at 10 feet by 20 feet minimum size.

D. Mobile home park community recreational space shall be aggregated at 100 square feet per mobile home dwelling.

E. One indirectly lighted sign may be erected facing each public street upon which the mobile home park fronts, showing the name of the mobile home park and other information pertinent thereto; provided that such sign shall not have an area of more than 10 square feet.

9. Planned Unit Developments. The “R-PUD” and “C-PUD” Districts are intended to provide a means for development of a tract or tracts of land as a single entity for a number of buildings or uses, as differentiated from the traditional single lot development provided for in the other districts of this chapter. Since planned unit developments, because of their size or intensity of land use, may have a significant effect upon services and other properties, extensive authority over their development is retained by the Board and the Planning and Zoning Commission. Since it is the intent to permit flexibility of design and combination of land uses in planned unit developments, exceptions to provisions found in this chapter (other than in the “R-PUD” and “C-PUD” sections) are hereby made for planned unit developments. Any planned developments in existence or with an approved plan for development at the time of passage of this chapter which are zoned “R-PUD” or “C-PUD” by the adoption of this chapter shall be considered as having met all of the requirements of this chapter. All new construction, which is not covered by a plan previously approved by the

County, within any “R-PUD” or “C-PUD” District after the effective date of this chapter must be in compliance with the provisions of this Zoning Code.

10. Board of Adjustment.

A. Creation and Membership. A Board of Adjustment is established. The Board of Adjustment shall consist of five members appointed by the Board. The five members of the first Board of Adjustment appointed shall serve terms of one, two, three, four, and five years, respectively. Thereafter, terms shall be for five years, and vacancies shall be filled for the unexpired terms of any member whose term becomes vacant. Members shall be removable for cause by the appointing authority upon written charges and after a public hearing.

B. Chairperson and Meetings.

(1) The Board of Adjustment shall adopt its own rules of procedure, not in conflict with this chapter or the State statute, to enable it to perform its functions and duties.

(2) The Board of Adjustment shall elect its own chairperson, who shall serve for one year. Such chairperson, or in their absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. Meetings of the Board of Adjustment shall be held at the call of the chairperson and at such other times as the Board of Adjustment may determine. All meetings of the Board of Adjustment shall be open to the public.

(3) The Zoning Administrator, or such other person as they may designate, shall serve as the secretary of the Board of Adjustment. In the absence of the Secretary, the chairperson of the Board of Adjustment may appoint one of the members of the Board of Adjustment to act as Secretary Pro Tem for the meeting. The Board of Adjustment shall have the power to call on any County department for assistance in the performance of its duties, and it shall be the duty of such department to render such assistance as may reasonably be required.

(4) 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 examinations and other official actions, all of which shall be immediately filed in the office of the Board of Adjustment.

C. Appeals.

(1) Appeals to the Board of Adjustment may be made by any person aggrieved or by any office, department, board, or burden of the County affected by any decision of the Zoning Administrator. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board of Adjustment, by filing, with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.



(2) Each appeal shall be in writing and accompanied by a fee according to the Fee Schedule most recently approved by the Board to be paid by the appellant to the Zoning Administrator.

(3) The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notice thereof and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(4) An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative office certifies to the Board of Adjustment, after the notice of appeal shall have been filed with them, that by reason of facts stated in the certificate, a stay would, in their opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application or notice to the Administrative Officer and on due cause shown.

D. Jurisdiction. The Board of Adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this chapter.

(2) To hear and decide special exceptions to the terms of this chapter upon which the Board is required to pass under this chapter.

(3) Where the street or lot layout on the ground actually varies from the street and lot lines as shown in the Zoning Map, the Board of Adjustment shall interpret the map and the provisions of this chapter for the particular district or section in question.

(4) To permit the erection and use of a building or the use of premises in any location for public utility purposes which is determined reasonably necessary for the public convenience or welfare;

(5) To authorize, upon appeal in specific cases, such variances from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions herein would result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done. The Board of Adjustment, in authorizing any variance, may require any appropriate conditions and stipulations as they deem necessary and such conditions and stipulations attached to the approval shall be complied with, and a violation of those stipulations shall be considered the same as any violation of other provisions of this chapter. In granting any variance, the Board of Adjustment shall give due consideration to the following requirements:

a. The variance and any attached conditions would meet the general purpose of this chapter of promoting public health, safety, comfort, order, and the general welfare.

- b. The variance and any attached conditions would be in keeping with the general character of the surrounding land area, the purpose as stated for that zoning district, and the land use plan of the County.
  - c. The variance and any attached conditions would not result in any appreciable depreciation of adjacent property values or detract from the enjoyment and use of those adjacent properties.
- (6) To determine, in cases of uncertainty, the classification of any use.
- (7) To permit the erection and use of any accessory building on a lot before the erection of a principal building on such lot as provided herein; provided such use is temporary and for a period of time not to exceed one year.
- (8) To permit the extension of an existing building or use into a more restricted district immediately adjacent, under such conditions as will safeguard the character of the more restricted district provided that such extension shall not be permitted more than 50 feet beyond the boundary line of the district in which such building or use is authorized.
- (9) Conditional Use Permits. The Board of Adjustment shall hold a hearing and consider any application for a Conditional Use Permit. The Board may approve Conditional Use Permits for any use that is in keeping with and appropriate to the uses authorized in that district. The Board of Adjustment shall give due consideration to the following requirements in the approval or denial of any Conditional Use Permit application:
- a. The conditional use approval would meet the general purpose of this chapter of promoting public health, safety, comfort, order, and general welfare.
  - b. The conditional use approval would be in keeping with the general character of the surrounding area, the purpose as stated for that zoning district, and the land use plan of the County.
  - c. The conditional use approval would not result in any appreciable depreciation of adjacent property values or detract from the enjoyment and use of those adjacent properties.
  - d. The conditional use approval would not create any amounts or types of traffic that may be detrimental to others.
  - e. The conditional use approval would not create objectionable noise, dust, smoke, or odor for nearby properties.
  - f. The conditional use approval would provide adequate parking area so as not to create congestion of public streets and roadways.

The Board of Adjustment may require any appropriate conditions and stipulations as they deem necessary to assure that the preceding

requirements will be fully complied with. Such conditions and stipulations attached to the approval shall be complied with, and a violation of those conditions shall be considered the same as any violation of other provisions of this chapter.

E. Powers. In exercising the above-mentioned powers, the Board of Adjustment may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all powers of the officer from whom the appeal is taken.

F. Deciding Vote - Authority. 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 on any matter upon which it is required to pass under this title or to affect any variation in this chapter. It is not the intention to grant the Board of Adjustment the power or authority to alter or change the Zoning Code or Zoning Map. Such power and authority rests solely with the Board in the manner hereafter provided.

G. Appeal from Decision of Board of Adjustment. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment under the provisions of this chapter, or any taxpayer or any officer, department, board, or bureau of the County may seek such relief through the courts as provided by statute.

11. Changes and Amendments. Whenever the public necessity, convenience, general welfare, or good zoning practice requires, the Board may, by resolution on its own action or by petition, after recommendation by the Planning and Zoning Commission, after public hearings as provided herein, amend, supplement, or change the regulations, district boundaries or classifications or amendments thereof.

A. Procedure for Change. The procedure for changes and amendments will be as follows:

(1) Applications for any change of district boundaries or classification of property as shown on the zoning maps shall be submitted to the Planning and Zoning Commission at their public office upon such forms prescribed by it and shall be accompanied by such data and information as may be prescribed for that purpose by the Planning and Zoning Commission so as to assure the fullest practicable presentation of facts for the permanent record. Each such application shall be verified by at least one of the owners or lessees of property within the area proposed to be reclassified, attesting to the truth and correctness of all facts and information presented with the application. Applications for amendments of the text or requirements of these regulations shall likewise be submitted to the Planning and Zoning Commission on forms prescribed by it and shall be verified by the person or persons preparing said amendment.

(2) Before submitting its recommendations on a proposed amendment to the Board, the Planning and Zoning Commission shall hold at least one public hearing thereon, notice of which shall be given

to all property owners within 500 feet of the property concerned by placing said notice in the United States mail at least 10 days before date of such hearing. The notice shall state the place and time at which the proposed amendment to the regulations, including text and maps, may be examined. When the Planning and Zoning Commission has completed its recommendations on a proposed amendment, it shall certify the same to the Board.

(3) After receiving the certification of said recommendations on the proposed amendment from the Planning and Zoning Commission and before adoption of such amendment, the Board shall hold a public hearing thereof, notice of the time and place of which shall be published one time in a newspaper of general circulation in the County, not less than four days nor more than 20 days before the date of public hearing. In addition, notices shall be sent by the United States mail as specified in Subparagraph 2 above.

(4) After receiving certification of the recommendation on the proposed amendment from the Planning and Zoning Commission and after holding the public hearing provided for, the Board shall consider such recommendations and vote on the adoption of the proposed amendment. The proposed amendment shall become effective by a favorable vote of a majority of the members of the Board.

(5) Any person or persons desiring a change in the zoning classification of property shall file with the application for such change, a statement giving the names and addresses of the owners of all properties lying within 500 feet of any part of the property proposed to be changed.

(6) The failure to notify as provided in Subparagraphs 2 and 3 above shall not invalidate any recommendation of the Planning and Zoning Commission, provided such failure was not intentional, and the omission of the name of any owner of property who may, in the opinion of the Planning and Zoning Commission, be affected by such amendment or change, shall not invalidate any recommendation adopted hereunder; it being the intention of this subparagraph to provide so far as may be, due notice to the persons substantially interested in the proposed change that an application is pending before the Planning and Zoning Commission proposing to make a change in the zoning maps or regulations.

(7) Each application for an amendment, except those initiated by the Planning and Zoning Commission, shall be accompanied by a check payable to the Treasurer or a cash payment according to the Fee Schedule most recently approved by the Board to cover the approximate costs of this procedure and under no conditions shall said sum or any part thereof be refunded for failure of said amendment to be enacted into law and deposited within the general fund.

11. No parcel, lot or lots shall be sold, divided, or set off in such a manner that either the portion sold, divided, or set off or the portion remaining would create a violation of any provisions set forth within this chapter.

**70.06 ADULT USE STANDARDS.** A conditional use for adult uses shall be subject to the supplemental standards listed below, in addition to the standards for approval set forth in this section. Adult uses are limited to C-1, I-1, and I-2 Districts.

1. Purpose. It is the purpose of this chapter to regulate sexually-oriented businesses, to promote the health, safety, and general welfare of the citizens of the County and to establish reasonable and uniform regulations to prevent adverse effects on surrounding uses and the concentration of sexually-oriented businesses. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is neither the intent nor effect of this section to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene materials.

2. Definitions. As used in this section, the following terms shall have the meanings indicated:

A. “Adult arcade” means any commercial establishment to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically-controlled still or motion-picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by the depicting or describing specified sexual activities or specified anatomical areas.

B. “Adult bookstore” or “adult video store” means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

(1) Books, magazines, periodicals, or other printed matter or photographs, films, motion pictures, videocassettes, or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas.

(2) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as “adult bookstore” or “adult video store” so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas.

C. “Adult cabaret” means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

(1) Persons who appear in a state of nudity;

(2) Live performances characterized by the exposure of specified anatomical areas or by specified sexual activities; or

- (3) Films, motion pictures, videocassettes, slides, or other photographic reproductions characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- D. “Adult motel” means a hotel, motel, or similar commercial establishment which:
- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;
  - (2) Offers a sleeping room for rent for a period of time less than 10 hours; or
  - (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time less than 10 hours.
- E. “Adult motion-picture theater” means a commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- F. “Adult theater” means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.
- G. “Escort” means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- H. “Escort agency” means a person or business association that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.
- I. “Establishment” means any of the following:
- (1) The opening or commencement of any sexually-oriented business as a new business.
  - (2) The conversion of an existing business, whether or not a sexually-oriented business, to any sexually-oriented business.
  - (3) The addition of any sexually-oriented business to any other existing sexually-oriented business.
  - (4) The relocation of any sexually-oriented business.
- J. “Nude model studio” means any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

K. “Nudity” or “state of nudity” means the appearance of human bare buttocks, anus, male genitals, female genitals, or full female breast.

L. “Person” means an individual, proprietorship, partnership, corporation, association, or other legal entity.

M. “Seminude” means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

N. “Sexual encounter center” means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) Activities between male and female persons or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

O. “Sexually-oriented business” means an adult arcade, adult bookstore, or adult video store, adult cabaret, adult motel, adult motion-picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

P. “Specified anatomical areas” means the male genitals in a state of sexual arousal or the vulva or more intimate parts of the female genitals.

Q. “Specified sexual activities” means any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.

(2) Sex acts, normal or perverted, actual, or simulated, including intercourse, oral copulation, or sodomy.

(3) Masturbation, actual or simulated.

(4) Excretory functions as part of or in connection with any of the activities set forth in Subparagraphs 1 through 3 above.

R. “Substantial enlargement of a sexually-oriented business” means the increase in floor areas occupied by the business by more than 25 percent, as the floor areas exists on date of enactment.

S. “Transfer of ownership or control of a sexually-oriented business” means any of the following:

(1) The sale, lease, or sublease of the business.

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means.

(3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

3. Permitted Uses. The following uses, as hereinbefore defined, shall be designated adult uses:

- A. Adult arcades.
- B. Adult bookstores or adult video stores.
- C. Adult cabarets.
- D. Adult motels.
- E. Adult motion-picture theaters.
- F. Adult theaters
- G. Escort agencies.
- H. Nude model studios.
- I. Sexual encounter centers.
- J. Any use which is interpreted by the Zoning Administrator to be a use similar to one of the above-named uses and in conformance with the intent of this district.

4. Location Restrictions. Adult uses shall be permitted in C-1, I-1, and I-2 Districts, provided that:

- A. An adult use may not be operated within 1,000 feet of:
  - (1) A church, synagogue, or regular place of worship.
  - (2) A public or private elementary or secondary school or child-care facility.
  - (3) A boundary of any residential district.
  - (4) A boundary of any property used for or planned for residential use.
  - (5) A public park adjacent to any residential district.
- B. An adult use shall be setback a minimum of 200 feet from any road right-of-way.
- C. An adult use may not be operated within 1,000 feet of another adult use, or on the same lot or parcel of land.
- D. An adult use may not be operated in the same building, structure, or portion thereof containing another adult use.
- E. For the purpose of this chapter, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where an adult use is conducted to the nearest property line of the premises of a church or public or private elementary or secondary school or to the nearest boundary of an affected public park, residential district, or residential use lot.
- F. For purposes of this section, the distance between any two adult uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.



G. All adult uses shall be conducted in an enclosed building. Regardless of location or distance, no one who is passing by an enclosed building having a use governed by these provisions shall be able to visually see any specified anatomical area or any specified sexual activity by virtue of any display which depicts or shows said area or activity. This requirement shall apply to any display, decoration, sign, window, or other opening.

5. Inspection Requirements.

A. A person may operate an adult use business only within the specified districts with a Conditional Use Permit issued by the County, in accordance with the provisions of this chapter of the County Zoning Code.

B. Prior to the commencement of any adult use business or upon any transfer of ownership or control, the premises must be inspected and found to be in compliance with all laws, rules, and regulations of the Health Department, Fire Department, Zoning Official, Fire Marshall, and other code enforcement officials.

C. The Zoning Official shall suspend the right to conduct such adult use for a period not to exceed 30 days if the officer or official determines that the owner and operator or an employee of the owner or operator has:

- (1) Violated or is not in compliance with any section of this chapter.
- (2) Engaged in excessive use of alcoholic beverages while on the adult use business premises.
- (3) Refused to allow an inspection of the adult use business premises as authorized by this chapter.
- (4) Knowingly permitted gambling by any person on the adult use business premises.
- (5) Knowingly allowed possession, use, or sale of controlled substances on the premises.
- (6) Knowingly allowed prostitution on the premises.
- (7) Knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the permitted or licensed premises.

D. An applicant or permittee shall permit representatives of the County Sheriff, Health Department, Fire Department, and Planning Department to inspect the premises of an adult use business for the purpose of ensuring compliance with the law at any time it is occupied or open for business.

6. Enforcement.

A. A person who knowingly owns, manages, operates, conducts, or maintains any of the uses governed by these provisions in any way which is contrary to these regulations shall be subject to prosecution, or in the alternative, violation of this law may be enforced by injunction.

B. The continuation of a violation of the provisions of this chapter shall constitute, for each day the violation is continued, a separate and distinct offense hereunder.

C. Each violation of the provisions of this chapter is subject to enforcement in accordance with Section 70.04 Permits and Enforcement.

**70.07 WIND ENERGY CONVERSION SYSTEMS.** A conditional use, for wind energy, shall be subject to the supplemental standards listed below, in addition to the standards for approval set forth in this section. Wind energy uses are limited to a conditional use in the Agricultural District.

1. Purpose. The purpose of this section is to promote the health, safety, and general welfare of the citizens of the County by providing an orderly and regulated process for the siting, construction, and operation of wind energy conversion system (“WECS”) projects on land within the County’s Agricultural Zoning Districts.

2. Definitions. As used in this section, the following terms shall have the meanings indicated:

A. “Agricultural operation building” means agricultural sheds, shops, bins, barns, or any agricultural structure used daily, weekly, or seasonally.

B. “Commercial wind energy conversion system” or “CWECS” means a wind energy conversion system which is intended to produce electricity for sale to a rate regulated or non-regulated utility or for use off-site.

C. “Components” means all of the physical facilities comprising a WECS, including turbines (i.e. the tower, nacelle, hub, motor, and blades), turbine foundations, crane pads, feeder lines, and any access buildings and equipment including substations built in conjunction with a WECS project.

D. “Dwelling” means a house or other building, including all structures attached to the building, which meets all of the following criteria:

(1) Used as a place of habitation for humans on a permanent and frequent basis;

(2) Not readily mobile;

(3) Connected to a permanent source of electricity.

(4) Connected to a permanent private water supply or a public water supply and a permanent domestic sewage disposal system including a private, semipublic, or public sewage disposal system;

(5) Assessed and taxed as real property; and

(6) Occupied for at least six months in the last two years.

E. “Feeder line” means any above or below ground line that carries electrical power from one or more turbines.

F. “Meteorological tower” or “MET tower” means a tower which is erected to measure wind speed and directions, or collect other atmospheric or weather data relevant to siting and operating a commercial wind energy conversion system. Meteorological towers are not part of a WECS project. Meteorological towers do not include towers and equipment used by airports,

the Iowa Department of Transportation, or other applications to monitor weather conditions.

G. “Occupied, non-residential building” means any building (other than a dwelling) that is regularly occupied by humans, and that is open to the public, sells goods or services, or is operated by a public, religious, or other non-profit institution.

H. “Project” means all components used in and for the construction and operation of a wind energy conversion system (WECS) as defined in this chapter.

I. “Project area” means the geographic area encompassing all components of a WECS project identified in an application or applications for conditional use for WECS.

J. “Property line” shall mean the legal boundary between separately owned real estate parcels, and between privately-owned parcels and publicly owned land or public rights-of-way.

K. “Public conservation areas” means land owned by County, State, or federal agencies and managed for conservation or preservation purposes, including, but not limited to, Wildlife Management Areas, Conservation Areas, parks, preserves, wildlife refuges, and waterfowl production areas. For purposes of this regulation, public conservation areas also include land owned by non-profit conservation organizations and other privately owned lands upon which permanent conservation easements have been granted to public agencies or non-profit conservation organizations. Public conservation areas do not include land enrolled in the Conservation Preserve Program.

L. “Repowering” means either the complete dismantling and replacement of generation equipment at an existing project site or the installation of new parts and equipment to an existing alternate energy production facility in order to increase energy production, reduce load, increase service capacity, improve project reliability, or extend the useful life of the facility.

M. “Rotor diameter” means the diameter of the circle described by the turbine’s moving rotor blades. “Rotor” is defined for purposes of this chapter as including the turbine hub and blades.

N. “Shadow flicker” means the shadow of a turbine or the turbine rotors as it rotates.

O. “Total height” means the highest point above ground level reached by a rotor tip or any other part of a turbine.

P. “Tower” means the vertical structure that supports the electrical generator, rotor blades, or meteorological equipment. Reinforced concrete or precast towers shall not be permitted within the County.

Q. “Turbine” means any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils, blades, or similar devices to capture the wind.

R. “Wind energy conversion systems” or “WECS” means an electrical generating project designed as an integrated system, the components of which are installed at the same time (a “project” for the purposes of this chapter), that

operates by converting the kinetic energy of wind into electrical energy to be used on-site or distributed into the electrical grid. A MET tower is not considered a component of a WECS project.

S. “Zoning Administrator” means the administrative officer designated or appointed to administer and enforce the regulations contained in this chapter.

T. “Zoning Permit” means a Conditional Use Permit, building permit, or both that is issued by the enforcing officer authorizing the use of land in the manner for the purpose specified in the application.

3. Permit Application and Review – Conditional Use Permit Required.

A. General. Wind energy conversion systems are not a utility or other principal permitted use in the Agricultural Zoning District. As such, before any construction activities related to a commercial wind energy conversion system or a MET tower can begin in the County, Zoning Permits must be issued by the County. For purposes of this section, the installation of MET towers and access roads associated with a commercial WECS shall be deemed construction activities requiring a zoning permit, and any such tower or road must be installed in compliance with all other applicable County ordinances and regulations. A Conditional Use Permit is required for each individual structure (tower). The Conditional Use Permit must be approved prior to seeking any building permits.

B. Application for Conditional Use Permit. The County Zoning Administrator’s office will supply the written application forms to be used by any person seeking the Zoning Permits. A pre-application meeting shall be held between the applicant and the Zoning Administrator at least 30 days prior to submission of the final application to the Zoning Administrator. Each project shall require a separate application. The application shall contain:

(1) The name, address, EIN of the applicant, as well as the proposed owners or operators of the project, including the contact information (name, address, telephone, and email) of their authorized representatives. The application shall designate the entity who will be the permit holder.

(2) A list of the names and addresses of all property owners, located within the project area, and located within 5,280 feet from the circumference of any turbine’s approximate proposed location of any turbine in the project. Applicant shall provide proof of verification by the County Auditor.

(3) A development plan (“Plan”) for the project, which plan shall contain aerial photographs of the entire proposed project area, showing the approximate proposed location of the turbines, private access roads, feeder lines, substations, and all other components of the project. The Plan shall show property lines and setback distances under Subparagraph (4) below, as well as all public roads and public and private drainage district facilities (i.e., ditches and underground tiles) in the project area. The Plan shall also identify any other turbines, communication antennae, and airstrips (including private airstrips) located within five miles of the project area; and all lakes, permanent water courses, and public conservation areas within three miles of the

project area boundaries. In providing the above information, the Plan shall use a GPS coordinate system that is compatible with the County's geographical information and data systems. The accuracy of the information included in the Plan under this paragraph shall be verified in writing by the County Engineer prior to submission. The Plan shall also include a mailing address for the owner of each communication antennae identified.

(4) Project details, including the name of the project, and the final number, type, generating capacity, total height, tower height, and rotor diameter of the turbines must be provided in the development plan. A waiver request for specific application requirements, upon showing of impossibility or hardship, may be requested at the time of application. Applications that lack any required information in this chapter and which do not make an express waiver request will be deemed incomplete and will be returned to the applicant without further action.

(5) Documentation of applicant's legal control over all of the private property interests necessary for the project, signed by the property owner. Such legal control must rest in the permit holder at the time of application.

(6) A description of the County roads, bridges, and culverts anticipated to be used during all phases of construction, as well as for access to material storage sites and staging areas. As set forth in Subsections 4 and 5, below, before construction commences on a project, all public road crossings proposed for use must be provided to the County Engineer and reviewed for compliance with the County's Road Use Protection Agreements.

(7) A description of all public drain tile anticipated to be crossed during all phases of construction, as well as for access to material storage sites and staging areas, as set forth in Subsections 5 and 6 below, shall be provided before construction commences on the project. All public drainage crossings must be provided to the Drainage District Engineer and approved by the Board, acting as or for the Drainage District Trustees having jurisdiction of the district impacted. The approval must be obtained before the time in which the application is considered by the Board and prior to the issuance of any zoning permits. The applicant shall provide proof of approval by private drainage district trustees for anticipated crossings located within private drainage districts.

(8) Any FAA, FCC, or other State or federal permits or approvals that are necessary for the project. Applicant shall submit a copy of the actual permit application, or proof that the permit has been filed with the appropriate agency.

(9) Evidence in the form of a report prepared by a qualified third-party acceptable to the Board that the project will not materially interfere with any existing commercial or public safety communication systems including radio, telephone, internet, G.P.S., microwave, or television signals.

(10) A report prepared by a qualified third-party acceptable to the Board using the most current modeling software available establishing that no dwelling will experience more than 25 hours per year, and no more than 30 minutes per day, of shadow flicker from the centroid of the dwelling based on a “real world” or “adjusted case” assessment modeling. The report must show the locations and estimated amount of shadow flicker to be experienced at all dwellings caused by the individual turbines in the project. The applicant shall specify the manufacturer and specifications for a proposed shadow flicker control system to be installed for each turbine for which the projected shadow flicker measurement exceeds the limitations of this Zoning Code.

(11) A Decommissioning Plan pursuant to Subsection 5, Paragraph B below.

(12) Such additional information as the County may request due to the unique circumstances with the project. Applicants are encouraged to have ongoing discussions with the Zoning Administrator and both engineers (County and Drainage District) during preparation of the application.

(13) The owner of a dwelling may waive their setback distance requirements, flicker limitations, and noise decibel limits, established in this chapter. Each waiver must be in a written instrument signed by all owners impacted by a particular turbine(s) and included with the application.

4. Siting and Design Standards.

A. Setbacks. All turbines and project components shall demonstrate compliance with the following setbacks at the time of application. The Zoning Administrator will evaluate setbacks and make recommendations. [Note: All measurements shall be from the center point of the tower (or from the nearest above-ground non-fence structure at a substation site) to the nearest point on any dwelling, occupied non-residential building, or confinement feeding operation building; or to the nearest property line of any other protected area.]

Protected Area	Set Back Requirement
Adjacent Property Lines	120% of the total height
Dwelling	1,900 feet or three times the total height, whichever is greater
Occupied, Non-residential Building	1,900 feet or three times the total height, whichever is greater
Agricultural Operation Building	120% of the total height
Public Road Right-of-Way	120% of the total height
Trusteed Drainage District Right-of-Way	
Open Ditch	300 feet
Tile (centerline)	300 feet
Public Conservation Area	120% of the total height
Cemetery	120% of the total height
City Limits or Airstrip	1,900 feet or three times the total height, whichever is greater, from the Corporate limits and per FAA regulations

B. Specific Restrictions.

- (1) From the lower tip of the blade to ground level must be 75 feet or greater.
- (2) No turbine within a project shall be located more than two miles from the next closest turbine in that same project.
- (3) There shall be no project constructed or erected that causes the total number of towers in the County to exceed 330 total turbines.
- (4) Color and Finish. All turbines and towers that are part of a commercial WECS shall be white or grey. Finishes shall be matte or non-reflective.
- (5) Lighting. Lighting, including lighting intensity and frequency of strobes, shall adhere to, but not exceed, requirements established by the FAA permits and regulations. Lighting shall have Airline Detection Lighting System (ADLS) or have applied for ADLS to be installed within 60 days of the application’s approval by the FAA.
- (6) Signage. All turbine sites shall be required to have individual 911 rural addresses at each access road. All other signs except those required for safety and directional purposes (or otherwise authorized by the County) shall be prohibited in the project area.
- (7) No new, used, or non-functional equipment shall be stored over 60 days in the County.
  - a. An exception to this restriction shall apply to equipment required for new construction that has been granted Zoning Permits by the County. Said equipment may be stored in the County for up to 365 days.

(8) Noise from a wind turbine may not exceed 45 decibels (dba) as measured from the closest setback distance, ground level to a residence.

a. Noise Complaint Procedures. Any complaint submitted to the County will be investigated by the Zoning Administrator. Whenever the Zoning Administrator or other authorized official finds that a noise violation by a wind turbine owner has occurred, such officer shall cause to be served upon the wind turbine owner a written notice to abate the violation within a reasonable time after notice.

b. Investigation by County. If action is not taken by the wind turbine owner within 10 days of notice, the County may take further investigative action by ordering a sound level analysis for all substations and related wind facilities, to be conducted by a third-party engineer selected by the County to ensure noise compliance, at the permit holder's expense. The Zoning Administrator shall determine whether a noise violation is founded based on the report of the engineer. If founded, the Zoning Administrator may issue notice to the wind turbine owner with an order for abatement.

c. Any person who makes knowingly false noise complaints to the County may be subject to penalties as provided by State or local law.

(9) Federal Aviation Administration ("FAA"). All WECs shall comply with FAA standards and permits.

(10) The setback distance for airports shall be governed by the rules and regulations of the Federal Aviation Administration ("FAA") or any laws or rules of the State that are applicable. An applicant shall not construct a turbine in violation thereof.



C. Application Fees. The table below outlines the fee schedule for WECS project applications.

<b>Current Fees per Board of Supervisors Resolution 2014-16</b>		
Zoning Board of Adjustment	Appeal	\$200.00
	Variance	\$200.00
	Conditional Use	\$200.00
Planning Commission	Zoning Change	\$250.00
	Text Amendment	\$250.00
Subdivision	Preliminary Plat Review	\$225.00
	Final Plat Review	\$275.00
	Waiver	\$50.00
Building Permit	\$0.00 - \$7,500.00 - Level 1	\$25.00
	\$7,501.00 - \$25,000.00 - Level 2	\$50.00
	\$25,001.00 - \$50,000.00 - Level 3	\$75.00
	\$50,001.00 - \$100,000.00 - Level 4	\$100.00
	\$100,101.00 - \$250,000.00 - Level 5	\$125.00
	\$250,001.00 - \$500,000.00 - Level 6	\$225.00
	\$500,001.00 and Up - Level 7	\$325.00
	Agricultural Use	\$0.00
Floodplain Development Permit	\$0.00 - \$25,000.00 - Level 1	\$50.00
	\$25,001.00 - \$50,000.00 - Level 2	\$75.00
	\$50,001.00 - \$100,000.00 - Level 3	\$100.00
	\$100,001.00 - \$250,000.00 - Level 4	\$125.00
	\$250,001.00 - \$500,000.00 - Level 5	\$225.00
	\$500,001.00 and Up - Level 6	\$325.00

D. Application Forms and Checklist. All application forms and checklists required for a project under this chapter will be adopted by resolution following the approval of this Zoning Code.

5. Procedures.

A. All applications shall be on a form prescribed by the Zoning Administrator and filed with the County Planning and Zoning Department. An application for a Conditional Use Permit shall be submitted for each individual wind turbine along with applicable fee. Applications may be considered individually or in conjunction with other applications.

B. The Zoning Administrator is authorized to establish the written forms and applications necessary to carry out the purpose of this chapter and the Zoning Code.

C. Applications for WECS shall include all information required under this chapter.

D. Applications shall state whether variances or waivers are being requested from the Board of Adjustment.

E. Following review, the Zoning Administrator shall make a written report and recommendation on each application to the Board of Adjustment.

- F. The Board of Adjustment shall determine whether to grant or deny any Conditional Use Permit application.
- G. Building permits shall not be issued until after all applicable Conditional Use Permits have been approved by the Board of Adjustment.
6. Discontinuance or Decommissioning.
- A. Any component of a commercial WECS shall be considered a “discontinued use” either (i) after one continuous year of being non-operational, unless a plan is approved by the County outlining the steps and schedule for returning the component to service; or (ii) upon revocation of any Zoning Permits. The Zoning Administrator, in consultation with the County Engineer, shall determine whether a component is a discontinued use. Notice shall be provided to the applicant whenever a component is declared a discontinued use. Once declared to be a discontinued use, the commercial WECS components shall be subject to removal pursuant to this section.
- B. Each building permit application must be accompanied by a proposed decommissioning plan in a form satisfactory to the Zoning Administrator to be considered by the Board. Such plan shall contain:
- (1) Description of the project components, and a sequence and description of the activities required to remove the same in compliance with this section.
  - (2) A report prepared by a qualified third-party (to be approved by the Board in advance) setting forth the procedures and estimated net cost associated with the removal of the components (other than feeder lines) to a depth of 48 inches and the accompanying restoration of the surface to the original elevation with soil content similar to that of the immediate area of each site.
  - (3) Cash, an irrevocable letter of credit, or a performance bond running in favor of the County in an amount no less than the total estimated net removal and restoration costs as determined by said report. Said security must be submitted on the 10<sup>th</sup> year following completion of the project and must remain in effect until decommissioning is completed. No such security shall be cancelable without notice to the Zoning Administrator. Each year following submission of security, the permit holder shall provide proof that such security remains in effect at the same time as the annual report to the assessor is made for purposes of the real estate tax assessment.
  - (4) The report prepared under Subparagraph (2) above shall be updated and provided to the County (a) at least every five years; and (b) upon any proposed transfer of the Zoning Permit. Should any update indicate a change in the decommissioning costs, the security required under Subparagraph (3) above shall be adjusted accordingly, with proof provided to the County within 60 days.
  - (5) No transfer or assignment of the Zoning Permit shall be effective without a corresponding transfer or assignment of the obligations and financial security required under the Decommissioning Plan, as approved by the Board.

- C. The permit holders for existing wind projects shall be required to submit a Decommissioning Plan within 12 months of the date this chapter is adopted.
7. Ancillary Agreements and Procedures.
- A. Issuance of a building permit shall not occur until the applicant executes the following:
- (1) Franklin County Road Use and Repair Agreements, approved by the Engineer.
  - (2) Franklin County Public Drainage System Protection Agreement to be approved by the Board, acting for the public and private drainage districts.
  - (3) Written approval of the Board of Trustees of all affected private drainage districts.
  - (4) An Emergency Response Plan provided by the applicant and approved by the Board of Supervisors, in consultation with the Emergency Management Coordinator as deemed necessary by the Board. Said plan shall contain response procedures to be followed in the event of a fire, collapse, personal injury, or other emergency at a project. The plan shall contain 24-hour emergency contact information for the project.
8. Repowering. Prior to repowering any permitted WECS, the permit holder shall submit repowering plan(s) to the Zoning Administrator for review. The Zoning Administrator may issue a Certificate of Compliance if the repowering plan results in no material change in the components or design elements of the turbine originally permitted. In conducting the review required by this section, the Zoning Administrator may engage and consult with any necessary third-party. In the event a plan or plans to repower a permitted WECS(s) materially changes any component(s) or design element(s) of the turbine under its existing permit, the permit holder must apply for a new Conditional Use Permit pursuant to Sections 70.07(3), (4), and (5) of this section, or a variance, or both, if applicable. Repowering construction shall not be authorized in the absence a Certificate of Compliance or Conditional Use Permit and issuance of building permits.
9. Effect and Transferability of Permits.
- A. No construction activities on a project may begin until all zoning permits have been issued, except as permitted in Section 70.07(3)(A).
- B. Any material violation of any provision of this chapter that remains uncured after 30 days' written notice from the County to the permit holder shall be deemed a County infraction and shall be subject to all enforcement action allowed by law, including a fine for each instance of violation in the amount of \$250.00, revocation of the Zoning Permit, or both.
- C. If construction on the project has not begun within 12 months from the date of issuance of the Zoning Permits, the permits shall be automatically revoked without further action by the County. In such event, no work on the project may take place unless and until new permits have been issued, and any portion of the project then completed shall be deemed a discontinued use subject to Section 70.07(6)(A)

D. Only the holder of the Zoning Permits (the “permit holder”) shall own the project, and such holder shall be the entity responsible for observing all requirements of this chapter. The permit holder shall be responsible to maintain all components of the commercial WECS in good repair, and in compliance with this ordinance and the ancillary agreements listed in Subsection 7.

E. No Zoning Permit shall be transferred or assigned, voluntarily or involuntarily, without the written approval of the Board, which consent can be withheld unless and until the Board is satisfied that a proposed transferee has the financial and operational responsibility to assume all obligations required of the permit holder under this ordinance and the ancillary agreements listed in Section 70.06. Requests for approval of the zoning permits shall be directed to the Zoning Administrator.

10. Miscellaneous.

A. Limited Number of Turbines. The number of turbines is limited to 330 towers in the County.

B. Condemnation Waiver. Issuance of a Zoning Permit shall be conditioned on the permit holder’s enforceable promise, supported by the consideration of the issuance of the permit, that the permit holder shall never use, or seek to use, eminent domain to acquire any real property interests to construct or operate the project.

C. In any action brought by the County against the permit holder of a Zoning Permit, to enforce the provisions of this chapter, the County shall be entitled to recover its reasonable attorney fees and court costs as may be awarded by the decision-making tribunal.

11. Applicability. The rules and regulations of this chapter are applicable to any project Zoning Permit Applications submitted after the effective date of this chapter. Any permitted WECS projects for which no construction has begun within 12 months of the effective date of this chapter will be deemed terminated and subject to the provisions of this chapter. A current permit holder must notify the Board of its intent to begin construction within 12 months and certify that: (i) the project will meet the requirements of the existing permit; (ii) the permit holder will comply with the decommissioning requirements of this chapter and will submit a plan for compliance within 30 days; and (iii) construction of the project will not result in material inconsistencies with the terms of this chapter. Additionally, any towers existing as of the effective date of this chapter which do not provide energy for a continuous period of 12 months shall also meet the requirements of this chapter prior to repowering. No modification or alteration to an existing WECS shall be allowed without full compliance with this chapter.

**70.08 DISTRICTS AND DISTRICT REGULATIONS.** In order to carry out the purpose and intent of these regulations, the County is hereby divided into 10 Zoning District classifications as follows:

- 1. A..... Agricultural District
- 2. R-1 ..... Single Family Residential District
- 3. R-2 ..... Multi-Family Residential District
- 4. R-PUD ..... Residential Planned Unit Development

5. C-1.....Commercial District
6. C-PUD.....Commercial Planned Unit Development
7. RE.....Resort District
8. I-1 .....Light Industry District
9. I-2 .....Heavy Industry District
10. F-C .....Floodplain Conservation District (Overlay District)
11. Official Maps. The location and boundaries of these districts are set forth on the Official Zoning District Maps which have the same force and effect as if fully set forth herein. The Official Zoning District Maps shall be on file in the office of the Zoning Administrator. If, in accordance with the provisions of these regulations, changes are made in the district boundaries or other matter portrayed on the Official Zoning District Maps, such changes shall be made promptly by the Zoning Administrator after the amendment has been approved by the Board.
12. District Boundaries. Where uncertainty exists as to the boundaries of districts shown on the Official Zoning District Maps, the following shall apply:
  - A. Boundaries indicated as approximately following the center lines of streets, highways, alleys, or other public rights-of-way shall be construed to follow such center lines.
  - B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
  - C. Boundaries indicated as approximately following City limits shall be construed as following City limits.
  - D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
  - E. Boundaries not capable of being determined in the previous four paragraphs shall be as dimensioned on the Official Zoning District Map or, if not dimensioned, shall be determined by scale shown on the map.
  - F. Boundaries of the “F-C” Floodplain Conservation District are as shown on the HUD Flood Hazard Boundary maps but may require on-site determination as to where the flood hazard boundary actually is. This determination shall be made by the County Engineer.

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**70.09 “A” AGRICULTURAL DISTRICT.**

1. Purpose. The “A” Agriculture District is created to provide for those lands within the County that are primarily intended to be used for agricultural purposes.
2. Principal Permitted Uses.
  - A. Agriculture and the usual farm buildings, structures and uses, including one mobile home on a farm if used by the owner, an immediate relative, or an employee. The farmhouse, farm buildings, and farm uses are exempt from any regulation and permit requirements.
  - B. Single-family dwellings, but only on severed farmsteads, lots with primary tree cover, or lots with a majority of the area being comprised of soils having a corn suitability rating (CSR) of less than 60 CSR. However, no such residence shall be located closer than 500 feet from any feedlot of any other person.
  - C. Public and private forests and wildlife preserves and similar conservation areas (no permit required).
  - D. Public parks.
  - E. Accessory buildings and uses, and temporary buildings.
3. Conditional Uses. The following uses may or may not be permitted subject to determination by the Board of Adjustment:
  - A. Church or other place of worship, including parish house and Sunday school building.
  - B. Public schools and private educational institutions having a curriculum approved by the State Department of Public Instruction or regulated by the Department of Social Services.
  - C. Sanitary landfills, subject to approval of the State Department of Water, Air, and Waste Management.
  - D. Home occupations.
  - E. Radio and television towers and broadcasting stations, windmills, or wind generators of greater than 12 feet in height (ornamental windmills 12 feet in height or less, or windmills used in pumping water on land being used for agricultural purpose are exempt from this section).
    - (1) A site plan shall be submitted to the County that includes the height of the structure, dimensions of the property, location of the structure on the property, location and approximate height of overhead power or transmission lines, and location of principal and accessory structures on the applicant’s property as well as surrounding properties.
    - (2) Any radio and television towers and broadcasting stations, windmill, or wind generator must be located on a lot or property so that if it falls, it will not fall on any neighboring structures which are not owned by the person operating and owning the radio and television towers and broadcasting stations, windmill, or wind generator.
  - F. Publicly owned and operated buildings and facilities.

G. Public golf courses and community centers; private non-commercial recreational areas and centers, including country clubs, swimming pools, and golf courses.

H. Cemeteries, including mausoleums and crematories; provided that any mausoleum or crematory shall be a distance of at least 200 feet from adjacent property and street and highway lines and provided further that any new cemetery shall contain an area of 20 acres or more.

I. Commercial kennels for raising, breeding, and boarding of dogs or other small animals; provided that all buildings, including runways, be at least 200 feet from all property lines.

J. Hospitals and sanitariums and charitable institutions for the treatment of diseases.

K. Stables, private and public, and riding academies and clubs, and other structures for housing animals or fowls. Any such structures must be located at least 200 feet from all boundary lines of the property on which located. Public stables and riding academies and clubs shall be permitted one double-face sign on the premises not to exceed two square feet per face.

L. Nurseries and greenhouses; provided that any heating plant shall be a distance of at least 200 feet from any dwelling and from any adjoining lot lines.

M. Public and private airports and landing strips.

N. Commercial feedlots, however, no part of any feedlot shall be closer than 500 feet to any property line. The Board of Adjustment may require greater setbacks to protect nearby property when conditions warrant. Also, the provisions for drainage, sanitation, and other health related matters must be approved by the Board of Health and must meet any requirements of the State Department of Water, Air, and Waste Management.

O. Sewage treatment plants and waste stabilization lagoons, public and private. No part of any treatment facility shall be closer than 200 feet from any property line.

P. Specialized raising of poultry, pigeon, rabbit, and other similar animals.

Q. Mineral extraction and mining, and all plants for processing gravel, sand, rock, or other such raw material provided that active engagement in such use shall not take place within 300 feet of any residence, nor within 50 feet of any property line or right-of-way of any public street or highway. Each application for a Conditional Use Permit for mineral extraction shall be accompanied by a plan for reclamation or alternative use of the site upon completion of the proposed mineral extraction, and the applicant shall be required to post bond or to provide other appropriate assurance of the plan's completion.

R. Any commercial or industrial use similar to the uses listed below that are primarily agriculturally oriented and would better serve the users in the Agricultural District than if located in the commercial or industrial districts.

- (1) Storage and distribution centers for agricultural chemicals, fertilizers, feeds, seeds, and related products.



- (2) Livestock, sale barns, stockyards, or marketing agencies.
  - (3) Commercial grain storage facilities.
  - (4) Repair and service of agricultural implements and vehicles by the resident operator on the same premises of his place of residence.
  - (5) Oil and gas wells, drilling for oil, gas or mineral exploration, and any related structures and installations.
- S. Commercial Bitcoin Installation.
- (1) Limited to systems with an average noise output of 60 dbls or less as measured from the adjoining property line and all containers are anchored four feet or greater.
- T. Cold Fusion and Nuclear Installations.
- (1) Limited to systems with an approved Decommissioning Plan.
- U. Commercial Batteries.
- (1) Limited to systems with an average noise output of 60 dbls or less as measured from the adjoining property line, a training program for multi-jurisdictional first responder, and approved Decommissioning Plan. To be constructed in accordance with NHPA 855.
4. Yard Requirements.
- A. Front yard depth - 50 feet.
  - B. Side yard width - 25 feet.
  - C. Rear yard depth - 30 feet. An accessory building may be located in a rear yard but shall be at least five feet from any property line.
5. Height Regulations. Airport height limitations shall prevail, if applicable.
6. Lot Area. The minimum lot area shall be not less than 21,780 square feet or such larger size as may be determined necessary for an on-site sewage system by the County Sanitarian.

[The next page is 603]

**70.10 “R-1” SINGLE-FAMILY RESIDENTIAL DISTRICT.**

1. Purpose. The “R-1” Single-Family Residential District is created to provide for rural residential subdivisions at a moderate density.
2. Principal Permitted Uses.
  - A. Single-family dwellings.
  - B. Accessory buildings and temporary buildings.
  - C. Private swimming pools, when enclosed by a non-climbable fence at least six feet in height.
  - D. Agricultural and conservation uses.
  - E. Family homes, as provided for in Section 414.22 of the *Code of Iowa*.
3. Conditional Uses. The following uses may or may not be permitted subject to determination by the Board of Adjustment.
  - A. Two-family dwellings.
  - B. Home occupations.
  - C. Churches.
  - D. Public parks and public buildings.
  - E. Public schools and private educational institutions having a curriculum approved by the State Department of Public Instruction or regulated by the Department of Social Services.
4. Yard Requirements. Unless otherwise provided, each lot shall have front, side, and rear yards of not less than the following:
  - A. Front yard depth - 25 feet.
  - B. Side yard width - 10 feet, except that a side yard abutting a street or road shall be 25 feet.
  - C. Rear yard depth - 25 feet. An accessory building may be located in a rear yard but shall be at least five feet from any property line.
5. Height Regulations. Buildings and structures in the “R-1” Single-Family Residential District shall not exceed 35 feet in height. If said buildings or structures are to be located in an area regulated by airport height zoning, any lower height requirement of that airport height regulation shall prevail.
6. Lot Area. The minimum lot area shall be 10,000 square feet if serviced by a common sewer system approved by the State Department of Water, Air, and Waste Management. If a private on-site sewage system is used, the minimum lot size shall be 21,780 square feet or such larger size as may be determined necessary for an on-site sewage system by the County Sanitarian.
7. Parking Requirements. Two off-street parking spaces shall be provided for each family unit in a dwelling, either within a building on the lot or on a surfaced open space on the lot.

8. Restricted Use.
  - A. Commercial bitcoin installation.
  - B. Cold fusion and nuclear installation.
  - C. Commercial batteries.

[The next page is 609]

**70.11 “R-2” MULTI-FAMILY RESIDENTIAL DISTRICT.**

1. Purpose. The “R-2” Multi-Family Residential District is created to provide for residential development of a higher density than is allowed in the other districts.
2. Principal Permitted Uses.
  - A. Single-family, two-family, and multi-family dwellings.
  - B. Family homes, as provided for in Section 414.22 of the *Code of Iowa*.
  - C. Accessory buildings and temporary buildings.
  - D. Private swimming pools, when enclosed by a non-climbable fence at least six feet in height.
  - E. Agricultural and conservation uses.
3. Conditional Uses. The following uses may or may not be permitted subject to determination by the Board of Adjustment:
  - A. Mobile home parks.
  - B. Home occupations.
  - C. Churches.
  - D. Public parks, and public buildings and facilities.
  - E. Public schools and private educational institutions having a curriculum approved by the State Department of Public Instruction or regulated by the Department of Social Services.
  - F. Private non-commercial recreation areas and centers, such as country clubs, swimming pools, and golf courses.
  - G. Hospitals, clinics, and nursing homes.
  - H. Group homes or halfway (rehabilitation) houses.
  - I. Other uses such as above when there is clear evidence that such use will not seriously affect the value and character of the surrounding neighborhood.
4. Yard Requirements. Unless otherwise provided, each lot shall have front, side, and rear yards of not less than the following:
  - A. Front yard depth - 25 feet.
  - B. Side yard width - 10 feet, except that a side yard abutting a street or road shall be 25 feet.
  - C. Rear yard depth - 25 feet. An accessory building may be located in a rear yard but shall be at least five feet from any property line.
5. Height Regulations. Buildings and structures in the Multi-Family Residential District shall not exceed 45 feet in height. If said buildings or structures are to be located in an area regulated by airport height zoning, any lower height requirement of that airport height regulation shall prevail.
6. Lot Area. The minimum lot area for dwellings served by a common sewer system shall be 6,600 square feet for a single-family dwelling; 7,500 square feet for a

two-family dwelling; and 2,000 square feet per unit for multi-family dwellings. If a private on-site sewage system is used, the minimum lot size shall be increased to such a size as may be determined necessary for an on-site sewage system by the County Sanitarian.

7. Parking Requirements. Two off-street parking spaces shall be provided for each family unit in a dwelling, either within a building on the lot or on a surfaced open space on the lot.

8. Restricted Use.

- A. Commercial bitcoin installation.
- B. Cold fusion and nuclear installation.
- C. Commercial batteries.

[The next page is 615]

**70.12 “R-PUD” RESIDENTIAL PLANNED UNIT DEVELOPMENT.**

1. Purpose. The “R-PUD” District is intended and designed to provide a means for the development or redevelopment of a tract or tracts of ground on a unit basis, allowing greater flexibility and diversification of land uses and building locations than the single lot method provided in the other residential districts of this chapter. This will permit the establishment of multi and integrated use residential developments on larger tracts of land. It is further the intent of this section that the basic principles of good land use planning including an orderly and graded relationship between various types of uses be maintained.

2. Permitted Uses.

A. Dwelling units in detached, semi-detached, attached, or multi-storied structures, or any combination thereof, and any accessory building.

B. Nonresidential uses of a religious, cultural, recreational, and commercial character to the extent they are designed and intended to serve the residents of the planned unit development.

3. Procedures. Since planned unit developments, because of their size or intensity of land use, may have a significant effect upon public services and adjacent properties, extensive authority over their development is retained by the Board and the Planning and Zoning Commission. The procedure for approval of a residential planned unit development shall be as follows. The owner or owners of any tract or tracts of land may petition for a zone change to “R-PUD” for a residential planned unit development. The petition shall be accompanied by evidence that the proposed development is compatible with the surrounding area, evidence showing how the owner or owners propose to maintain any common ground included and surface water drainage and sanitary sewer for the proposed development, evidence that the developer is capable of successfully completing the proposed development and preliminary plan of the proposed development, in triplicate, showing in schematic form generally the location of all proposed:

A. Building and uses, the height and exterior design of typical proposed dwellings and the number of dwelling units in each;

B. Parking areas;

C. Access drives;

D. Streets abutting or within the proposed development;

E. Walks;

F. Site topographic features;

G. Landscaping and planting areas;

H. Required peripheral yards;

I. Common land, recreation areas, and parks;

J. Existing utility or other easement; and

K. Development stages and timing of each.

The petition, accompanying evidence, and preliminary plan shall be referred to the Planning and Zoning Commission for study and report after public hearing. The

Planning and Zoning Commission shall review the conformity of the proposed development with the standards of the Comprehensive Plan and with recognized principles of civic design, land use planning, and landscape architecture. After public hearing, the Planning and Zoning Commission may approve or disapprove the preliminary plan and request for rezoning as submitted or require that the petitioner provide such additional information as the Planning and Zoning Commission may deem necessary, or may require that the plan be amended to preserve the intent and purpose of this chapter to promote public health, safety, morals, and general welfare. The petition and preliminary plan as approved by the Planning and Zoning Commission, along with the Planning and Zoning Commission's recommendation on the request for rezoning, shall then be referred to the Board. The Board may approve or disapprove the preliminary plan and request for rezoning as reported, or may require such additional information as may be deemed necessary or changes in the plan as are necessary to preserve the intent and purpose of this chapter to promote public health, safety, morals, and general welfare. If the Board approve the preliminary plan and request for rezoning, the applicant shall submit within 270 days, or such longer period as may be approved by the Board after recommendation by the Planning and Zoning Commission, to the Zoning Administrator a final development plan, in triplicate, of not less than one stage of the proposed development showing specifically and in detail the location of all proposed:

- A. Buildings and uses, the height and exterior design of typical proposed dwellings and the number of dwelling units in each;
  - B. Parking areas;
  - C. Access drives;
  - D. Streets abutting or within the proposed development;
  - E. Walks;
  - F. All proposed walls and fences;
  - G. Landscaping and planting materials, its type and size at time of installation and at maturity;
  - H. Required peripheral yards;
  - I. Common land, recreation areas, and parks;
  - J. Existing utility and proposed utilities and public easements;
  - K. Proposed signs and their areas and dimensions;
  - L. Lighting facilities and their type and design;
  - M. Storm and sanitary sewer lines; and
  - N. Development stages and timing of each.
4. The final development plans shall be accompanied by the following required documents.
- A. If the proposed development includes common land which will not be dedicated to the County and the proposed development will not be held in single ownership, proposed by-laws of a homeowner's association fully defining the



functions, responsibilities, and operating procedures of the association. The proposed by-laws shall include, but not be limited to, such provisions:

- (1) Automatically extending membership in the association to all owners of dwelling units within the development;
- (2) Limiting the uses of the common property to those permitted by the final development plan;
- (3) Granting to each owner of a dwelling unit within the development the right to the use and enjoyment of the common property;
- (4) Placing the responsibility for operation and maintenance of the common property in the association;
- (5) Giving every owner of a dwelling unit voting rights in the association; and,
- (6) If the development will combine rental and for sale dwelling units, stating the relationship between renters and the homeowner's association and the rights renters shall have to the use of the common land.

B. Performance bond or bonds approved by the County in an amount not less than the estimated cost of the bonded improvements, which bond or bonds shall insure to the County that the dedicated public streets and utilities, including sewers, located therein and other common development facilities in each stage shall be completed by the developer within the time specified on the final Development Plan.

C. Covenant to run with the land, in favor of the County and all persons having a possessory interest in any portion of the development premises, that the owner or owners of the land or their successors in interest will maintain all interior streets, parking areas, sidewalks, parks, and plantings which have not been dedicated to the County in compliance with the ordinance of the County and the final development plan as approved by the Board, which covenant shall be recorded in the office of the Recorder.

D. Additional easements or agreements required by the Board at the time of preliminary plan approval.

The final development plan and required documents shall be reviewed by the Planning and Zoning Commission for compliance with the standards of this section and substantial compliance with the preliminary plan. The Planning and Zoning Commission's recommendations and report of the final development plan shall be referred to the Board. The Board shall review the final development plan and approve it if it complies with the standards of this section and is in substantial compliance with the preliminary development plan.

5. Standards and Requirements - Improvements. All streets, sewers, storm sewers, and other improvements must comply with County ordinances and specifications. If turning lanes or other forms of traffic controls are deemed necessary by the Board, the developer shall provide the necessary improvements, subject to the approval of their location and design by the County Engineer.

6. Open Space and Recreation - Residential. Planned unit developments shall contain open yards, open space, or recreation area totaling 25 percent or more of the net development area. The net development area shall be defined as the gross development area minus area set aside for churches, schools, and streets. Open space and recreation area may be dedicated to the County (by consent of the Board) or managed by the homeowner's association. Parking areas shall not be considered to be part of the required open space or recreation area.

7. Yard and Height Requirements. There shall be a minimum yard requirement of 25 feet around the boundary of the project. In the absence of an appropriate barrier, the Board may require additional open space for screening be located along all or a portion of the development boundary. The height limitations of any adjacent district shall apply within 125 feet of the development boundary. The maximum height of any structure permitted within the development shall be 72 feet.

8. Building Permits. No building permit for any building or structure within the development shall be issued until the final development plan is approved by the Board.

9. Completion. The Board may make the approval of the development plan contingent upon the completion of construction and improvements within a reasonable period of time. Failure to complete the construction and improvements within said period of time shall be deemed sufficient cause for the Board to rezone the subject property to the classification effective at the time of the original request for rezoning to "R-PUD" for said development, unless an extension is recommended by the Planning and Zoning Commission and approved by the Board. Any proposed change in the development plan, after approval of the final development plan by the Board, shall be resubmitted and considered in the same manner as the original proposal.

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**70.13 “C-1” COMMERCIAL DISTRICT.**

1. Purpose. The “C-1” Commercial District is created to provide for those types of businesses customarily located along major thoroughfares.
2. Principal Permitted Uses.
  - A. Farm supply sales.
  - B. Automobile, truck, trailer, and garden and farm implement establishments.
  - C. Mobile home sales.
  - D. Private clubs and lodges.
  - E. Bowling alleys, dance halls, or skating rinks.
  - F. Drive-in restaurants or theaters.
  - G. Petroleum service stations.
  - H. Nurseries and greenhouses.
  - I. Funeral homes or mortuaries.
  - J. Veterinarian or animal hospitals or clinics.
  - K. Motels, hotels, restaurants, or cocktail lounges.
  - L. Plumbing shops.
  - M. Grocery stores.
  - N. Offices and office buildings.
  - O. Accessory buildings and uses.
  - P. Any other retail or commercial use similar to the above involving primarily sales or services.
3. Conditional Uses. The following uses qualify for Conditional Use Permits, in compliance with Section 70.05(10)(D)(9), in the Commercial District. These uses not exempt under Section 70.05 may be subject to supplemental conditions found in Section 70.05(10)(D) and such additional conditions as may be warranted to mitigate any deleterious effects on the proposed use.
  - A. Single-family, two-family, or multi-family dwellings.
  - B. Recreational vehicle parks or mobile home parks.
  - C. Adult Use (see Section 70.06).
  - D. Commercial Bitcoin Installation.
    - (1) Limited to systems with an average noise output of 60 dbls or less as measured from the adjoining property line and all containers are anchored four or greater.
  - E. Cold Fusion and Nuclear Installations.
    - (1) Limited to systems with an approved Decommissioning Plan.

- F. Commercial Batteries.
- (1) Limited to systems with an average noise output of 60 dbls or less as measured from the adjoining property line, a training program for multi-jurisdictional first responders and an approved Decommissioning Plan. To be constructed in accordance with NFPA 855.
4. Yard Requirements. Unless otherwise provided, each lot shall have front, side, and rear yards of not less than the following:
- A. Front yard depth - 25 feet.
- B. Side yard width, none required except adjoining any residential district in which case not less than 10 feet.
- C. Rear yard depth - 25 feet.
5. Height Regulations. Buildings and structures in the Commercial District shall not exceed 45 feet in height. If said buildings or structures are to be located in an area regulated by airport height zoning, any lower height requirement of that airport height zoning shall prevail.
6. Lot Area. The lot area shall be at least twice the gross floor area of the building or buildings.
7. Parking Requirement. The parking area for any building hereinafter erected shall be as follows:
- A. Retail Store or Service Establishment. The minimum parking space requirements shall be one off-street parking space for each 200 square feet of building floor area.
- B. Motels and Lodging Houses. The minimum parking space requirements shall be one off-street space for each individual sleeping room or living unit.
- C. Office and Funeral Homes. The minimum parking space requirements shall be one off-street parking space for each 300 square feet of floor space in the building devoted to the aforementioned uses.
- D. Restaurants, Cocktail Lounges, Night Clubs, Bowling Alleys, Dance Halls, Skating Rinks, or Similar Establishments. The minimum parking space requirements shall be one off-street parking space for each 100 square feet of floor area in the building devoted to the aforementioned uses.

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**70.14 “C-PUD” COMMERCIAL PLANNED UNIT DEVELOPMENT.**

1. Purpose. The “C-PUD” District is intended to provide for the development or redevelopment of a tract or tracts of ground on a unit basis for a planned business and service area characterized by a concentrated grouping of businesses and compatible uses, with various facilities designed to be used in common, such as ingress and egress roads, extensive parking facilities, etc. This type of development will include such developments as shopping centers and office complexes that are not of the traditional single-lot or single-business concept of development provided for in the “C-1” District.

2. Permitted Uses. Any use or combination of uses permitted in the “C-1” Commercial District may be permitted in the “C-PUD” District.

3. Procedure. Since planned unit business developments, because of their size or intensity of land use, may have a significant effect upon public services and other properties and facilities, extensive authority over their development is retained by the Board of Supervisors and the Planning and Zoning Commission. The procedure for approval of a commercial planned unit development shall be as follows:

A. The owner or owners of any tract or tracts of land may petition for a zoning change to “C-PUD” for a commercial planned unit development. The petition shall be accompanied by evidence that the proposed development is compatible with the surrounding area, evidence showing how the owner or owners propose to maintain any common ground or facilities included within the development, a traffic analysis of the vicinity indicating the effect of the proposed development on nearby streets and roads, evidence of the feasibility of providing adequate storm and surface water handling and sanitary sewer for the proposed development, a statement of financial responsibility to assure construction in accordance with the plan, and a preliminary plan of the proposed development, in triplicate, showing a schematic form generally the buildings and uses, the areas to be developed as parking areas, the location of sidewalks and driveways and the points of ingress and egress including access streets where required, the location and type of landscaping, existing utility, or other easements and development stages and timing of each.

B. The petition, accompanying evidence, and preliminary plan shall be referred to the Planning and Zoning Commission for study and report after public hearing. The Planning and Zoning Commission may waive the submittal requirements for any of the above required evidence or may request any additional evidence it deems necessary and appropriate in their consideration of the petition for a zoning change. The Planning and Zoning Commission shall review the conformity of the proposed development with the standards of the Comprehensive Plan and with recognized principles of civic design, land use planning, and landscape architecture. After public hearing, the Planning and Zoning Commission may approve or disapprove the preliminary plan and request for rezoning as submitted, or require that the petitioner amend the plan to preserve the intent and purpose of this chapter to promote public health, safety, morals, and general welfare.

C. The petition and preliminary plan, as approved by the Planning and Zoning Commission, along with the Planning and Zoning Commission’s recommendations on the request for rezoning shall then be referred to the Board. The Board may approve or disapprove the preliminary plan and request

for rezoning as reported or require such changes in the plan to preserve the intent and purpose of this chapter to promote public health, safety, morals, and general welfare.

D. If the Board approve the preliminary plan and request for rezoning, the applicant shall submit within 270 days, or such longer period as may be approved by the Supervisors after recommendation by the Planning and Zoning Commission, to the Zoning Administrator a final development plan, in triplicate, of not less than one stage of the proposed development showing specifically and in detail the location of all proposed:

- (1) Buildings and uses, including the height and exterior design;
- (2) Parking areas;
- (3) Access drives;
- (4) Streets abutting or within the proposed development;
- (5) Walks;
- (6) All proposed walls and fences;
- (7) Landscaping and planting materials, its type and size at time of installation and at maturity;
- (8) Required peripheral yards;
- (9) Common land, recreation areas, and parks;
- (10) Existing utilities and proposed utilities and public easements;
- (11) Proposed signs and their areas and dimensions;
- (12) Lighting facilities and their type and design;
- (13) Storm and sanitary sewer lines; and
- (14) Development stages and timing of each.

E. The final development plans shall be accompanied by the following required documents:

- (1) If the proposed development includes common land which will not be dedicated to the County, and the proposed development will not be held in single ownership, proposed by-laws of an association fully defining the functions, responsibilities, and operating procedures of the association.
- (2) Performance bond or bonds approved by the County in an amount not less than the estimated cost of the bonded improvements, which bond or bonds shall insure to the County that the dedicated public streets and utilities, including sewers, located therein and other common development facilities in each stage shall be completed by the developer within the time specified on the final development plan.
- (3) Covenant to run with the land, in favor of the County and all persons having a possessory interest in any portion of the development premises, that the owner or owners of the land or their successors in interest will maintain all interior streets, parking areas, sidewalks, parks, and plantings which have not been dedicated to the County in

compliance with the ordinance of the County and the final development plan as approved by the Board, which covenant shall be recorded in the office of the Recorder.

(4) Additional easements or agreements required by the Supervisors at the time of preliminary plan approval.

The final development plan and required documents shall be reviewed by the Planning and Zoning Commission for compliance with the standards of this section and substantial compliance with the preliminary plan. The Planning and Zoning Commission's recommendations and report of the final development plan shall be referred to the Supervisors. The Board shall review the final development plan and approve it if it complies with the standards of this section and is in substantial compliance with the preliminary development plan.

4. Standards and Requirements - Improvements. All streets, sewers, storm sewers, and other improvements must comply with County ordinances and specifications. If turning lanes or other forms of traffic controls are deemed necessary by the Board, the developer shall provide the necessary improvements, subject to the approval of their location and design by the County Engineer.
5. Yard and Height Requirements. In the absence of an appropriate physical barrier, the Board may require open space or screening be located along all or a portion of the development boundary. The height limitations of any adjacent district shall apply within 125 feet of the development boundary. The maximum height of any structure permitted within the development shall be 72 feet.
6. Building Permits. No building permit for any building or structure within the development shall be issued until the final development plan is approved by the Board.
7. Completion. The Board may make the approval of the development plan contingent upon the completion of construction and improvements within a reasonable period of time. Failure to complete the construction and improvements within said period of time shall be deemed sufficient cause for the Board to rezone the subject property to the classification effective at the time of the original request for rezoning to "C-PUD" for said development, unless an extension is recommended by the Planning and Zoning Commission and approved by the Board. Any proposed change in the development plan, after approval of the final development plan by the Board, shall be resubmitted and considered in the same manner as the original proposal.

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**70.15 “RE” RESORT DISTRICT.**

1. Purpose. The “RE” Resort District is created to establish the location of areas best suited to providing accommodation and vacation activity facilities and amenities.
2. Principal Permitted Uses.
  - A. Residential uses including condominiums, duplexes, single-family homes, timeshares, and townhouses.
  - B. Commercial uses, including bed and breakfasts, campgrounds (for profit and nonprofit), cottage/resort enterprise, commercial cottage, general retail, hotel/motel, restaurants/general, timeshare.
  - C. Civic uses and local utility services.
  - D. No industrial uses are permitted.
  - E. Accessory uses and structures including any accessory uses and structures normally incidental and subordinate to the permitted uses and structures.
  - F. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
3. Conditional Uses.
  - A. Residential uses, Planned Unit Development (PUD).
  - B. Commercial uses including convenience stores (including gasoline sales), indoor recreational facilities, marine services, outdoor entertainment, outdoor sports and recreation, Planned Unit Development (PUD).
  - C. Civic uses including clubs or lodges, community recreation, public assembly.
  - D. Accessory uses and structures that have received a Conditional Use Permit.
  - E. Industrial uses – None.
4. Yard Requirements.
  - A. Front yard depth - 60 feet.
  - B. Side yard width - 20 feet, both side yards shall total at least 45 feet. Distance between principal buildings on the same parcel of land shall be 24 feet.
  - C. Rear yard depth - 50 feet.
5. Height Regulations. Buildings and structures in the Resort District shall not exceed 50 feet. However, no structure shall be permitted to extend into the approach zones, clear zones, or other restricted air space required for the protection of an existing airport.
6. Lot Area. The minimum lot area shall not be less than 10 acres, all in one parcel, not bisected by a public roadway. Minimum lot width is 300 feet.

7. Front Lot Line. When a lot bounds a permanent body of water, the front lot line shall be the line abounding the “ordinary high water mark,” between the water and the building, when a lot abuts a golf course, the front lot line shall be the boundary between the building and the golf course.
8. Density of Dwellings. Dwelling units associated with a resort shall not exceed a density of 10 units per acre.
9. Green Belt Buffer. Where Resort District abuts, adjoins, or is adjacent to a residential district, a green belt buffer shall be established. A green belt, minimum width of 10 feet shall be completed within six months of construction and shall thereafter be maintained with vegetative cover and permanent shrubs, hedges, or trees at least six feet in height, which will provide a screen between the districts.
10. Privately Owned Lake Residential. In a Resort District for privately owned lake residential the following shall apply:
  - A. Single-family dwelling.
  - B. Minimum lot area of the privately owned lake residential zone shall be 4,250 square feet.
  - C. Lot width - 50 feet minimum.
  - D. Front yard depth - 20 feet.
  - E. Side yard width - five feet.
  - F. Rear yard depth - 20 feet (lakeside is considered rear yard and measured from ordinary high-water line)
  - G. Maximum height - 35 feet, however no structure shall be permitted to extend into the approach zones, clear zones, or other restricted air space required for the protection of an existing airport.
  - H. Street establishment and maintenance is the responsibility of the Resort District and owners.
11. Restricted Use.
  - A. Commercial bitcoin installation.
  - B. Cold fusion and nuclear installation.
  - C. Commercial batteries.

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**70.16 “I-1” LIGHT INDUSTRY DISTRICT.**

1. Purpose. The “I-1” Light Industry District is created to provide for those commercial and light manufacturing industries which do not qualify for location in the commercial districts, but which are not heavy manufacturing industries.
2. Principal Permitted Uses.
  - A. Wholesale establishments.
  - B. Truck terminals.
  - C. Blacksmith and machine shops.
  - D. Sheet metal shops.
  - E. Storage and distribution warehouses.
  - F. Printing shops.
  - G. Builder’s or contractor’s plant or storage yard.
  - H. Building materials sales and storage, including concrete mixing.
  - I. Lumber yards, including millworks.
  - J. Carpenter and cabinet shops.
  - K. Feed stores.
  - L. Bakery, wholesale.
  - M. Plumbing and heating shop.
  - N. Open yards for storage and sales.
  - O. Automobile repair garage, including body shops.
  - P. Raising of crops.
  - Q. Accessory buildings.
  - R. Any other light manufacturing or commercial enterprise similar to the above listed uses which will not produce significant amounts of dust, noise, smoke, odor, or objectionable types or amounts of vehicular traffic.
3. Conditional Uses. The following uses qualify for Conditional Use Permits, in compliance with Section 70.05(10)(D)(9), in the “I-1” District. These uses not exempt under Section 70.05 may be subject to supplemental conditions found in Section 70.05(10)(D) and such additional conditions as may be warranted to mitigate any deleterious effects on the proposed use.
  - A. Mineral extraction, provided that each application for a Conditional Use Permit be accompanied by a plan for reclamation or alternative use of the site upon completion of the proposed mineral extraction, and provided that active engagement in such use shall not take place within 50 feet of any property line or within 300 feet of any residence. The applicant shall be required to post bond or to provide other appropriate assurance of the plan’s completion.
  - B. Oil and gas wells, drilling for oil, gas, or mineral exploration, and any related structures or installations.

- C. Adult Use (see Section 70.06).
  - D. Commercial Bitcoin Installation.
    - (1) Limited to systems with an average noise output of 60 dbls or less as measured from the adjoining property line and all containers are anchored four feet or greater.
  - E. Cold Fusion and Nuclear Installations.
    - (1) Limited to systems with an approved Decommissioning Plan.
  - F. Commercial Batteries.
    - (1) Limited to systems with an average noise output of 60 dbls or less as measured from the adjoining line, a training program for multi-jurisdictional first responders and an approved Decommissioning Plan. To be constructed in accordance with NFPA 855.
4. Yard Requirements. Unless otherwise specified, each lot shall have front, side, and rear yards of not less than the following:
- A. Front yard depth - 30 feet.
  - B. Side yard width - 30 feet.
  - C. Rear yard depth - 30 feet.
5. Height Regulations. Building structures in the Light Industrial District shall not exceed 60 feet in height. If said buildings or structures are to be located in an area regulated by airport height zoning, any lower height requirement of that airport height regulation shall prevail.
6. Lot Area. The principal and accessory buildings may not occupy more than 50 percent of the lot.
7. Parking Requirements. Two off-street parking spaces shall be provided on the lot for every three employees regularly employed at the same time, plus space to accommodate all trucks or other vehicles, including off-street loading space.

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**70.17 “I-2” HEAVY INDUSTRY DISTRICT.**

1. Purpose. The “I-2” Heavy Industry District is created to provide for heavy manufacturing industries and other types of businesses that might not be compatible if permitted in the other zoning districts.
2. Principal Permitted Uses.
  - A. Food product manufacture, excluding fish and meats.
  - B. Concrete mixing, including concrete products manufacture.
  - C. Contractor’s equipment storage yard.
  - D. Laboratory, experimental or testing.
  - E. Sawmill, including the manufacture of wood products.
  - F. Manufacture and assembly from previously prepared materials such as cloth, leather, plastics, metal, stone, or wood.
  - G. Raising of crops.
  - H. Any other heavy industrial use similar to the above uses which would not create excessive amounts of dust, smoke, gas, noise, fumes, odor, vibration, fire, or explosion.
3. Conditional Uses. The following uses qualify for Conditional Use Permits, in compliance with Section 70.05(10)(D)(9), in the Heavy Industry District. These uses not exempt under Section 70.05 may be subject to supplemental conditions found in Section 70.05(10)(D) and such additional conditions as may be warranted to mitigate any deleterious effects on the proposed use.
  - A. Slaughterhouses, stock yards, and meat processing plants.
  - B. Distillation of ethanol.
  - C. Acid or chemical manufacture or storage.
  - D. Cement, lime, gypsum, or similar material manufacture.
  - E. Explosive manufacture or storage.
  - F. Grain elevators, fertilizer manufacturer, or storage.
  - G. Garbage, offal, or dead animal reduction.
  - H. Petroleum refining or storage.
  - I. Rubber goods manufacture.
  - J. Salvage yard or junk yard providing that the premises on which such activity is conducted shall be wholly enclosed within a building, wall, or fence not less than six feet in height, completely obscuring the activity.
  - K. Mineral extraction and mining, and all plants for processing gravel, sand, rock, or other such raw material provided that active engagement in such use shall not take place within 50 feet of any property line. Each application shall be accompanied by a plan for reclamation or alternative use of the site upon completion of the proposed mineral extraction and the applicant shall be required to post bond or to provide other appropriate assurance of the plan’s completion.

- L. Oil and gas wells, drilling for oil, gas, or mineral exploration, and any related structures and installations.
  - M. Adult Use (see Section 70.06).
  - N. Commercial Bitcoin Installation.
    - (1) Limited to systems with an average noise output of 60 dbls or less as measured from the adjoining property line and all containers are anchored four feet or greater.
  - O. Cold Fusion and Nuclear Installations.
    - (1) Limited to systems with an approved Decommissioning Plan.
  - P. Commercial Batteries.
    - (1) Limited to systems with an average noise output of 60 dbls or less as measured from the adjoining line, a training program for multi-jurisdictional first responders and an approved Decommissioning Plan. To be constructed in accordance with NFPA 855.
4. Yard Requirements. Unless otherwise specified, each lot shall have front, side, and rear yards of not less than the following:
- A. Front yard depth - 30 feet.
  - B. Side yard width - 30 feet.
  - C. Rear yard depth - 30 feet.
5. Height Regulations. There is no height limitation within the Heavy Industry District unless a building or structure is to be located in an area regulated by airport height zoning.
6. Lot Area. The principal and accessory buildings may not occupy more than 50 percent of the lot.
7. Parking Requirements. Two off-street parking spaces shall be provided on the lot for every three employees regularly employed at the same time, plus space to accommodate all trucks or other vehicles, including off-street loading space.

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**70.18 “F-C” FLOODPLAIN CONSERVATION DISTRICT.**

1. Purpose. The “F-C” Floodplain Conservation District is intended and designed as an overlay district that may include any of the other zoning districts. The purpose of the Floodplain Conservation District is to provide additional regulations pertaining to those areas in the County which are subject to flooding. The regulations for the Floodplain Conservation District prevail over any other district regulations pertaining to the subject property.
2. Principal Permitted Uses.
  - A. Public and private forests and wildlife preserves and similar conservation areas (no permit required).
  - B. Public and private recreational facilities such as golf courses, picnic grounds, boat launching ramps, and hiking and horseback riding trails, but not including any permanent buildings.
  - C. Agricultural uses, but not including any permanent buildings or structures except by permit from the State Department of Water, Air, and Waste Management.
  - D. Oil and gas wells, drilling for oil, gas, or mineral exploration, and any related structures or installations.
3. Conditional Uses. Mineral extraction, provided each application is accompanied by a plan for reclamation or alternative use upon completion of the proposed mineral extraction. The applicant shall be required to post bond or to provide other appropriate assurance of the plan’s completion.
4. Yard Requirements. No restrictions.
5. Height Regulations. Airport height zoning regulations will prevail, if applicable.
6. Lot Area. No restrictions.
7. Parking Regulations. Off-street parking space shall be provided as needed.
8. Restricted Use.
  - A. Commercial bitcoin installation.
  - B. Cold fusion installations.
  - C. Commercial batteries.

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# CHAPTER 71

## SUBDIVISIONS

71.01 General Provisions  
71.02 Definitions  
71.03 Improvements

71.04 Standards  
71.05 Procedures  
71.06 Other Provisions

### 71.01 GENERAL PROVISIONS.

1. Short Title. The chapter shall be known as the “Land Subdivision Chapter” of Franklin County.
2. Purpose. The purpose of this chapter is to provide minimum standards for the design, development, and improvement of all new subdivisions and resubdivision of land so that existing land uses will be protected, and so that growth occurs in an orderly manner, consistent with the Comprehensive Plan and to promote the public health, safety, and general welfare of the citizens of the County.
3. Application. Every owner of any tract or parcel of land who has subdivided or shall hereafter subdivide or plat said tract or parcel by simultaneous division or repeated division into three or more parts for the purpose of laying out an addition, subdivision, building lot or lots, acreage, or suburban lots within the County, shall cause plats of such areas to be made in the form, and containing the information, as hereinafter set forth before selling or offering for sale any lots therein contained or placing the plat on record. Subdivisions located within two miles of the corporate limits of any City or town also enforcing subdivision regulations, which has filed those ordinances as required by Section 354.9(1) of the *Code of Iowa*, shall be subject to both the platting regulations of the County and those of such cities or towns, and shall comply with the more restrictive regulations.
4. Recording of Plat. In compliance with Section 354.8 of the *Code of Iowa*, no subdivision plat, resubdivision plat, or street dedication within the County, shall be filed for record with the Recorder, or recorded by the Recorder, until a final plat of such subdivision, resubdivision, or street dedication has been reviewed and approved by resolution of the Board in accordance with the provisions of this chapter. If the Board waives its right to review the subdivision it will be by resolution according to Section 354.8 of the *Code of Iowa*. Upon approval of the final plat by the Board, it shall be the duty of the subdivider to immediately file such plat with the Auditor and Recorder, as required by law. Such approval shall be revocable after 30 days, unless such plat has been duly recorded, and evidence thereof filed with the Board within such 30 days.
5. Fees Established. The Board shall, from time to time, establish by resolution, fees for the review of plats and a fee for variances requested from the Board. No plat for any subdivision or resubdivision shall be considered filed with the Board unless and until said plat is accompanied by the fee, as established by resolution of the Board, and as required by this chapter.
6. Penalties. Any person, firm, co-partnership, corporation, or other association of persons, whether acting directly or through employees or agents, that violates, disobeys, omits, or neglects the provisions of this chapter shall be given a Notice of Violation either by personally giving, certified mail, or served by law enforcement.

This Notice of Violation shall identify the action required to correct the violation and give 20 days to correct it. If said violation is not corrected then a County citation shall be filed either by personally giving, certified mail, or served by law enforcement with fines of \$750.00 for the first offense, \$1,000.00 for the second and subsequent offences. A Notice of Violation may be in the form of a stop work order which shall instruct the violator to cease any activity until said violation is corrected. Situations where a stop work order may be used include, but are not limited to, incidences where any person, firm, co-partnership, corporation, or other association of persons, whether acting directly or through employees or agents disposes of or offers for sale any lot or lots within the area of jurisdiction of this chapter, before the plat thereof has been approved by the Board, and recorded as required by law or where proper documentation has not been filed. Each day the violation is permitted to exist shall constitute a separate offense. The Zoning Administrator shall keep a record of violations in their office. If any person, firm, co-partnership, corporation, or other association of persons, whether acting directly or through employees or agents violates, disobeys, omits, or neglects the provisions of this chapter three or more times in a three-year period, they shall be deemed a chronic offender. Chronic offenders shall be issued a County citation when the Zoning Administrator becomes aware of a violation. A Notice of Violation with a 20 day notice shall not be required in the case of chronic offenders. In case of a violation of any provision of this title, the proper authorities of the County, in addition to other remedies, may institute any appropriate action or proceedings to prevent or abate the illegal act.

7. **Building Permit to Be Denied.** No building permit shall be issued for construction on any lot, parcel, or tract where a subdivision is required by this chapter, unless and until a final plat of such subdivision has been approved and recorded in accordance with this chapter, and until the improvements required by this chapter have been installed.

8. **Access to Public Roads.** Access to the secondary road system shall be limited to one per two houses.

**71.02 DEFINITIONS.** For the purposes of this chapter, certain words herein shall be defined as, and interpreted as follows. Words used in the present tense shall include the future, the singular shall include the plural, the plural shall include the singular, the masculine gender shall include the feminine.

1. "Alley" means public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.

2. "Aliquot part" means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one-quarter shall be considered an aliquot part of a section.

3. "Block" means an area of land within a subdivision that is entirely bounded by streets, railroad rights-of-way, rivers, tracts of public land, or the boundary of the subdivision.

4. "Commission" means the Planning and Zoning Commission appointed by the Board for the purposes of this chapter, and may also be the Zoning Commission, in which case such Commission shall be known as the Planning and Zoning Commission.

5. “Comprehensive plan” means the general plan for the development of the County, which may be titled master plan, general plan, comprehensive plan or some other title, which plan has been adopted by the Board. Such Comprehensive Plan shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.
6. “Corner lot” means a lot situated at the intersection of two streets.
7. “County Engineer” means the professional engineer registered with the State of Iowa designated as County Engineer by the Board.
8. “Cul-de-sac” means a street having one end connected to another street, and the other end terminated by a vehicular turn-around.
9. “Division” means a tract or parcel of land divided into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than a public highway easement, shall not be considered a division for the purposes of these regulations.
10. “Double frontage lot” means any lot which is not a corner lot which abuts two streets.
11. “Easement” means an authorization by a property owner for another to use a designated part of his property for a specified purpose.
12. “Flood hazard area” means any area subject to flooding by a one percent probability flood, otherwise referred to as the base flood; as designated by the Iowa Natural Resources Council or the Federal Emergency Management Agency (FEMA) and identified by maps, electronic or otherwise, provided by FEMA.
13. “Floodway” means the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a base flood without cumulatively raising the waterway surface elevation more than one foot.
14. “Improvements” means changes to land necessary to prepare it for building sites including, but not limited to, grading, filling, street paving, curb paving, sidewalks, walkways, water mains, sewers, drainage ways, and other public works and appurtenances.
15. “Lot” means a portion of a subdivision or other parcel or tract intended as a unit for the purpose, whether immediate or future, of transfer of ownership or building development.
16. “Minimum lot size” means 10 acres, including road right-of-way. Smaller parcels may be considered in a major subdivision.
17. “Owner” means the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.
18. “Parcel” means a part of a tract of land.
19. “Planning and Zoning Commission” means the appointed commission designated by the Board for the purposes of this chapter.
20. “Plat” means a map, drawing or chart on which a subdivider’s plan for the subdivision of land is presented, which he submits for approval and intends, in final form, to record. Such plat shall conform to all of the regulations and the standards and procedures for land surveying in accordance with Chapter 355 of the *Code of Iowa*.

21. "Plat of survey" means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.
22. "Plats officer" shall mean the individual assigned the duty to administer this chapter by the Board or other appointing authority. The provisions of this chapter shall be administered by the Plats Officer, the Planning and Zoning Commission, the County Engineer, the County Auditor, and the Board. Plats shall be reviewed by the Zoning Commission and the County Engineer after which the Commission and the Engineer shall submit their recommendation and the plats to the Board who shall have the final power to approve or disapprove the application.
23. "Resubdivision" means any subdivision of land which has previously been included in a recorded plat. In appropriate context it may be a verb referring to the act of preparing a plat of previously subdivided land.
24. "Street" means public property, not an alley, intended for vehicular circulation. In appropriate context the term street may refer to the right-of-way bounded by the property lines of such public property, or may refer to the paving installed within such right-of-way.
25. "Street, major street" means an arterial street or other street which has or is planned to have continuity to carry traffic from one section of the County to another.
26. "Subdivider" means the owner of property being subdivided, or such other person or entity empowered to act on the owner's behalf.
27. "Subdivision" means the division of land by simultaneous division or repeated division into three or more parts, for the purpose, whether immediate or future, of transfer of ownership or building development. The term when appropriate to the context may refer to the process of subdividing or to the land subdivided. However, the sale or exchange of small parcels of land to or between the owners of adjacent platted lots where such sale or exchange does not create any additional lots shall not be considered a subdivision.
28. "Tract" means an aliquot part of a section, a lot within an official plat, or a government lot.
29. "Utilities" means systems for the distribution or collection of water, gas, electricity, wastewater, telecommunications, and stormwater.

### **71.03 IMPROVEMENTS.**

1. **Improvements Required.** The subdivider shall, at his expense, install and construct all improvements required by this chapter. All required improvements shall be installed and constructed in accordance with the design standards established for such improvements by the Board, and as shown on the approved preliminary plat.
2. **Inspection.** All improvements shall be inspected to insure compliance with the requirements of this chapter. The cost of such inspection shall be borne by the subdivider, and shall be the actual cost of the inspection to the County.
3. **Minimum Improvements.** The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety, and welfare of the citizens of Franklin County.

A. Streets. The subdivider of the land being subdivided shall provide the grading of the entire street right-of-way, alley, or public place, and provide appropriate paving on all streets. All streets or alleys shall be of such width and shall be so constructed as to meet the standards of the County.

B. Sanitary Sewer System. The subdivider of the land being platted shall make adequate provision for the disposal of sanitary sewage from the platted area with due regard being given to present or reasonably foreseeable needs. Where connection to the central sewer system or construction of a central sewage collection and treatment system cannot reasonably be accomplished, septic systems approved by the County Environmental Health Officer may be allowed. No subdivision to be served by septic systems shall be approved until and unless tests have been performed and the results of such tests have been provided to and reported on by the County Environmental Health Officer. Such septic systems, if approved, may be installed by the subdivider, or by a subsequent owner at the time development of a lot takes place.

C. Storm Sewer System. The subdivider of the land being platted shall install and construct a stormwater drainage and storm sewer system adequate to serve the area, including anticipated extension of use to serve additional areas, so as to prevent undue runoff onto adjacent land. Stormwater detention ponds may be required and shall be constructed according to standards established by the County.

D. Water System. The subdivider of the land being platted shall make appropriate provisions for a suitable water supply for each platted lot or parcel. Such water supply shall be appropriate for the character of the development proposed. No subdivision shall be approved until and unless the proposed system for providing water has been approved by the County Environmental Health Officer. Individual wells, if approved, may be installed by the subdivider or by a subsequent owner at the time development of the lot takes place.

E. Subdivision Severe Weather Shelter Required. All subdivisions with five or more manufactured homes shall be required to construct a “tornado safe above ground shelter,” or an underground shelter with enough capacity to house the total number of residents living in the subdivision on a daily basis. The shelter may be used for other purposes as long as it is available during severe weather and the usable area is not reduced below the capacity to house the total number of residents present on a daily basis.

F. Other Improvements. The subdivider of the land being platted shall be responsible for, and the Board may require improvements, to prevent erosion; protection of native trees or other conservation measures; the installation of sidewalks and walkways necessary to secure pedestrian safety, grading, and seeding and sodding of all lots, the planting of any required trees, and the installation of street signs and street lighting as required; and such off-site improvements as may be warranted by the impact of development of the proposed subdivision.

G. Other Requirements. All improvements shall conform to any and all applicable State and federal rules and regulations governing said improvements. This includes rules and regulations of the Iowa Department of Natural Resources and the Army Corps of Engineers.

4. Easements Required.
  - A. Utility Easements. Where required for the placement of present or future utilities, easements of not less than 10 feet in width shall be granted by the owner along rear, and where necessary, alongside, lot lines for public utility requirements. Except where prohibited by topography, such easements shall be centered on lot lines. Easements of greater width may be required along lot lines, or across lots when necessary for the placement and maintenance of utilities. No buildings or structures, except as necessary for utilities, shall be permitted on such easements.
  - B. Easements Along Streams and Watercourses. Whenever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall, at his own expense, make adequate provisions for the proper drainage of surface water and shall also provide and dedicate to the County an easement along said streams and watercourses as necessary for the proper maintenance of the watercourse, and as approved by the Board.
5. Maintenance of Improvements. Unless otherwise approved by the Board, improvements required to be installed shall remain the property and the responsibility of the subdivider, or successors in interest to the lands being subdivided. No subdivision shall be approved until and unless legal covenants, running with the land, sufficient to ensure that the County will not need to assume maintenance responsibility for any such improvement, have been approved by the County Attorney and the Board.

#### **71.04 STANDARDS.**

1. Standards Prescribed. The standards set forth in this chapter shall be considered the minimum standards necessary to protect the public health, safety, and general welfare of the citizens of the County.
2. Land Suitability. No land shall be subdivided which is found to be unsuitable for subdividing by reason of flooding, ponding, poor drainage, adverse soil conditions, adverse geological formations, unsatisfactory topography, or other conditions likely to be harmful to the public health, safety, or general welfare, unless such unsuitable conditions are corrected to the satisfaction of the Board. If land is found to be unsuitable for subdivision for any of the reasons cited in this section, the Board shall state its reasons in writing and afford the subdivider an opportunity to present data regarding such unsuitability. Therefore, the Board may reaffirm, modify, or withdraw its determination regarding such unsuitability.
3. Lands Subject to Flooding. No subdivision containing land located in a wetland, floodway, or a flood hazard area shall be approved by the Board without the approval of the appropriate State or federal agencies. No lot shall be located so as to include land located within a floodway or flood hazard area unless the lot is of such size and shape that it will contain a buildable area not within the floodway or flood hazard area, suitable for development as allowed by the zoning regulations for the zone in which the lot is located and which can support necessary septic systems as recommended by the County Environmental Health Officer. Land located within a wetland, floodway, or flood hazard area may be included within a plat as follows, subject to the approval of the County:
  - A. Included within individual lots in the subdivision, subject to the limitations of this section.

- B. Reserved as open space for recreation use by all owners of lots in the subdivision, with an appropriate legal instrument, approved by the Board, providing for its care and maintenance by such owners.
- C. If acceptable to the Board, dedicated to the County as public open space for recreation or flood control purposes.
4. Plat to Conform to Comprehensive Plan. The arrangement, character, extent, width, grade, and location of all streets, and the general nature and extent of the lots and uses proposed shall conform to the Comprehensive Plan of the County; and shall conform to such other plans including, but not limited to, a County Road or Street Plan, a Sanitary Sewer System Plan, a Water System Plan or a Parks and Open Space Plan, provided such plan has been adopted by the County.
5. Construction Standards for Improvements. In addition to the standards set forth in this chapter, the County Engineer shall from time to time prepare, and the Board shall from time to time, adopt by resolution, technical standards for public improvements. Such technical standards for public improvements shall contain the minimum acceptable specifications for the construction of improvements. Such technical standards may vary for classes of improvements, giving due regard to the classification of streets and roads, or other improvements, and the extent and character of the area served by the improvements.
6. Street Standards. The following standards shall apply to all streets to be located within the subdivision. All major subdivisions shall be in areas in which the property lies immediately adjacent to or has direct access from a hard surfaced public street. In the event the proposed subdivision is situated on an existing graveled public street, it shall be the developer's responsibility to have a hard surfaced public street constructed from the subdivision entrance road(s) or from the subdivision frontage to another hard surfaced public street at the developer's expense. Such hard surfaced public street shall meet the specifications of the County Engineer and are subject to the County Engineer's approval.
- A. Streets shall provide for the continuation of major streets from adjoining platted areas, and the extension of major streets into adjoining unplatted areas. Where a plat encompasses the location for a major street proposed in the Comprehensive Plan or County Road or Street Plan, the plat shall provide for such major street.
- B. Street grades shall align to existing streets, and all grades for streets shall be as approved by the County Engineer.
- C. New arterial streets shall be located so as to not require direct access from the arterial street to abutting lots.
- D. Street right-of-way and pavement widths shall be as specified in the Comprehensive Plan, County Road or Street Plan, or Technical Standards for Public Improvements.
- E. Half-streets are prohibited, except where an existing platted half-street abuts the subdivision; a platted half-street to complete the street shall be required.
- F. Minor streets should be designed to discourage through traffic while safely connecting to major streets or roads.

G. Street jogs with centerline offsets of less than 125 feet shall be prohibited, except where topography or other physical conditions make such jogs unavoidable.

H. Streets shall intersect as nearly at right angles as possible; and no street shall intersect any other street at less than 60 degrees.

I. At intersections of major streets, and otherwise as necessary, lot corners abutting the intersection shall be rounded with a radius sufficient to provide necessary space within the right-of-way for sidewalks, traffic control devices, and other necessary improvements without encroachment onto the corner lots.

J. Dead-end streets are prohibited, except where a street is planned to continue past the subdivider's property, a temporary dead-end may be allowed.

K. Streets which connect with other streets, or loop streets, are preferable, but cul-de-sacs may be permitted.

L. In general, alleys shall be prohibited in residential areas and required in commercial areas with normal street frontage. Dead end alleys are prohibited, unless provided with a turn-around with a minimum right-of-way diameter of 100 feet.

M. When a tract is subdivided into larger than normal lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and opening of future streets and appropriate resubdivision with provision for adequate utility connections for such resubdivision. Easements for the future openings and extensions for such streets or utilities may, at the discretion of the Board, be made a requirement of the plat.

N. Streets which are, or will become, extensions of existing streets shall be given the same name as existing streets. New street names shall not be the same or sound similar to existing street names. All street names and street numbering shall be in conformance with the County Rural Addressing System and shall be at the approval of the Board.

7. Block and Lot Standards. The following standards shall apply to the layout of blocks and lots in all subdivisions, and to the extent possible, in all resubdivisions:

A. The size and shape of blocks or lots intended for commercial or industrial use shall be adequate to provide for the use intended, and to meet the parking, loading, and other requirements for such uses contained in the Zoning Code.

B. Block and lot arrangement and design shall be such that all lots will provide satisfactory building sites, properly related to topography and surrounding land uses.

C. The size and shape of all lots shall comply with all requirements of the of the Zoning Regulations chapter for the zone in which the lot is located. That chapter notwithstanding, no lot shall be created or allowed that is smaller than the minimum lot size.

D. All lots shall abut a public street, or upon an approved private street, with a minimum frontage of at least 35 feet measured as a straight line between the two front lot corners (or with a minimum frontage and setbacks adequate to



provide for the use intended, and to meet the requirements for such uses contained in the Zoning Regulations chapter).

E. Unless unavoidable, lots shall not front, or have direct access to arterial streets or County roads. Where unavoidable, lots shall be so arranged as to minimize the number of access points.

F. All lot lines shall be at right angles to straight street lines or radial to curved street lines, except where, in the judgment of the Board, a variation to this provision will provide a better street and lot layout.

G. Corner lots shall have sufficient extra width to permit the required front yard setback as specified in the Zoning Regulations chapter, oriented to either street.

H. Reversed frontage lots are prohibited. Double frontage lots shall only be permitted where abutting a major street and a minor street, and such lots shall front only on the minor street.

8. Parks and Open Space. All residential subdivisions shall be so designed as to meet the neighborhood park and open space needs of it or its residents. Such needs may be met by dedication and acceptance of public park land or by reservation by covenant of private space, providing there shall exist sufficient covenants, running with the land, to ensure adequate maintenance by the property owners benefiting from such open space.

9. Stormwater. To limit the impact of stormwater runoff, and accompanying sediment, heat, pollutants, and energy, certain development or clearing activities shall be required to complete and implement a Stormwater Pollution Prevention Plan (SWPPP).

A. Activities Requiring a SWPPP. All applicants for major subdivisions and applicants for all other Franklin County permits or approvals that will result in land disturbance activity that meets National Pollutant Discharge Elimination System (NPDES) Phase II or later requirements shall submit to the County Engineer a SWPPP and shall implement the plan.

B. Reviewing Agency. No building permit, subdivision approval, or any permit allowing land disturbing activities shall be issued until the County Engineer reviews the SWPPP, when required. The Engineer shall review the SWPPP and shall submit comments to the County Planning and Program Development Department within 30 days of a SWPPP submittal that meets these requirements.

C. Standards of Review. All plans shall be consistent with NPDES Phase II requirements or latest requirements, and mitigation and management techniques, facilities, and practices shall be consistent with stormwater management recommendations of the Engineer and preferred County design and management practices.

D. Stormwater Pollution Prevention Plan Information Requirements. The Stormwater Pollution Prevention Plan shall provide all the information required in the *Iowa NPDES General Permit No. 2 Part IV*, published in 2007, or most recent update, and shall be consistent with Iowa Rules addressing NPDES permits, including 567, Chapters 60 and 64 of the *Iowa Administrative Code*. The SWPPP shall identify and describe the development project or proposed

vegetative clearing as described in the IDNR guidance document for Stormwater Management for Construction Activities, and shall identify or provide the following information where applicable:

- (1) Existing zoning districts for land within and adjacent to the development.
- (2) All delineated critical natural resources.
- (3) Steep slopes, defined as slopes 14 percent or greater.
- (4) Wooded areas.
- (5) Areas of concentrated flow including, but not limited to, open ditches and grass channels.
- (6) Flow distance from the project boundary to the nearest named receiving water.

E. Stormwater Management Performance Standards. The applicant shall reduce the need for stormwater conveyance or holding facilities by incorporating the use of natural topography and land cover such as natural swales and depressions as they exist prior to development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the receiving water body.

F. Minimize Impact to Natural Features. The development shall minimize impact to natural features, including steep slopes (greater than 14 percent), wetlands, wooded areas of significance, rare or unique species habitat, areas with delineated critical natural resources, designated or protected greenways, or County parks and open space.

G. Maintenance of Stormwater Facilities. The County requires that stormwater facilities be maintained according to the following standards:

- (1) Private Stormwater Facilities. All private stormwater facilities shall be maintained in proper condition consistent with the performance standards for which they were originally designed.

- a. Maintenance Plan Required. No private stormwater facilities shall be approved unless a maintenance plan is provided that defines who will conduct the maintenance, the type of maintenance, and the maintenance intervals. The maintenance plan shall identify who will remove settled materials from ponds, sumps, grit chambers, and other devices, including settled solids, and on what interval. All settled materials shall be removed and properly disposed of on at least a five-year interval. The County may grant a one to five year waiver from this requirement when the owner presents evidence that the facility has additional capacity to remove settled solids in accordance with the original design capacity.

- b. Maintenance-Friendly Design. All stormwater facilities shall be designed to minimize the need for maintenance, to provide easy vehicle and personnel access for maintenance purposes, and be structurally sound. It shall be the responsibility of the applicant to obtain any necessary

easements or other property interests to allow access to the facilities for inspection or maintenance.

c. Inspection. The County shall have the right to inspect all private stormwater facilities during construction, during the first year of operation, and at least once every five years thereafter.

(2) Maintenance of Publicly Owned Stormwater Facilities. The County shall annually perform the maintenance of County-owned stormwater facilities.

10. Parks and School Sites Reserved. When a tract being subdivided includes lands proposed to be parks or school sites in the Comprehensive Plan or other official plan of the County, the sub-divider shall indicate such areas on the plat.

A. Proposed park sites shall be reserved for three years, giving the Board or other authorized public agency the option to purchase the land at the appraised raw land value prior to the subdivision as established by a certified land appraiser. The purchase price shall also include one-half of the cost for grading and paving, including curbs, of the portion of any streets, that are contiguous to the site and any taxes and interest incurred by the sub-divider between the date of reservation and date of purchase by the public agency. Should the park sites not be purchased within three years, the sub-divider may then revise the final plat.

B. Proposed school sites shall be reserved for three years, giving the appropriate school district the option to purchase the land at the appraised raw land value prior to the subdivision as established by a certified land appraiser. The purchase price shall also include one-half of the cost for grading and paving, including curbs, of the portion of any streets that are contiguous to the site and any taxes and interest incurred by the sub-divider between date of reservation and date of purchase by the school district. Should the school sites not be purchased within three years, the sub-divider may then revise the final plat.

#### **71.05 PROCEDURES.**

1. Division of Land Process Form. The Division of Land Process Form shall be used when land is divided in Franklin County.

2. Pre-Application Conference. Whenever a subdivision located in the County is proposed, the owner and subdivider shall schedule a pre-application conference with the Plats Officer. The conference shall be attended by the Plats Officer and such other County or utility representatives as is deemed desirable; and by the owner and their engineer and planner, as deemed desirable. If any portion of the land to be subdivided lies within two miles of any municipality within the County, which has adopted subdivision regulations in accordance with the provisions of Chapter 354 of the *Code of Iowa*, the Plats Officer shall notify the city in writing and shall invite the appropriate City representatives to attend the pre-application conference. The purpose of such conference shall be to acquaint the County with the proposed subdivision and to acquaint the subdivider with the requirements, procedures, and special problems relating to the proposed subdivision.

3. Sketch Plan Required. For the pre-application conference, the subdivider shall provide a map or sketch showing the location of the subdivision, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses in relation to the surrounding area.
4. Presentation to the Planning and Zoning Commission or the Board. The subdivider may present the sketch plan to the Planning and Zoning Commission and the Board for review prior to incurring significant costs preparing the preliminary or final plat.
5. Subdivision Classified. Any proposed subdivision or resubdivision shall be classified as a minor subdivision or a major subdivision.
  - A. Minor Subdivision. Any subdivision which contains not more than four lots fronting on an existing street and does not require the construction of any public improvements, and which does not adversely affect the remainder of the parcel, shall be classified as a minor plat.
  - B. Major Subdivision. Any subdivision, which in the opinion of the Board, does not for any reason meet the definition of a minor subdivision, shall be classified as a major subdivision.
6. Plat Required. In order to secure approval of any proposed subdivision, the owner and subdivider shall submit to the County plats and other information as required by this chapter. The owner and subdivider of any major subdivision shall comply with the requirements for a preliminary plat and the requirements for a final plat and shall submit to the County a Plat of Survey whenever such division requires a metes and bounds description. Parcel descriptions shall denote no less than one-fourth section without plats of survey. The owner and subdivider of a minor subdivision may elect to omit the submission of a preliminary plat.
7. Requirements of the Preliminary Plat. The subdivider shall prepare and file with the Plats Officer or Zoning Administrator, 12 copies of the preliminary plat, drawn at a scale of one inch = 100 feet or larger. Sheet size shall not exceed 24 inches x 36 inches. Where more than one sheet is required, the sheets shall show the number of the sheet and the total number of sheets in the plat, and match lines indicating where other sheets adjoin. The preliminary plat shall be clearly marked "Preliminary Plat" and shall show, or have attached thereto, the following:
  - A. Title, scale, north point, and date on each sheet.
  - B. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the County.
  - C. The name and address of the owner and the name, address, and profession of the person preparing the plat.
  - D. A key map showing the general location of the proposed subdivision in relation to surrounding lands.
  - E. The names and locations of adjacent subdivisions and the names of owners of record and location of adjoining parcels of unplatted land. A list of all owners of record, of property located within 200 feet of the subdivision boundary, shall be attached.

- F. The location of property lines, streets and alleys, easements, buildings, utilities, watercourses, tree masses, and other existing features affecting the plan.
  - G. Existing and proposed zoning of the proposed subdivision and adjoining property.
  - H. Contours at vertical intervals of not more than two feet if the general slope of the site is less than 10 percent and at vertical intervals of not more than five feet if the general slope is 10 percent or greater.
  - I. The legal description of the area being platted.
  - J. The boundary of the area being platted, shown as a dark line, with the approximate length of boundary lines and the approximate location of the property in reference to known section lines.
  - K. The layout, numbers, and approximate dimensions of proposed lots.
  - L. The location, width, and dimensions of all streets and proposed driveways.
  - M. The proposed names for all streets in the area being platted.
  - N. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities.
  - O. Proposed easements showing location, width, purposes, and limitations.
  - P. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds or other public, semi-public or community purposes, or shown for such purposes in the Comprehensive Plan or other adopted plans.
  - Q. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat shall be attached.
  - R. Any other pertinent information as necessary.
  - S. The fee, as required by this chapter.
8. Procedures for Review of Preliminary Plats.
- A. The Plats Officer shall provide copies of the plat to the County Engineer and such other persons as necessary to review the plat; and shall schedule the plat for consideration by the Planning and Zoning Commission. The Plats Officer shall maintain a copy of the plat for public inspection.
  - B. The County Engineer shall examine the plat as to its compliance with the requirements of the chapter and standards of the County and good engineering practice and shall report their findings regarding the plat to the Planning and Zoning Commission.
  - C. The Planning and Zoning Commission shall examine the plat and the report of the County Engineer and such other information as it deems necessary or desirable, to ascertain whether the plat conforms to the Code of the County and conforms to the Comprehensive Plan and other duly adopted plans of the County. The Planning and Zoning Commission shall, within 45 days of the filing of the plat with the Plats Officer, forward a report and recommendation

regarding the plat to the Board. If such recommendation is to disapprove or modify the plat, the reasons therefore shall be set forth in writing in the report, and a copy of the report and recommendation shall be provided to the applicant.

D. The Board shall examine the plat, the report of the County Engineer, the report of the Planning and Zoning Commission and such other information as it deems necessary or desirable. Upon such examination, the Board shall ascertain whether the plat conforms to the ordinances and standards of the County, conforms to the Comprehensive Plan and other duly adopted plans of the County, in order to protect the public health and welfare of the citizens of the County. Following such examination, the Board may approve, approve subject to conditions, or disapprove the plat. If the decision of the Board is to disapprove the plat, or to approve the plat subject to conditions, the reasons therefore shall be set forth in writing in the official records of the Board, and such decisions shall be provided to the applicant. Action on the preliminary plat by the Board shall be taken within 60 days of the filing of the plat with the Plats Officer, unless such time period is extended by agreement between the subdivider and the County. However, such time limitation notwithstanding, if any portion of the land to be subdivided lies within two miles of any municipality within the County which has adopted subdivision regulations in accordance with the provisions of Chapter 354 of the *Code of Iowa*, the Board shall defer final action on the plat until action has been taken by the municipality.

9. Duration of Approval of Preliminary Plat. The approval of a preliminary plat by the Board shall be valid for a period of one year from the date of such approval; after which such approval shall be void and the subdivider shall take no action requiring the precedent approval of a preliminary plat except upon application for and approval of an extension of such period of validity by the Board.

10. Authorization to Install Improvements. The approval of the preliminary plat shall constitute authorization by the Board for the installation of improvements as required by this chapter, and as shown on the preliminary plat provided no such improvement shall be constructed or installed until and unless the plans, profiles, cross sections, and specifications for the construction of such improvement have been submitted to and approved in writing by the County Engineer and any required permits have been received.

11. Completion and Acceptance of Improvements. Before the Board will approve the final plat, any improvements to become the property of the County shall be constructed and accepted by formal resolution of the Board. Before passage of said resolution of acceptance, the County Engineer shall report that said improvements meet all County specifications and ordinances or other County requirements and the agreements between the subdivider and the County. No improvements shall be designed to become the property of the County without prior written approval from the Board based upon the recommendation of the County Engineer.

12. Performance Bond Permitted. In lieu of the requirement that improvements be completed prior to the approval of a final plat, the subdivider may post a performance bond with the County guaranteeing that improvements not completed shall be completed within a period of one year from the date of approval of such final plat.

13. Requirement of Final Plat. The subdivider shall, within one year from the date of approval of the preliminary plat, unless such time period has been extended, prepare

and file with the Plats Officer, 12 copies of the final plat and required attachments, as set forth in this chapter. Except for a final plat for a minor subdivision as set forth herein, no final plat shall be considered by the Board until and unless a preliminary plat for the area included in the proposed final plat has been approved and has not expired and become void as set forth above. The final plat shall be drawn at a scale of 1 inch = 100 feet or larger. Sheet size shall be no greater than 18 inches x 24 inches nor smaller than 8 ½ inches x 11 inches and shall be of a size acceptable to the Auditor, if more than one sheet is used, each sheet shall clearly show the number of the sheet, the total number of sheets included in the plat, and match lines indicating where other sheets adjoin. The final plat shall show the following:

- A. The name of the subdivision.
- B. Name and address of the owner and subdivider.
- C. Scale and graphic bar scale, north arrow, and date on each sheet.
- D. All monuments to be of record, as required by Chapter 354 of the *Code of Iowa*.
- E. Sufficient survey data to positively describe the bounds of every lot, block, street, easement, or other areas shown on the plat, as well as the outer boundaries of the subdivided lands.
- F. All distance, bearing curve, and other survey data as set forth in Chapter 354 of the *Code of Iowa*.
- G. All adjoining properties shall be identified, and where such adjoining properties are a part of a recorded subdivision, and name of that subdivision shall be shown. If the subdivision platted is a resubdivision of a part or the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. Resubdivisions shall be labeled as such in a subtitle following the name of the subdivision wherever the name appears on the plat.
- H. Street names and clear designation of public alleys.
- I. Block and lot numbers.
- J. Accurate dimensions for any property to be dedicated or reserved for public use, and the purpose for which such property is dedicated or reserved for public use.
- K. The purpose of any easement shown on the plat shall be clearly stated and shall be continued to only those easements pertaining to public utilities including gas, power, telephone, cable television, water, sewer; easements for ingress and egress; and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.
- L. All interior excepted parcels, clearly indicated and labeled, “not a part of this plat.”
- M. A strip of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of some practical use as determined by the Board.
- N. Legal description.

- O. The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:5,000 for any individual lot.
- P. A statement by a registered land surveyor that the plat was prepared by the surveyor or under the surveyor's direct personal supervision, signed and dated by the surveyor and bearing the surveyor's State registration number or seal; and a sealed certification of the accuracy of the plat by the registered land surveyor who drew the plat.
14. Attachments to the Final Plat. The following shall be attached to and accompany any final plat:
- A. A certificate by the owner and his spouse, if any, that the subdivision is with their free consent, and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before a notary or officer authorized to take the acknowledgments of deeds.
- B. An attorney's opinion showing that the fee title to the subdivision is free from encumbrances other than those secured by an encumbrance bond.
- C. The encumbrance bond, if any.
- D. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots.
- E. A certificate by the Engineer of Record that all required improvements have been satisfactorily completed in accordance with the construction plans as approved, and in substantial compliance with the approved preliminary plat. In lieu thereof, the Auditor may certify that a bond guaranteeing completion has been approved by the County Attorney and filed with the Auditor.
- F. Where any improvements are to become the property of the County, a resolution accepting and approving such improvements, along with the maintenance bond required by this chapter.
- G. A resolution and certificate for approval by the Board, and the signature of the Chairperson.
- H. The applicable fee, if any.
- I. All attachments as specified in the *Code of Iowa* shall be attached and accompany any final plat.
- J. On a form prescribed by the EMA director, such certification from all Township Trustees and district fire chiefs involved in the subdivision stating that adequate fire or rescue protection will be available.
15. Procedures for the Review of Final Plats.
- A. The Plats Officer shall provide copies of the plat to the County Engineer and such other persons as are necessary to review the plat; and shall schedule that plat for review by the Board. The Plats Officer shall maintain one copy of the plat for the public inspection.
- B. The Plats Officer and the County Engineer shall examine the plat and supporting documentation as to its compliance with the ordinances and standards of the County and its conformance with the preliminary plat; and shall



set forth their findings in writing. A copy of the findings shall be provided to the subdivider.

C. If the plat is found to substantially conform to the preliminary plat as approved, the final plat shall be forwarded to the Board for review. If the plat is found not to conform to the preliminary plat, it shall be referred to the Planning and Zoning Commission for review prior to review by the Board. The Planning and Zoning Commission shall then review the plat and shall forward a written recommendation thereon to the Board within 45 days of the filing of the plat with the Plats Officer. If the recommendation is to disapprove the plat, or to require modification of the plat, the reasons therefore shall be set forth in writing and a copy of the recommendation shall be provided to the subdivider.

D. Upon receipt of the plat and written reports thereon, the Board shall review the plat and attachments thereto. If the plat is found to conform to the ordinances and standards of the County and the Comprehensive Plan and other duly adopted plans, all as of the date of approval of the preliminary plat, and if found to substantially conform to the preliminary plat, the Board shall approve the plat and shall cause its approval to be entered on the plat.

E. Action on the final plat by the Board shall be taken within 60 days of the date of such filing of the plat with the Plats Officer, unless such time period is extended by agreement between the subdivider and the County. However, such time limitation notwithstanding, if any portion of the land to be subdivided lies within two miles of any municipality within the County which has adopted subdivision regulations in accordance with the provisions of Chapter 354.9 of the *Code of Iowa*, the Board shall defer final action on the plat until action has been taken by the municipality. If the action is to disapprove the plat, the reasons therefore shall be set forth in the official records of the Board and such decisions shall be provided to the subdivider.

16. Procedures for the Recording of Final Plats.

A. A subdivision plat, other than an auditor's plat, that is presented to the recorder for recording shall conform to this chapter and shall not be accepted for recording unless accompanied by the following documents:

(1) A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Board.

(2) A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the *Code of Iowa*, may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the Board or dedicated to the public.

(3) An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens, or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.

(4) A certified resolution by each Board as required by Section 354.8 of the *Code of Iowa*, either approving the subdivision or waiving the right to review.

(5) A statement by the auditor approving the name or title of the subdivision plat.

(6) A certificate of the treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the *Code of Iowa*.

B. The Plats Officer and the County Engineer shall examine the plat as to its compliance with the ordinances and standards of the County and a subdivision plat which includes no land set apart for streets, alleys, parks, open areas, school property, or public use other than utility easements, shall be accompanied by the documents listed in Subsections 1, 2, 3, 4, and 5 and a certificate of the Treasurer that the land is free from certified taxes other than certified special assessments.

C. A subdivision plat that is presented to the recorder for recording shall be drawn at a scale of 1 inch = 100 feet or larger. Sheet size shall be no greater than 8 ½ inches x 14 inches nor smaller than 8 ½ inches x 11 inches and shall be of a size acceptable to the Recorder with a two-inch margin at the top. If more than one sheet is used, each sheet shall clearly show the number of the sheet, the total number of sheets included in the plat, and match lines indicating where other sheets adjoin.

#### **71.06 OTHER PROVISIONS.**

1. Variances. Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this chapter would result in extraordinary hardship to the subdivider because of unusual topography or other conditions, or if the subdivision in question is for the purpose of subdividing off an existing building site, the Board may vary, modify, or waive the requirement so that substantial justice may be done and the public interest secured; provided, however, that such variance, modification, or waiver will not have the effect of nullifying the intent and purpose of this chapter. In no case shall variance or modification be more than minimal easing of the requirements as necessary to eliminate the hardship. In so granting a variance, the Board may impose such additional conditions as are necessary to secure substantially the objectives of the requirements so varied, modified, or waived. To receive a variance, a subdivider must submit a written request to the Plats Officer which will then be put on the agenda of the Board to review. The decision of the Board is final. If the Board waives its right to review the subdivision it will be by resolution according to Section 354.8 of the *Code of Iowa*. In no case shall variance or modification be more than minimal easing of the requirements as necessary.

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## CHAPTER 72

# HAMPTON MUNICIPAL AIRPORT HEIGHT ZONING

72.01 Purpose	72.07 Airport Board of Adjustment
72.02 Definitions	72.08 Judicial Review
72.03 Airport Zones and Airspace Height Limitations	72.09 Administrative Agency
72.04 Use Restrictions	72.10 Penalties
72.05 Lighting	72.11 Conflicting Regulations
72.06 Variances	

**72.01 PURPOSE.** A chapter regulating and restricting the height of structures and objects of natural growth in the vicinity of the Hampton Municipal Airport by creating the appropriate zones and establishing the boundaries thereof; defining certain terms used herein; referring to the Hampton Municipal Airport Height Zoning Map which is incorporated in and made a part of this chapter; providing for enforcement; establishing an Administrative Agency; establishing a Board of Adjustment; and imposing penalties. This chapter is adopted pursuant to the authority conferred on the City of Hampton and the Board by Section 329.3 of the *Code of Iowa*. It is hereby found that an airport hazard endangers the lives and property of users of the Hampton Municipal Airport, and property or occupants of land in its vicinity. Accordingly, it is declared:

1. That the creation or establishment of an airport hazard is a public nuisance and an injury to the City of Hampton and the County served by the Hampton Municipal Airport;
2. That it is necessary in the interest of the public health, public safety, and general welfare that creation of airport hazards be prevented;
3. That this should be accomplished to the extent legally possible by proper exercise of the police power; and
4. That the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which the City of Hampton and the County may raise and expend public funds, as an incident to the operation of airports, to acquire land or property interests therein.

**72.02 DEFINITIONS.** For purposes of this chapter the following terms are defined:

1. "Airport" means the Hampton Municipal Airport.
2. "Airport elevation" means the highest point of an airport's usable landing area measured in feet above mean sea level, which elevation is established to be 1,175 feet.
3. "Airport hazard" means any structure or tree or use of land which would exceed the Federal Obstruction Standards as contained in 14 Code of Federal Regulations Sections 77.21, 77.23, and 77.25 as revised March 4, 1972, and which obstruct the air space required for the flight of aircraft and landing or takeoff at an airport or is otherwise hazardous to such landing or taking off of aircraft.
4. "Airport primary surface" means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for

the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

5. "Airspace height" means the height limits in all zones set forth in this chapter and shown on the Hampton Municipal Airport Height Zoning Map, the datum shall be mean sea level elevation unless otherwise specified.

6. "Control zone" means the airspace extending upward from the surface of the earth which may include one or more airports and is normally a circular area of five statute miles in radius, with extensions where necessary to include instrument approach and departure paths.

7. "Decision height" means the height at which a decision must be made, during an ILS instrument approach to either continue to the approach or to execute a missed approach.

8. "Instrument runway" means a runway having an existing instrument approach procedure utilizing air navigation facilities or area type navigation equipment, for which an instrument approach procedure has been approved or planned.

9. "Minimum descent altitude" means the lowest altitude, expressed in feet above mean sea level, to which descent is authorized on final approach or during circle-to-land maneuvering in execution of a standard instrument approach procedure, where no electronic glide slope is provided.

10. "Minimum enroute altitude" means the altitude in effect between radio fixes which assures acceptable navigational signal coverage and meets obstruction clearance requirements between those fixes.

11. "Minimum obstruction clearance altitude" means the specified altitude in effect between radio fixes on VOR airways, off-airway routes, or route segments which meets obstruction clearance requirements for the entire route segment and which assures acceptable navigational signal coverage only within 22 miles or a VOR.

12. "Runway" means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

13. "Visual runway" means a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on an FAA approved airport layout plan, or by any planning document submitted to the FAA by competent authority.

14. "VOR" means a very high frequency omni-directional range. It is a short-range radio navigation that pilots use for navigation.

**72.03 AIRPORT ZONES AND AIRSPACE HEIGHT LIMITATIONS.** In order to carry out the provisions of this section, there are hereby created and established certain zones which are depicted on the Hampton Municipal Airport Height Zoning Map. A structure located in

more than one zone of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. Horizontal Zone. The land lying under a horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by:
  - A. Swinging arcs of 5,000 feet radii from the center of each end of the primary surface of Runways 17 and 35, and connecting the adjacent arcs by lines tangent to those to those arcs.

No structure shall exceed 150 feet above the established airport elevation in the horizontal zone, as depicted on the Hampton Municipal Airport Height Zoning Map.

2. Conical Zone. The land lying under a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to one for a horizontal distance of 4,000 feet. No structures shall penetrate the conical surface in the conical zone, as depicted on the Hampton Municipal Airport Height Zoning Map.

3. Approach Zone. The land lying under a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. (Note: An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.)

- A. The inner edge of the approach surface is 500 feet for Runways 17 and 35.
- B. The outer edge of the approach zone is 2,000 feet for Runway 17 and 1,500 feet for runway 35.
- C. The approach zone extends for a horizontal distance of 5,000 feet at a slope of 20 to one for Runways 17 and 35.

No structure shall exceed the approach surface to any runway, as depicted on the Hampton Municipal Airport Height Zoning Map.

4. Transitional Zone. The land lying under those surfaces extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of seven to one from the sides of the primary surface and from the sides of the approach surfaces. No structure shall exceed the transitional surface, as depicted on the Hampton Municipal Airport Height Zoning Map.

5. No structure shall be erected in the County that raises the published minimum descent altitude or decision height for an instrument approach to any runway, nor shall any structure be erected that causes the minimum obstruction clearance altitude or minimum enroute altitude to be increased on any federal airway in Franklin County.

**72.04 USE RESTRICTIONS.** Notwithstanding any other provisions of Section 72.03, no use may be made of land or water within the City of Hampton or the County in such a manner as to interfere with the operation of any airborne aircraft. The following special requirements shall apply to each permitted use:

1. All lights or illumination use in conjunction with street, parking, signs, or use of land and structures shall be arranged and operated in such a manner that it is not misleading or dangerous to aircraft operating from the Hampton Municipal Airport or in the vicinity thereof.
2. No operations from any use shall produce smoke, glare, or other visual hazards within three statute miles of any usable runway of the Hampton Municipal Airport.

3. No operations from any use in the City of Hampton or the County shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.

**72.05 LIGHTING.** Notwithstanding the provisions of Section 72.04, the owner of any structure over 200 feet 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 chapter and exceeding 949 feet 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. Any permit or variance granted may be so conditioned as to require the owner of the structure or growth in question to permit the City of Hampton or the County, at its own expense, to install, operate, and maintain thereto such markers or lights as may be necessary to indicate to pilots the presence of an airspace hazard.

**72.06 VARIANCES.** Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use his property in violation of any section of this chapter, may apply to the Board of Adjustment for variance from such regulations. No application for variance to the requirements of this chapter may be considered by the Board of Adjustment unless a copy of the application has been submitted to the Hampton Airport Manager for his opinion as to the aeronautical effect of such a variance. If the Hampton Airport Manager does not respond to the Board of Adjustment within 15 days from receipt of the copy of the application, the Board of Adjustment may make its decision to grant or deny the variance.

**72.07 AIRPORT BOARD OF ADJUSTMENT.** There is hereby created an Airport Board of Adjustment to have and exercise the following powers:

1. To hear and decide appeals from any order, requirement, decision, or determination made by the Hampton City Council in the enforcement of this chapter;
2. To hear and decide special exemptions to the terms of this chapter upon which such Board of Adjustment under such regulations may be required to pass; and
3. To hear and decide specific variances.

A. The Airport Board of Adjustment shall consist of two members selected by the City Council of Hampton, two members selected by the Board and one additional member to act as Chairperson and to be selected by a majority vote of the members selected by the City Council of Hampton and the Board. Members shall be removable for cause by the appointing authority upon written charges, after a public hearing. Vacancies shall be filled for the unexpired term of any member whose office becomes vacant in the same manner in which the member was selected. The terms of the members shall be five years, excepting that when the Airport Board of Adjustment is first created, one member appointed by each authority shall be appointed for a term of two years and one for a term of four years.

B. The Airport Board of Adjustment shall adopt rules for its governance and in harmony with the provisions of this chapter. Meetings of the Airport Board of Adjustment shall be held at the call of the Chairman and at such other times as the Airport Board of Adjustment may determine. The Chairman, or in their absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. 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 examinations and other official actions, all of which shall immediately be filed in the offices of the City Clerks and County Auditor, and on due cause shown.

C. The Airport Board of Adjustment shall have the powers established in Section 414.12 of the *Code of Iowa*.

D. The concurring vote of a majority of the members of the Airport Board of Adjustment shall be sufficient to reverse any order, requirement, decision, or determination of any administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect variations of this chapter.

**72.08 JUDICIAL REVIEW.** Any person aggrieved or any taxpayer affected by any decision of the Board of Adjustment, may appear to the Court of Record as provided in Section 414.15 of the *Code of Iowa*.

**72.09 ADMINISTRATIVE AGENCY.** It shall be the duty of the Hampton City Zoning Officer or the Franklin County Zoning Administrator, who shall herein be referred to as the Administrative Agency, to administer the regulations prescribed herein. Applications for permits and variances shall be made to the appropriate authority having jurisdiction upon a form furnished by them. Applications required by this chapter to be submitted to the Administrative Agency shall be promptly considered and granted or denied. Application for action by the Airport Board of Adjustment shall be forthwith transmitted by the Administrative Agency.

**72.10 PENALTIES.** Any person, firm, co-partnership, corporation, or other association of persons, whether acting directly or through employees or agents, that violates, disobeys, omits, or neglects the provisions of this chapter shall be given a Notice of Violation either by personally giving, certified mail, or served by law enforcement. This Notice of Violation shall identify the action required to correct the violation and give 20 days to correct it. If said violation is not corrected then a County citation shall be filed either by personally giving, certified mail, or served by law enforcement with fines of \$750.00 for the first offense, \$1,000.00 for the second and subsequent offenses. A Notice of Violation may be in the form of a stop work order which shall instruct the violator to cease any activity until said violation is corrected. Situations where a stop work order may be used include, but are not limited to, incidences where construction has begun which will violate airspace height limitations or where proper documentation has not been filed. Each day the violation is permitted to exist shall constitute a separate offense. The Zoning Administrator shall keep a record of violations in his office. If any person, firm, co-partnership, corporation, or other association of persons, whether acting directly or through employees or agents, violates, disobeys, omits, or neglects the provisions of this chapter three or more times in a three-year period, they shall be deemed a chronic offender. Chronic offenders shall be issued a County citation when the Zoning Administrator becomes aware of a violation. A Notice of Violation with a 20-day notice shall not be required in the case of chronic offenders. In case of a violation of any provision of this title, the proper authorities of the County, in addition to other remedies, may institute any appropriate action or proceedings to prevent or abate the illegal act.

**72.11 CONFLICTING REGULATIONS.** Where there exists a conflict between any of the regulations or limitations prescribed in this chapter or any other regulations applicable to the same area, whether the conflict be with respect to height of structures, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

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## CHAPTER 74

# FLOODPLAIN MANAGEMENT

74.01 Definitions	74.06 Standards for Floodplain (Overlay) District
74.02 Statutory Authority, Findings of Fact, and Purpose	74.07 Appointment and Duties of Board of Adjustment
74.03 General Provisions	74.08 Nonconforming Uses
74.04 Administration	74.09 Penalties for Violation
74.05 Establishment of Floodplain (Overlay) District	74.10 Amendments

**74.01 DEFINITIONS.** . Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. “Appurtenant structure” means a structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
2. “Base flood” means the flood having one percent chance of being equaled or exceeded in any given year (also commonly referred to as the “100-year flood”).
3. “Base flood elevation” (BFE) means the elevation floodwaters would reach at a particular site during the occurrence of a base flood event.
4. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”
5. “Board of Appeals” means the Board of Supervisors of the County.
6. “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. “Development” does not include minor projects or routine maintenance of existing buildings and facilities, as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.
7. “Enclosed area below lowest floor” means the floor of the lowest enclosed area in a building when all the following criteria are met:
  - A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of 74.06(5)(A) of this chapter; and
  - B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking, or storage; and
  - C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot above the base flood elevation; and
  - D. The enclosed area is not a basement, as defined in this section.

8. “Existing construction” means any structure for which the start of construction commenced before the effective date of the first floodplain management regulations adopted by the community.
9. “Existing factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.
10. “Expansion of existing factory-built home park or subdivision” means 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).
11. “Factory-built home” means any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this chapter factory-built homes include mobile homes, manufactured homes, and modular homes; and also includes recreational vehicles which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
12. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
13. “Five hundred (500) year flood” means a flood, the magnitude of which has a two-tenths percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every 500 years.
14. “Flood” means 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. “Flood Insurance Rate Map” (FIRM) means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.
16. “Flood Insurance Study” (FIS) means a report published by FEMA for a community issued along with the community’s Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.
17. “Floodplain” means any land area susceptible to being inundated by water as a result of a flood.
18. “Floodplain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.
19. “Floodproofing” means 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.

20. “Floodway” means 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 foot.
21. “Floodway fringe” means those portions of the Special Flood Hazard Area outside the floodway.
22. “Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
23. “Historic structure” means any structure that is:
- A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;
  - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
  - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - (1) By an approved state program as determined by the Secretary of the Interior; or
    - (2) Directly by the Secretary of the Interior in states without approved programs.
24. “Lowest floor” means the floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of “enclosed area below lowest floor” are met.
25. “Maximum damage potential uses” means hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.
26. “Minor projects” means small development activities (except for filling, grading and excavating) valued at less than \$500.00.
27. “New construction” (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.
28. “New factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the

factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the first floodplain management regulations adopted by the community.

29. “Recreational vehicle” means a vehicle which is:
- A. Built on a single chassis;
  - B. Four hundred square feet or less when measured at the largest horizontal projection;
  - C. Designed to be self-propelled or permanently towable by a light duty truck; and
  - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
30. “Routine maintenance of existing buildings and facilities” means 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.
31. “Special Flood Hazard Area” (SFHA) means the land within a community subject to the base flood. This land is identified on the community’s Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, or A99.
32. “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 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.

33. “Structure” means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, grain storage facilities and other similar uses.

34. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.

35. “Substantial improvement” means 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 50 percent of the market value of the structure either:

- (1) Before the start of construction of the improvement; or
- (2) 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 a historic structure, provided the alteration will not preclude the structure’s designation as a historic structure.

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

36. “Variance” means a grant of relief by a community from the terms of the floodplain management regulations.

37. “Violation” means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations.

#### **74.02 STATUTORY AUTHORITY, FINDINGS OF FACT, AND PURPOSE.**

1. Statutory Findings. The Legislature of the State of Iowa has, in Chapter 335 of the *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 Franklin County are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety, and general welfare of the community.

- B. These flood losses, hazards, and related adverse effects are caused by:
  - (1) 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
  - (2) 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 chapter to protect and preserve the rights, privileges and property of Franklin County and its residents and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents by minimizing those flood losses described in Paragraph 2(A) of this section with provisions designed to:
  - A. Reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.
  - B. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.
  - C. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
  - D. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
  - E. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

#### **74.03 GENERAL PROVISIONS.**

- 1. Lands to Which Chapter Applies. The provisions of this chapter shall apply to all lands within the jurisdiction of Franklin County which are located within the boundaries of the Floodplain (Overlay) District as established in Section 74.05.
- 2. Establishment of Official Floodplain Zoning Map. The Flood Insurance Rate Map (FIRM) for Franklin County and Incorporated Areas, dated December 18, 2012, which was prepared as part of the Flood Insurance Study for Franklin County, is hereby adopted by reference, and declared to be the Official Floodplain Zoning Map. The Franklin County Flood Insurance Study is hereby adopted by reference and is made a part of this chapter for the purpose of administering floodplain management regulations.
- 3. Rules for Interpretation of Floodplain (Overlay) District. The boundaries of the Floodplain (Overlay) District areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Planning and Zoning Administrator shall make the necessary interpretation. The Zoning 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 Planning and Zoning Administrator in the enforcement or administration of this chapter.
- 4. Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the



terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

5. Abrogation and Greater Restrictions. It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

6. Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Board and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

7. Warning and Disclaimer of Liability. The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated Floodplain (Overlay) District areas will be free from flooding or flood damages. This chapter shall not create liability on the part of Franklin County or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

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

#### **74.04 ADMINISTRATION.**

1. Appointment, Duties and Responsibilities of Zoning Administrator.

A. The Planning and Zoning Administrator is hereby appointed to implement and administer the provisions of this chapter and will herein be referred to as the Administrator.

B. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:

(1) Review all Floodplain Development Permit Applications to assure that the provisions of this chapter will be satisfied.

(2) Review Floodplain Development Applications to assure that all necessary permits have been obtained from federal, State, and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.

(3) Record and maintain a record of:

a. The elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures; or

b. The elevation to which new or substantially improved structures have been floodproofed.

(4) Notify adjacent communities and counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

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

(6) Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.

(7) Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.

(8) Review subdivision proposals to insure such proposals are consistent with the purpose of this chapter and advise the Board of Adjustment of potential conflict.

(9) Maintain the accuracy of the community's Flood Insurance Rate Maps when:

a. Development placed within the floodway results in either of the following:

- i. An increase in the base flood elevations; or
- ii. Alteration to the floodway boundary;

b. Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base elevation; or

c. Development relocates or alters the channel.

Within six months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

(10) Perform site inspections to ensure compliance with the standards of this chapter.

(11) Forward all requests for variances to the Board of Adjustment for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the Board of Adjustment.

## 2. Floodplain Development Permit.

A. Permit Required. A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any manmade 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. Application shall be made on forms furnished by the Administrator and shall include the following:

(1) Description of the work to be covered by the permit for which application is to be made.

- (2) Description of the land on which the proposed work is to be done (e.g., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
- (3) Location and dimensions of all structures and additions.
- (4) Indication of the use or occupancy for which the proposed work is intended.
- (5) Elevation of the base flood.
- (6) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of structures or of the level to which a structure is to be floodproofed.
- (7) For structures being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
- (8) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

C. Action on Permit Application. The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the County Board of Adjustment.

D. Construction and Use to Be as Provided in Application and Plans. Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State, that the finished fill, building floor elevations, flood proofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

**74.05 ESTABLISHMENT OF FLOODPLAIN (OVERLAY) DISTRICT.** The floodplain areas within the jurisdiction of the County are hereby divided into the following districts:

1. Floodplain (Overlay) District - those areas identified as Zone A on the Official Floodplain Zoning Map.

The boundaries of which shall be as shown on the official Floodplain Zoning Map. Within this district, all uses not allowed as Permitted Uses are prohibited unless a variance to the terms of this chapter is granted due consideration by the Board of Adjustment.

**74.06 STANDARDS FOR FLOODPLAIN (OVERLAY) DISTRICT.**

1. Permitted Uses.
  - A. All development within the Floodplain District shall be permitted to the extent that they are not prohibited by any other chapter (or underlying zoning district and provided they meet the applicable performance standards of the Floodplain District.
  - B. Any development which involves placement of structures, factory-built homes, fill or other obstructions, storage of materials or equipment, excavation or alteration of a watercourse shall be reviewed by the Department of Natural Resources to determine:
    - (1) Whether the land involved is either wholly or partly within the floodway or floodway fringe and
    - (2) The base flood elevation. The applicant shall be responsible for providing the Department of Natural Resources with sufficient technical information to make the determination.
  - C. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where:
    - (1) The bridge or culvert is located on a stream that drains less than 100 square miles, and
    - (2) The bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567-71.2(1)(b), *Iowa Administrative Code*.
2. Performance Standards. All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations have not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.
  - A. All development shall:
    - (1) Be designed and adequately anchored to prevent flotation, collapse, or lateral movement.
    - (2) Use construction methods and practices that will minimize flood damage.
    - (3) Use construction materials and utility equipment that are resistant to flood damage.
3. Residential Structures. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the base flood elevation and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) 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 located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), *Iowa Administrative Code*.

4. Nonresidential Structures. All new or substantially improved nonresidential structures shall have the lowest floor (including basement) elevated a minimum of one foot above the base flood elevation, or together with attendant utility and sanitary systems, be flood proofed to such a level. When flood proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.

5. 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:

- (1) 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.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) 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 electric meter, electrical service panel box, hot water heater, heating, air conditioning, ventilation equipment (including ductwork), and other similar machinery and equipment elevated (or in the case of non-residential structures, optionally floodproofed to) a minimum of one foot above the base flood elevation.

- D. New and substantially improved structures shall be constructed with plumbing, gas lines, water meters, gas meters, and other similar service utilities either elevated (or in the case of non-residential structures, optionally floodproofed to) a minimum of one foot above the base flood elevation or designed to be watertight and withstand inundation to such a level.
6. 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 foot above the base flood elevation.
- 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. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the *State Building Code*.
7. 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 foot above the base 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 foot above the base 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.
8. Storage of Materials and Equipment. Storage of materials and equipment that are flammable, explosive, or injurious to human, animal or plant life is prohibited unless elevated a minimum of one foot above the base flood elevation. Other material and equipment must either be similarly elevated or:
- A. Not be subject to major flood damage and be anchored to prevent movement due to flood waters; or
- B. Be readily removable from the area within the time available after flood warning.
9. Flood Control Structures. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of three feet 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.

10. Watercourse Alterations. 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.

11. Subdivisions. 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 chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the base flood. Proposals for subdivisions greater than five acres or 50 lots (whichever is less) shall include base flood elevation data for those areas located within the Floodplain (Overlay) District.

12. Accessory Structures to Residential Uses.

A. Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.

(1) The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 square feet in size. Those portions of the structure located less than one foot above the base flood elevation must be constructed of flood-resistant materials.

(2) The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.

(3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

(4) The structure shall be firmly anchored to resist flotation, collapse and lateral movement.

(5) The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.

(6) The structure's walls shall include openings that satisfy the provisions of Subsection 5(A) of this section.

Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

13. Recreational Vehicles.

A. Recreational vehicles are exempt from the requirements of Subsection 6 of this section regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

(1) The recreational vehicle shall be located on the site for less than 180 consecutive days; and

(2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on

its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- 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 Subsection 6 of this section regarding anchoring and elevation of factory-built homes.

14. Pipeline Crossings. 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.

15. Maximum Damage Potential Uses. All new or substantially improved maximum damage potential development shall have the lowest floor (including basement) elevated a minimum of one foot above the elevation of the 500-year flood, 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 base flood; and that the structure, below the two-tenths annual chance flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator. Where two-tenths percent chance flood elevation data has not been provided in the Flood Insurance Study, 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 determinations.

#### **74.07 APPOINTMENT AND DUTIES OF BOARD OF ADJUSTMENT.**

1. Appointment and Duties of Board of Adjustment. A Board of Adjustment is hereby established which shall hear and decide:

- A. Appeals, and
- B. Requests for variances to the provisions of this chapter, and shall take any other action which is required of the Board.

2. Appeals. Where it is alleged there is any error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter, the aggrieved party may appeal such action. The notice of appeal shall be filed with the Board of Adjustment and with the official from whom the appeal is taken and shall set forth the specific reason for the appeal. The official from whom the appeal is taken shall transmit to the Board of Adjustment all the documents constituting the record upon which the action appealed from was taken.

3. Variance. The Zoning Board of Adjustment may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards.



- A. Variances shall only be granted upon:
- (1) A showing of good and sufficient cause;
  - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - (3) A determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
- B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
- C. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- D. In cases where the variance involves a lower level of flood protection for structures than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that:
- (1) The issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and
  - (2) Such construction increases risks to life and property.
- E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.
4. Hearings and Decisions of the Board of Adjustment.
- A. Hearings. Upon the filing with the Board of Adjustment of an appeal or a request for a variance, the Board shall hold a public hearing. The Board shall fix a reasonable time for the hearing and give public notice thereof, as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The Board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request the technical assistance and evaluation of a professional engineer or other expert person or agency, including the Department of Natural Resources.
- B. Decisions. The Board shall arrive at a decision on an Appeal or Variance within a reasonable time. In passing upon an Appeal, the Board may, so long as such action is in conformity with the provisions of this ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision, or determination appealed from, and it shall make its decision, in writing, setting forth the findings of fact and the reasons for its decision. In granting a variance, the Board shall consider such factors as contained in this section and all other relevant sections of this ordinance and may prescribe such conditions as contained in Section 74.07(6).

5. Factors Upon Which the Decision of the Board of Adjustment Shall Be Based. In passing upon applications for variances, the Board shall consider all relevant factors specified in other sections of this chapter and:

- A. The danger to life and property due to increased flood heights or velocities caused by encroachments.
- B. The danger that materials may be swept on to other land or downstream to the injury of others.
- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- E. The importance of the services provided by the proposed facility to the County.
- F. The requirements of the facility for a floodplain location.
- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- J. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- K. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
- L. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets, and bridges.
- M. Such other factors which are relevant to the purpose of this chapter.

6. Conditions Attached to Variances. Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

- A. Modification of waste disposal and water supply facilities.
- B. Limitation of periods of use and operation.
- C. Imposition of operational controls, sureties, and deed restrictions.
- D. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this chapter.
- E. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the

regulatory flood. The Board of Adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

7. Appeals to the Court. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the Board.

#### **74.08 NONCONFORMING USES.**

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance codified in this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

A. If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this chapter.

B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter. 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.

3. Except as provided in Section 74.07(3)(A), any use which has been permitted as a variance shall be considered a conforming use.

**74.09 PENALTIES FOR VIOLATION.** Violations of the provisions of this chapter or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than 30 days. Nothing herein contained shall prevent the County from taking such other lawful action as is necessary to prevent or remedy violation.

**74.10 AMENDMENTS.** The regulations and standards set forth in this chapter 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.

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**CHAPTER 75**  
**MORATORIUMS**

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## CHAPTER 80

# COUNTY BOARD OF HEALTH REGULATIONS

80.01 Purpose	80.07 Point Source of Pollution
80.02 County Board	80.08 Private Sewage Systems
80.03 Vacancies	80.09 Private Water Wells
80.04 County Sanitarian	80.10 Public Swimming Pools and Spas
80.05 Right of Entry	80.11 Practice of Tattooing
80.06 Unsanitary Conditions	

**80.01 PURPOSE.** The purpose of this chapter is to maintain the proper enforcement against duly constituted health hazards within the County, pursuant to the authority of the Section 455B.172 of the *Code of Iowa*.

**80.02 COUNTY BOARD.** The County Board of Health shall consist of five members, at least one of whom shall be licensed in the State as a doctor of medicine and surgery or as an osteopathic physician and surgeon as defined by law.

**80.03 VACANCIES.** All members of the County Board of Health shall be appointed by the Board and shall serve for a period of three years. Vacancies due to death, resignation, or other cause shall be filled as soon as possible after the vacancy exists by appointment of the Board for the unexpired term of the original appointment.

**80.04 COUNTY SANITARIAN.** The County Board of Health shall, subject to the approval of the Board, appoint a County Sanitarian who shall enforce State and local regulations necessary for the protection and improvements of the public health; and shall carry out the lawful orders of the County Board of Health.

**80.05 RIGHT OF ENTRY.** The County Sanitarian, their authorized designee, or the County Board of Health may enter and inspect properties at any reasonable time for official investigation and to enforce the provisions of this chapter. Anyone who willfully resists or interferes with the County Health offices, or authorized agents, in the carrying out of any duty shall be guilty of a simple misdemeanor.

**80.06 UNSANITARY CONDITIONS.** No person shall have any building or premises with rodent or insect infestation or other unsanitary conditions which are found by the County Board of Health to constitute a health hazard. The County Board of Health shall conduct an investigation and render a finding that a health hazard does indeed exist before any action or proceeding may be undertaken by the Board. Anyone who knowingly allows a health hazard to exist after notification by the County Board of Health that the health hazard should be corrected, shall be guilty of a simple misdemeanor.

**80.07 POINT SOURCE OF POLLUTION.** Any point source of pollutants into surface or subsurface waters which may constitute a health hazard is hereby prohibited. Health hazards caused by point sources which the County Board of Health finds to be serious may be abated in the manner provided elsewhere in the Code for the abatement of nuisances. Point source shall include, but not be limited to, sinkholes, drainage wells, and field tile outlets.

**80.08 PRIVATE SEWAGE SYSTEMS.** The following are the regulations governing private sewage systems:

1. **Permit Required.** No private sewage disposal system for conduction, collection, storage, treatment, or disposal of sewage from a dwelling or other facility serving the equivalent of 15 persons or less shall be installed or reconstructed until an application for a permit has been filed and a permit has been issued by the County Sanitarian. Any person, firm, or corporation desiring to construct or alter a private sewage system shall file an application with the County Sanitarian, on forms provided by the County Board of Health stating name and business address of the person, firm, or corporation that is to do the work, the name of the property owner, the name of the occupant, and a description of the property where the work is to be done. The application shall be accompanied by plans and specifications showing accurately the size, materials, and location of all proposed construction, alteration, extension, or repair of said sewage system after a site inspection is made by the County Sanitarian. A soil porosity (percolation) test or a site investigation by a person trained in soils, along with a fee set by the County Board of Health must accompany each application. No fees will be refunded.
2. **Contractor's License Required.** No person or firm shall construct or alter any private sewage system for another person or firm, or engage in the business of cleaning privy vaults, cesspools, or septic tanks without first having obtained a license from the DNR.
3. **Standards for Systems.** The Board of Health adopts the provisions of Chapter 567-69 of the *Iowa Administrative Code* - On-Site Waste Water Treatment and Disposal Systems.
4. **Approval of Permits.** The County Sanitarian shall, upon receipt of application for a permit, as soon as possible, but not more than 30 days thereafter, consider said application, negotiate with the applicant on changes deemed advisable for the kind and extent of construction or reconstruction to be engaged by them, and approve the application as originally submitted or modified, or may deny the application. In the event of denial of application by the County Sanitarian, such denial shall spell out in writing why the application is not approvable, the applicant may then appeal to the County Board of Health, and the County Board of Health's decision shall be final.
5. **Compliance with Permit.** All construction or alterations of sewage systems shall be completed according to the plans and specifications approved as part of the permit. In the event that in the course of work, it is found necessary to make any change from the approved plans and specifications on which the permit was issued, proposed revisions shall be submitted to the County Sanitarian for approval. DNR Time of Transfer waivers shall be obtained through the County Sanitarian in accordance with the stipulations set by the Board of Health.
6. **Emergency Work.** In the event of an emergency situation, work may be initiated without first obtaining a permit, after contacting the County Sanitarian. However, a permit must be obtained within a reasonable time. All emergency work must be done in conformity with the adopted standards and the requirements of this chapter and shall be inspected by the County Sanitarian for full compliance.
7. **Discharge Restrictions.** It shall be prohibited to discharge any liquid wastes or sewage systems to any ditch, stream, pond, lake, or surface of the ground. The County Sanitarian may issue written approval for the discharge of effluent which has received



acceptable secondary treatment. Under no circumstances shall effluent from private sewage systems or liquid wastes be discharged to any abandoned well, drainage well, or field tile line.

8. Inspection. No construction, alteration, or repair of any private sewage system shall be covered until it has been inspected and approved by the County Sanitarian. The permit holder shall notify the County Sanitarian when the system is ready to be inspected and the County Sanitarian shall conduct their inspection as soon thereafter as practical. If the inspector finds the work to be in conformity with the provisions of this chapter, they shall issue the permit holder a certificate of approval or endorse their approval on the permit.

**80.09 PRIVATE WATER WELLS.** The following are the regulations governing private water wells:

1. Permit Required. The provisions of Chapter 567-38 of the *Iowa Administrative Code* - Private Well Construction Permits - shall apply and be met for issuance of all well construction permits. No private water well shall be installed or major repairs made thereto until an application for a permit has been filed and a permit has been issued by the Board or their designee. Each application shall be accompanied by a fee set by the County Board of Health. No fees will be refunded.

2. Contractor's License Required. No person or firm shall construct or repair any private water well for any other person without first having obtained a certified license from the DNR.

3. Well Construction Standards. The provisions of Chapter 567-49 of the *Iowa Administrative Code* - Non Public Water Wells shall be met for all construction and repair in the County. The County Board of Health shall adopt, from time to time, additional standards for private water wells. These standards will be adopted and amended by resolution of the County Board of Health and will have the same force and effect as if fully set forth herein.

4. Well Closures. The provisions of Chapter 567-39 of the *Iowa Administrative Code* - Requirements for Properly Plugging Abandoned Wells shall apply and be met by all well closures in the County.

**80.10 PUBLIC SWIMMING POOLS AND SPAS.** The provisions of Chapter 641-15 of the *Iowa Administrative Code* shall apply and be met by all public spas and swimming pools in the County.

**80.11 PRACTICING OF TATTOOING.** The provisions of Chapter 641-22 of the *Iowa Administrative Code* shall apply and be met by all tattoo artists practicing in the County.

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## CHAPTER 85

### COUNTY CONSERVATION BOARD

85.01 Purpose

85.02 Conservation Board - Organization - Terms

85.03 Board Members - Removed

85.04 Annual Report

85.05 Conservation Board - Receivership

85.06 Funding

**85.01 PURPOSE.** The purpose of this chapter is to establish a County Conservation Board and its organization.

**85.02 CONSERVATION BOARD - ORGANIZATION - TERMS.** The Board will appoint five bona fide residents of the County to serve as the members of the Conservation Board. The term of office is five years so that on each succeeding year a new member shall be appointed to the Conservation Board. The Board must select the members of the Conservation Board from residents of the County who have demonstrated interest in conservation matters. The members are not entitled to compensation except that they may be paid for actual and necessary expenses incurred in performance of their official duties.

**85.03 BOARD MEMBERS - REMOVED.** The Board may remove members of the Conservation Board for cause, but each removal must be by written order.

**85.04 ANNUAL REPORT.** The Conservation Board will annually submit a report to the Board concerning its transactions and operations for the preceding year.

**85.05 CONSERVATION BOARD - RECEIVERSHIP.** Authority is vested in the Board to give the Conservation Board any County land or building not devoted to another inconsistent use if the Conservation Board requests the land or building for use as parks, recreation facilities, wildlife refuges, or other similar uses. Subject to certain restrictions, land may be taken by eminent domain for the purpose of carrying out plans for the acquisition of land advanced by the Conservation Board and approved by the Iowa Department of Natural Resources (IDNR). Also, the Board, at its discretion, may make available to the Conservation Board County-owned equipment, County-employed operators, and County-owned materials. The Board may also be reimbursed to the credit of the proper fund from County conservation funds for the actual expense of operation, such operators, etc., made available for the use of the County Conservation Board. Upon request of the Board, the State Executive Council may deed lands under its jurisdiction to the County for park purposes. A majority recommendation of the State Department of Natural Resources is required for approval of this action.

**85.06 FUNDING.** In order to pay for the expenses incurred by the Conservation Board in the performance of its duties and the exercise of its powers, the Board may appropriate money from the County general fund. When the Conservation Board requests, the Board must establish a reserve for land acquisition and capital improvements only. Once money is put in this reserve, it can be used only for land acquisition and capital improvements.

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## CHAPTER 86

# REGULATING THE USE OF THE ROLLING PRAIRIE TRAIL

86.01 Purpose  
86.02 Definitions

86.03 Limitations on Operation  
86.04 Exceptions

**86.01 PURPOSE.** The purpose of this chapter is to protect the condition of the Rolling Prairie Trail and spurs located in the County and to regulate the operation of motor vehicles, all-terrain vehicles, and snowmobiles on said Rolling Prairie Trail and spurs, and provide for penalty for improper or illegal operation due to repair costs.

**86.02 DEFINITIONS.** For purposes of this chapter the following terms are defined:

1. “Motor vehicles” is defined as provided in Chapter 321 of the *Code of Iowa*, as it now exists or is hereafter amended, the term all-terrain vehicles is defined as provided in Section 321I of the *Code of Iowa*.
2. “Snowmobile” is defined in Section 321G of the *Code of Iowa*, as it now exists or is hereafter amended.

**86.03 LIMITATIONS ON OPERATION.** Motor vehicles, all-terrain vehicles, and snowmobiles are prohibited from operating on any section of the Rolling Prairie Trail or Spurs thereof located within the County except for segments clearly marked for operation of such vehicles.

**86.04 EXCEPTIONS.** Any persons who are elder (defined as a person 60 years of age or older) or handicapped may operate on the Rolling Prairie Trail or spurs thereof within in the County, an electric personal assistive mobility device as defined in Section 321.1(20B) of the *Code of Iowa*, or an electric assistive device defined in Section 216E.1(1) of the *Code of Iowa* including, but not limited to, an electric wheelchair, electric scooter, or three or four wheel electric vehicle used by handicapped persons.

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