

# ZONING ORDINANCE

## DES MOINES COUNTY, IOWA

A Zoning Ordinance for the Unincorporated Area  
within Two Miles of the Corporate Limits of the City of Burlington

ORDINANCE NO. 34

Original Zoning Ordinance  
Adopted March 3, 1998

Current Ordinance  
Adopted February 22, 2022

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## ARTICLE 1 – GENERAL PROVISIONS AND DEFINITIONS

### DIVISION 10. GENERAL PROVISIONS

- A. **Purpose.** This Ordinance is adopted in accordance with Chapter 335 of *Iowa Code*, in order to protect the public health, safety, comfort, order and general welfare, through ensuring that an orderly, efficient, and economical process is followed in the development of land within the rural areas of Des Moines County immediately surrounding the City of Burlington.
- B. **Jurisdiction.**
1. This ordinance and all regulations contained therein shall be applicable to all unincorporated land in Des Moines County, Iowa, that is located within a two-mile radius of the corporate limits of the City of Burlington, with the following exceptions:
    - a) Where the two-mile radii around the Cities of Burlington and West Burlington overlap, land that is located to the west of the boundary of subdivision and zoning authority between these two Cities, established through an agreement under Chapter 28E of *Iowa Code*. This line corresponds to the boundary between Sections 13 and 24 and Sections 14 and 23, within Township 70 North, Range 03 West
    - b) Land within the boundary of the Iowa Army Ammunition Plant (IAAAP), which is the property of the United States Government
  2. In any instance where the two-mile radius around the corporate limits of the City of Burlington passes through any portion of an individual parcel of land, the entirety of that parcel shall be subject to the authority of this ordinance and all regulations contained therein. If such a parcel is later subdivided, and any parcel(s) created through this action are located entirely outside the two-mile radius, then those parcels shall no longer be subject to the authority of this ordinance and all regulations contained therein.
  3. In the event that an annexation or severance of territory results in the expansion or contraction of the two-mile radii around the corporate limits of the City of Burlington, any unincorporated land that newly falls inside the two-mile area shall become subject to the authority of this ordinance and all regulations contained therein, and any unincorporated land that newly falls outside the two-mile area shall no longer be subject to the authority of this ordinance and all regulations contained therein.
    - a) In any instance where additional property enters the jurisdiction of this Ordinance, the subject property shall be automatically zoned “A-1” Agricultural. The rezoning of this property to any other District shall follow the procedure outlined in Division 120 of this Ordinance.

C. **Exemption of Agricultural Uses.** In accordance with Chapter 335.2 of *Iowa Code*, no regulation contained within this Ordinance shall apply to land, farmsteads, farm barns, farm outbuildings, or other buildings or structures which are primarily adapted, by reason of nature or area, for use for agricultural purposes, regardless of which Zoning District the property is located in. No Zoning Permit, application, or fee shall be required in order to determine that a proposed development is entitled to an exemption, except as noted in Section C(1) below.

1. It shall be the responsibility of any person or entity claiming that a dwelling is entitled to an exemption on the basis of this section to demonstrate that the dwelling is directly associated with an agricultural operation – thus, constituting a farmstead, as defined by this Ordinance. No fee shall be charged for the applicant if it is demonstrated that the use is entitled to an exemption.
2. As noted in Division 20 of this Ordinance, certain minimum setbacks for agricultural uses are strongly encouraged, but compliance shall be voluntary.
3. Agricultural construction or excavation activities within Special Flood Hazard Areas (SFHA) fall under the jurisdiction of Des Moines County Floodplain Ordinance No. 25 and may require permits in relation to that Ordinance.

D. **District Designation.** The land covered by the jurisdiction of this Ordinance is hereby divided into the following designated districts as shown on the Official Zoning Map for Des Moines County, which is hereby adopted by reference and declared to be part of this Ordinance:

“A-1”	Agricultural District
“R-1”	Single and Two-Family Residential District
“R-1A”	Riverfront Residential District
“R-2”	Multi-Family Residential District
“C-1”	General Commercial District
“I-1”	Industrial District
“PUD”	Planned Unit Development Overlay District
“FP”	Floodplain Overlay District

E. **Official Zoning Map.** A copy of the official Zoning Map for Des Moines County, including all approved amendments thereto, shall be kept at the office of the Land Use Administrator, and made available for viewing by the general public.

1. The Zoning Map shall be clearly identified as the ‘Official Zoning Map’ for Des Moines County, Iowa, and shall include the official seal of the County, to attest to its authenticity.
2. The Zoning Map shall display the date on which it was adopted in its current form, referring to either the original Zoning Map prior to any amendments thereto, or the date of the most recently approved amendment.
3. The Zoning Map shall be formatted so that members of the general public can easily identify the Zoning District classification of any property within the jurisdiction of this Ordinance.



F. **District Boundaries.**

1. The boundaries of the various districts established by this ordinance are property lines, lot lines, section lines, quarter section lines, quarter-quarter section lines, and the centerlines of roads, railroads, and stream channels. When property or lot lines are used, these will refer to the precise geographic location indicated on a recorded plat of survey or deed.

G. **Application of District Regulations.** The regulations applying to each Zoning District shall be the minimum standard for new development of land and buildings within that District. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the requirements specified for the District in which it is located.

H. **Relation to Other Ordinances and Regulations.**

1. Whenever this Ordinance imposes a greater restriction than is imposed or required by other provisions of law or by other rules, regulations or ordinances, the provisions of this ordinance shall prevail.
2. When restrictive covenants exist for a property on which development is proposed, and the covenants impose stricter requirements than this Ordinance, the standards of those covenants shall prevail. However, under no circumstances shall the Land Use Administrator be held responsible for the failure of an applicant to disclose the existence of covenants or specific requirements contained therein prior to the issuance of a Zoning Permit.

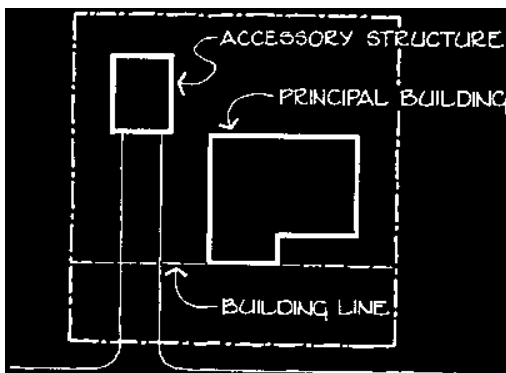
I. **Severability Clause.** Should any section or provision of this ordinance be declared by the Courts to be invalid or unconstitutional, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be invalid or unconstitutional.

## DIVISION 15. DEFINITIONS

A. **Word Usage.** For the purpose of these regulations, certain words herein shall be 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 term “shall” is mandatory, and the term “may” is permissive.

B. **Terms Defined.**

**ACCESSORY BUILDING, STRUCTURE OR USE.** A building, structure or use that is subordinate to and on the same lot with a principal building or use. Does not include garages, carports or decks that are attached to the principal building, as those are considered to be a part of that principal building.



**ADULT ORIENTED BUSINESS.** Any establishment including, but not limited to bookstores, bars, restaurants, movie theaters, arcades or retail stores where films are shown, live performances take place, or where twenty-five (25) percent or more of the materials that are rented, sold, or offered for customers (such as videos, magazines or books) are characterized by an emphasis on the depiction or exposure of specified sexual activities or anatomical areas. The percentage shall constitute either the share of the floor area where the relevant items are displayed, or the share of the total number of items offered, whichever is greater.

**AGRICULTURAL EXPERIENCES.** Any commercial activity located on the same property as an agricultural use, which includes one or more permanent buildings and is open to the public for the intended purpose of promoting or educating the public about agricultural practices, activities, or products. This definition shall apply only to uses that operate on a seasonal or year-round basis, and not to the occasional use of an agricultural property for educational activities or specific events or gatherings.

**APPEAL.** A petition to the Board of Adjustment to reverse an order, requirement, decision or determination made by the Land Use Administrator in the enforcement of this Ordinance, when it is alleged that this order, requirement, decision or determination was made in error.

**ASSISTED LIVING UNITS.** Multi-family dwelling units (typically apartments) that are intended for senior citizens or individuals with a physical or intellectual disability, where a limited amount of personal assistance (such as health care, housekeeping and meal preparation) is offered; distinguished from a nursing home, which is more institutional in character.

**AUTO REPAIR AND SERVICE SHOP.** A business that performs general or minor repairs for motor vehicles, such as rebuilding or reconditioning of engines, collision service as such body or fender repair, and vehicle painting, upholstery, and cleaning.

**BED AND BREAKFAST.** A small lodging establishment containing up to 10 individual guest rooms, typically located in a former single-family dwelling with the proprietor/caretaker residing on the premises.

**BILLBOARD.** A large freestanding off-premise sign used for advertising a business, product, service, or destination, which is typically situated along a highway or other high traffic roadway, with the surface of the sign situated perpendicular to the flow of vehicle traffic.

**BOARD OF ADJUSTMENT.** Shall refer to the Board of Adjustment of Des Moines County, Iowa.

**BOARD OF SUPERVISORS.** Shall refer to the Board of Supervisors of Des Moines County, Iowa.

**BOARDING HOUSE.** A building other than a hotel, where for compensation, meals and/or lodging are provided for three (3) or more persons. In accordance with Chapter 335 of Iowa Code, 'Family Homes', and dwellings subject to the Home and Community-Based Services (HCBS) Waiver, as defined by this Ordinance, are excluded from this definition.

**BUILDING.** Any structure that includes a roof, is enclosed by walls on at least two sides, and is designed or intended for the support, enclosure, and shelter or protection of persons, animals or property.

**BUILDING HEIGHT.** Refers to the vertical distance from the average natural grade at the building line to roof, to the highest point of the coping of a flat roof, or to the deck of a mansard roof, or to the mean height level, between eaves and ridge for gable, hip and gambrel roofs. Building height shall not apply to vertical projections from the roof, such as chimneys or church steeples.

**BULK REGULATIONS.** The set of requirements in each Zoning District that pertains to the placement of structures or uses on a lot, including the minimum lot area, lot width, and setbacks (front, side, and rear).

**BULK FUEL STATION.** A facility used for the storage and distribution of flammable, corrosive or highly volatile liquids, liquefied petroleum products, or other liquefied gases where the aggregate capacity of all storage tanks is more than twelve thousand (12,000) gallons.

**CARPORT.** A roofed structure providing space for the parking of motor vehicles and enclosed on not more than two sides by walls. When physically attached to the principal building, it is considered a part of the principal building. When detached from the principal building, it is considered an accessory structure.

**CONDOMINIUM.** A multi-family dwelling, or group of dwellings, in which the title to each dwelling unit is held in separate ownership, while the remainder of the lot (open space, streets, etc.) is under the shared ownership of the individual title holders (referred to as the 'common area').

**DAYCARE/CHILDCARE CENTER OR PRESCHOOL.** Any institution or establishment which provides supplemental parental care and/or educational activities for six (6) or more unrelated young children, usually for compensation. Does not involved overnight lodging.

**DWELLING.** Any building or portion thereof which is designed or used exclusively for residential purposes, on either a seasonal or year-round basis. This term shall apply to a mobile/manufactured home, but not to a recreational vehicle, travel trailer or tent.

**DWELLING UNIT.** Refers to any portion of a dwelling structure that is designed for or occupied by no more than one household at a time, living independently of any other households that may be located within the same structure.

**SINGLE-FAMILY DWELLING.** A detached dwelling designed for or occupied exclusively for residence purposes by one household. In the context of this ordinance, this term shall not apply to a Farmstead.

**TWO-FAMILY DWELLING.** A dwelling structure designed for or occupied exclusively for residence purposes by two (2) households living independently of each other in two separate dwelling units. Commonly referred to as a 'duplex'.

**MULTI-FAMILY DWELLING.** A dwelling structure designed for or occupied exclusively for residence purposes by three (3) or more households living independently of each other in separate dwelling units.

**ESSENTIAL SERVICES.** Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants. This term does not include telecommunications towers, Solar Energy Systems, electric substations, natural gas booster stations, or any buildings associated exclusively with utility infrastructure.

**FAMILY HOME.** A dwelling which is licensed as a residential care facility under Chapter 135C of *Iowa Code*, or as a child foster care facility under Chapter 237 of *Iowa Code*, to provide room and board, personal care, rehabilitation services, and supervision in a family environment exclusively for not more than 8 persons with a developmental disability or brain injury and any necessary support personnel.

**FARMSTEAD.** A dwelling located on a farm property and occupied by either the owner/operator of that farm, or a person or family employed thereon. An existing dwelling ceases to be a farmstead once it has been severed from the farm on which it was originally located, or is no longer occupied by someone who operates or is employed on the surrounding farm.

**FLOODPLAIN.** Any land area that is naturally susceptible to being inundated by water as a result of a flood. For regulatory purposes, floodplains are identified by the National Flood Insurance Program (NFIP) through the Federal Emergency Management Agency (FEMA).

**GAS STATION.** An establishment providing sales of vehicle fuel and such services as lubrication, oil and tire changes, and minor repairs. This does not include paint spraying or body fender repair.

**GRADE.** The average level of the finished surface of the ground adjacent to the exterior walls of the building.

**GRAIN STORAGE FACILITY.** Any structure or group of related structures such as silos, bins and elevators, used for the purpose of receiving, processing, storing, drying, and/or transporting grain.

**PRIVATE AGRICULTURAL GRAIN STORAGE.** A grain storage facility that is directly associated with an on-site or nearby private farming operation.

**COMMERCIAL GRAIN STORAGE.** A grain storage facility that receives bulk quantities of grain from individual farms, which is then sold or stored for eventual transport to markets and processing facilities elsewhere.

**HAZARDOUS SUBSTANCE.** Any substance or mixture of substances that presents a danger to the public health or safety, and includes, but is not limited to, a substance that is toxic, corrosive or flammable, or that is an irritant, or that generates pressure through decomposition, heat, or other means. This includes substances which, in sufficient quantity may be hazardous, such as alkalis, explosives, fertilizers, heavy metals such as chromium, arsenic, mercury, lead and cadmium, industrial chemicals, paint thinners, paints, pesticides, petroleum products, poisons, radioactive materials, sludge, and organic solvents.

**HOME AND COMMUNITY-BASED SERVICES (HCBS) WAIVER.** A waiver approved by the federal government and implemented under the medical assistance program (Medicaid), for the residential use of property by individuals with a mental or physical disability, operated by a licensed caregiver.

**HOME OCCUPATION.** An instance where a commercial activity is present as a secondary use on a residential property, carried on entirely within the dwelling or an accessory building, and operated by a member of the household residing in the dwelling. where there is no evidence of such occupation or business being conducted by virtue of large displays, or excessive noise, odors, electrical disturbances, or traffic generation. Farmsteads are exempt from this definition.

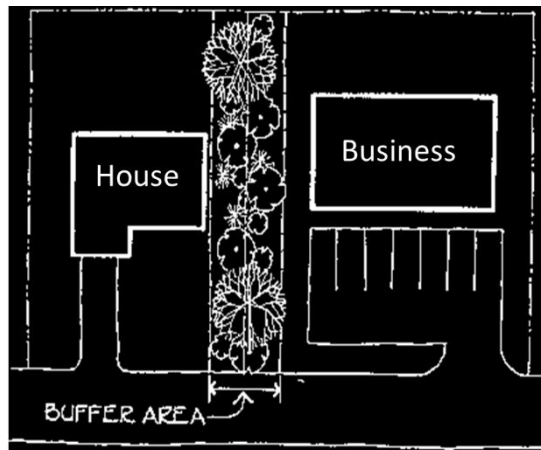
**HOTEL OR MOTEL.** A commercial business intended for the temporary lodging of guests and travelers, either overnight or for temporary stays of no greater than thirty (30) consecutive days, and generally comprising greater than ten (10) individual guest rooms – each having a private bathroom, along with a common area and on-site management and cleaning services.

**HOUSEHOLD.** One or more persons occupying an individual dwelling unit, provided that this does not include more than four (4) persons who are not related by blood, marriage, or adoption).

**KENNEL.** Any facility or establishment where more than four (4) dogs or cats are kept for the purpose of sale or in connection with boarding, care, sale, or breeding.

**LAND USE ADMINISTRATOR.** The individual assigned the duty to enforce and administer this Ordinance by the Board of Supervisors. This term shall also apply to any officer(s) authorized by the Board to assist the primary official in the enforcement of this Ordinance and act on that official's behalf.

**LANDSCAPE BUFFER.** A landscaped area intended to separate and partially obstruct the view between two adjacent properties, when the use of one property differs from the other.



**LOT.** Any individual parcel of land, excluding platted rights-of-way or roadway easements, with specified dimensions to be used for regulating the placement of buildings and structures within its boundaries.

**CORNER LOT.** A lot abutting upon two (2) or more streets at their intersection.

**LOT AREA.** The physical size of a lot within the perimeter comprised of lot lines.

**LOT COVERAGE.** The percentage of the lot area that is occupied by primary and accessory structures that are covered by a roof, measured using the foundation of each structure. This shall not apply to pavement, utility installations, or uncovered decks and recreational facilities such as swimming pools and tennis courts.

**LOT WIDTH.** The horizontal straight line distance between the two side lot lines. For purposes of this Ordinance, the minimum lot width shall be measured at its narrowest extent for the portion where it intersects with the principal building or structure.

**LOT OF RECORD.** A lot which is part of a subdivision recorded in the office of the Des Moines County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**NONCONFORMING LOT.** A lot that does not fully comply with the regulations of this Ordinance (in terms of its size or physical dimensions), but which was legally platted and recorded prior to the effective date of this Ordinance, a subsequent amendment to it, or the rezoning of the property on which it is located.

**LOT LINE.** The boundary of a lot which divides it from other lots, platted rights-of-way, and/or roadway easements. When a lot contains a platted right-of-way or roadway easement, the right-of-way or easement line shall be interchangeable with the lot line.

**ZERO LOT LINE.** An instance where a lot line is situated directly along the wall separating two attached units within the same building.

**MOBILE/MANUFACTURED HOME.** Any single-family dwelling that is manufactured off-site (or 'factory built') and transported to its permanent location, in either a mobile/manufactured home park or an individual, privately owned single-family residential lot.

**MANUFACTURED HOME.** Refers to any such dwelling that was constructed under the Manufactured Home Construction and Safety Standards, enacted by the U.S. Housing and Urban Development Department (HUD) in 1976. While it is transportable in one or more sections, there are no wheels or axles attached to its body or frame, or any permanent hitch or other device allowing for it to be readily transported to other locations once it has been delivered to its initial site.

**MOBILE HOME.** Refers to any such dwelling that was constructed prior to the enactment of the Manufactured Home Construction and Safety Standards. As such, the home may be equipped with wheels or other devices that allow it to be readily transported from place to place. Such a home typically does not include a permanent foundation, and is instead placed either directly on the ground or on concrete blocks or piers with decorative skirting. This term shall not apply to a Recreational Vehicle or travel trailer.

**MOBILE/MANUFACTURED HOME PARK.** A property under single ownership, upon which three or more mobile/manufactured homes are located, occupied as dwellings, and each home may or may not be under separate ownership from the land on which it sits.

**MOBILE/MANUFACTURED HOME CONVERTED TO REAL ESTATE.** A mobile/manufactured home that has been placed at a permanent location, on a lot that is under the same ownership as the home, and which does not contain any other dwellings.

**NURSING HOME OR SIMILAR CARE FACILITY.** An institutional facility where both short and long-term care is provided for three (3) or more persons with limited ability to care for themselves due to age, illness, and/or a physical or developmental disability. Does not contain equipment or facilities for performing surgery and does not provide care for persons with contagious diseases, as distinguished from a hospital.

**OPEN SPACE.** Land that is not occupied by structures, paved/gravel surfaces, or agricultural production activities. May include open grass lawns as well as landscaping such as trees, bushes/shrubbery, flower plantings, or rock gardens.

**PRINCIPAL BUILDING, STRUCTURE OR USE.** The primary use of land or structures on a property, as distinguished from a secondary or accessory use. A principal structure includes any physically attached addition that is constructed onto the original structure at a later date, including attached garages and decks.

**PUBLIC PARK.** An outdoor recreational facility provided by a city or county government, or a non-profit organization such as a YMCA, for use by members of the general public. This term shall not apply to any similar facility operated as a for-profit enterprise.

**PUBLIC WATER SYSTEM.** A system of infrastructure designed to distribute a communal supply of water to individual properties for drinking, cooking, cleaning, bathing and other similar purposes, as distinguished from a private well which supplies water for on-site use. Service may be provided by a municipality or by a rural water supplier (such as Rathbun Rural Water).

**RECREATIONAL VEHICLE.** A motor vehicle that includes space to accommodate temporary living quarters for recreational, camping, and travel purposes.

**RECREATIONAL VEHICLE PARK/CAMPGROUND.** A commercial business that provides accommodations for the occupants of recreational vehicles and travel/camper trailers, which are parked for overnight or temporary lodging, and not used as dwelling/permanent residence. This term shall not apply to any similar facility operated within a Public Park, as defined by this Ordinance.

**RIGHT-OF-WAY.** An area or strip of land upon a lot of record, either public or private, on which an irrevocable right-of-passage has been recorded for the use of vehicles, locomotives, boat traffic, bicycles and/or pedestrians.

**SALVAGE AND JUNK YARDS.** Refers to a property on which waste, discarded or salvaged materials are bought, sold, exchanged, baled or packed, stored, disassembled or handled, whenever such activity is conducted outdoors or in a building that is not fully enclosed. This includes the dismantling or 'wrecking' of automobiles or other vehicles or machinery, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment.

**SANITARY LANDFILL.** The process of disposal of garbage, offal, dead animals, refuse and industrial waste of all kinds, by burying in ground without treatment or burning and then covering with soil immediately, to prevent oxidation, undesirable odors, and generally undesirable conditions, and possible contamination of water supplies, both on surface and underground.

**SEASONAL COTTAGE / CABIN.** A single-family dwelling intended for seasonal or temporary occupancy only, and not as a year-round residence.

**SETBACK.** The required minimum distance between a principal or accessory structure and the lot line, which constitutes the horizontal straight line distance between those two points, measured from the wall or foundation of the structure, regardless of whether a roof overhang or other projection off of the building is present. For any yard that borders a roadway, setbacks shall be measured from the right-of-way or roadway easement line.

**FRONT SETBACK.** The shortest measured distance between a structure and the front lot line, in the area constituting the 'front yard'.

**REAR SETBACK.** The shortest measured distance between a structure and the rear lot line, in the area constituting the 'rear yard'.

**SIDE SETBACK.** The shortest measured distance between a structure and whichever of the two side lot lines is closest to it, in the area constituting a 'side yard'.

**SEWER SYSTEM.** Any form of infrastructure designed for the collection, transport, and treatment of raw sewage/wastewater from individual properties.

**CLUSTER SEWER SYSTEM.** Refers to any instance where wastewater generated on an individual property is transported to a separate off-site location for treatment, and the system serves only a specific neighborhood, subdivision, or development, and is typically provided by a private entity.

**MUNICIPAL SEWER SYSTEM.** Refers to any instance where wastewater generated on an individual property is transported to a separate off-site location for treatment, and the system is typically provided by a public entity for an entire city or large geographic area.

**ON-SITE SEWER SYSTEM.** Refers to any instance where wastewater generated on an individual property is treated on-site, typically using a septic system. In some instances, this may involve infrastructure for the discharge and drainage of treated effluent to an



off-site location (such as a sand filter or leach field), but under no circumstances does untreated sewage leave the property on which it was generated.

**SIGN.** Shall refer to any outdoor structure or device for visual communication that is used for the purpose of bringing a business activity or other subject to the attention of the public, but not including any flag, badge, or insignia of any governmental agency.

**FREESTANDING SIGN.** Any sign which is not physically attached to any building or structure, and is therefore considered a structure in and of itself.

**OFF-PREMISE SIGN.** A sign used for advertising a business, product, service, or destination that is available at a separate location than the property on which the sign is situated.

**ON-PREMISE SIGN.** A sign used for advertising a business, product, service or destination that is located on the same property on which the sign is situated.

**SOCIAL SERVICE PROVIDER.** A facility that is typically run by a public agency or non-profit entity for the purpose of providing the general public with services related to behavioral counseling, child/juvenile development, disability assistance, homelessness/poverty, substance abuse, or veterans' assistance. Such a use does not involve overnight stays, and any similar facility providing lodging shall be considered a 'Nursing Home or Similar Care Facility'.

**SPECIAL FLOOD HAZARD AREA (SFHA).** The land within a community subject to a 100% annual chance flood event (also known as a '100-year floodplain'). This land is identified as Zones A, AE or AH on the community's Flood Insurance Rate Maps. It does not include any identified as Zone X, including areas subject to a 0.2% annual chance flood event (also known as the '500-year floodplain') and areas with a reduced flood risk due to the presence of an accredited levee.

**STORY.** That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it. The following shall not be considered part of any story: attics or similar space under a sloped roof, basements (whether fully or partially below grade), and vertical projections from the roof, such as chimneys and church steeples.

**STRUCTURE.** Anything constructed or erected which requires a permanent location on the ground, or attachment to something having a permanent location on the ground. This includes buildings as well as any such item that is not fully enclosed, such as decks, carports, signs and billboards, and utility infrastructure such as electric substations and telecommunications towers. When used in this Ordinance, this term does not include paved surfaces or pads, retaining walls, fences, or walls that are functionally used as fences.

**TELECOMMUNICATIONS TOWER.** Any guyed, monopole, or self-supporting tower containing one or more antennas for the collection, transmission, or radiation of signals for telephone communication (including cellular phones), as well as radio and television broadcasting.

**TOWNHOMES.** Three (3) or more attached dwellings in a continuous row, each situated on a separate lot, separated from one another by a common wall, which serves as the zero lot line.

**TRAVEL TRAILER.** A portable structure without a permanent foundation which is designed to be towed or hauled by a motor vehicle, and which contains temporary living quarters for recreational, camping, or travel purposes when parked in a designated recreational vehicle park or campground.

**USE.** The purpose or activity for which land or buildings are designed, arranged, intended, occupied or maintained.

**AGRICULTURAL USE.** Any use where the primary purpose is some form of agriculture, including but not limited to: farming, dairying, pasturage, beekeeping, aqua-culture, horticulture, floriculture, forestry, and livestock and poultry operations.

**CIVIC/INSTITUTIONAL USE.** Refers to a variety of public service-oriented uses, such as schools, daycare/childcare centers, hospitals, nursing homes, social service providers, public recreation and event spaces, churches, lodge halls, and government offices.

**COMMERCIAL USE.** A use where the primary purpose is the purchase, sale or exchange of goods or services, or the for-profit operation of offices, and recreational/entertainment enterprises.

**INDUSTRIAL USE.** A use where the primary purpose is the manufacture, fabrication, assembly, packaging, and/or processing of materials, or the storage of large quantities of materials or equipment that may be hazardous, noxious or offensive to the general public if not properly stored, handled, processed or transported.

**NONCONFORMING USE.** Any use of land, buildings, or structures that does not fully comply with the regulations of this Ordinance, but which was legally established prior to the effective date of the Ordinance, a subsequent amendment to it, or the rezoning of the property on which it is located.

**PERMITTED USE.** Any use allowed in a zoning district through the issuance of a Zoning Permit, and subject to the restrictions applicable to that zoning district.

**RESIDENTIAL USE.** Any use where the primary purpose is providing living space/dwelling quarters for individuals, households and families.

**SPECIAL PERMITTED USE.** A use that would ordinarily not be allowed in a particular zoning district, except when deemed to be appropriate and compatible with that district under certain specified conditions, and in a limited number of instances. For purposes of this ordinance, a Special Use requires the approval of the Board of Adjustment.

**TEMPORARY USE.** A temporary use is one established for a fixed period of time with the intent to discontinue such use upon the expiration of such time. Such uses do not involve the construction or alteration of any permanent structure.

**VARIANCE.** The act of waiving one or more specific requirements of this Ordinance in a specific instance, when it is determined that such an action will not be contrary to the public interest, as owing to special, exceptional conditions, a literal enforcement of those specific requirements would result in unnecessary hardship. For purposes of this ordinance, a Variance requires the approval of the Board of Adjustment.

**VETERINARY CLINIC.** Any medical facility for the care, treatment, and associated overnight boarding of domesticated animals, including those traditionally kept as pets or livestock.

**ZONING.** The regulation of the use of private and public property for the purpose of promoting the orderly development of the community.

**REZONING.** The act of changing the Zoning District classification of a specific area of land From one District to another.

**SPOT ZONING.** A rezoning in which both of the following statements are true:

- The rezoning results in a single parcel or small 'island' of property belonging to a different Zoning District than all surrounding properties, and
- The rezoning creates both a clear and unique advantage to the owner(s) of the rezoned property(ies), and a detriment to neighboring property owners.

**ZONING COMMISSION.** Shall refer to the Zoning Commission of Des Moines County, Iowa.

**ZONING DISTRICT.** A defined physical area of land that is uniformly subject to the same set of land use requirements and restrictions, and is identified by a name and number/letter code.

**BASE ZONING DISTRICT.** The primary zoning district classification of a property, which applies to all land within the jurisdiction of this Ordinance.

**OVERLAY ZONING DISTRICT.** A supplemental zoning district that applies to a limited number of properties in a defined physical area, and which provides a set of specified modifications to the regulations of the underlying Base Zoning District. In any instance where a Base District regulation is not identified and modified by the Overlay District, that regulation shall apply the same as for any other property within that Base District.

**ZONING MAP.** The map or maps, which are a part of the Zoning Ordinance, and delineate the boundaries of Zoning Districts.

**ZONING PERMIT.** A written certificate that a structure, use or parcel of land is, or will be, in compliance with the requirements of this Ordinance, and thus once approved, authorizes the applicant to begin with construction or establishment of the approved structure or use on the applicable parcel.

## ARTICLE II – BASE DISTRICT REGULATIONS

### DIVISION 20. “A-1” AGRICULTURAL DISTRICT

- A. **Purpose.** The intent of the Agricultural District is two-fold:
1. To preserve the agricultural character of areas that are not suitable for urban development patterns, due to the presence of high quality farming soils, lack of paved road access, or close proximity to airport runways,
  2. To protect sensitive natural areas such as stream corridors or endangered wildlife habitat areas from the encroachment of urban development.
- B. **Agriculture and Conservation Uses Encouraged.** The following uses are exempt from requiring a Zoning Permit, in accordance with Chapter 335.2 of *Iowa Code*, and as noted in Division 10, Section 2 of this Ordinance. Compliance with the stated distance measurements is strongly encouraged, but not required.
1. Row crops, pasture land, and other similar agricultural uses.
  2. Orchards, truck gardening, greenhouses and forestry.
  3. Farmsteads, as defined by this Ordinance.
    - a) Farmsteads should provide front and rear setbacks of at least thirty (30) feet, and a side setback of at least fifteen (15) feet. This will allow for future road and utility improvements as needed.
  4. Barns and similar agricultural buildings.
  5. The keeping of livestock and poultry animals.
    - a) Any stable or barn for housing livestock should be located at least fifty (50) feet from any residential dwellings on an adjoining property.
  6. Livestock and poultry feed lots or confinement facilities, provided that all feed lots and confinement facilities meet all of the waste treatment requirements of the Iowa Department of Natural Resources, in accordance with *Iowa Code*.
  7. Private agricultural grain storage, such as silos, bins and elevators.
  8. Sale of nursery and greenhouse products, and roadside stands offering for sale products normally associated with a Farmer’s Market type operation.
    - a) Such sales operations should be located at least twenty (20) feet from a roadway right-of-way line.
    - b) Signs accessory to these sales operations should not be placed within the right-of-way of any roadway, as they will be subject to removal by the Secondary Roads Department.
  9. Wildlife refuges, preserves, and natural resource conservation areas, including privately owned wetland and forest reserve areas.
  10. Game management and hunting grounds.

C. **Permitted Principal Uses.**

1. Single-family dwellings, including former Farmsteads that have been severed from the farm, provided that no more than one such dwelling is situated on a single parcel of land.
  - a) Includes mobile/manufactured homes converted to real estate.
  - b) Includes seasonal cottages/cabins.
2. Churches and other places of worship, including associated school buildings.
3. Agricultural experiences, as defined by this Ordinance.
4. Public parks, including playgrounds, campgrounds, and swimming pools.
5. Cemeteries.
6. Outdoor firearm shooting ranges, when authorized by the Zoning Commission, in accordance with Chapter 657.9 of *Iowa Code*.
  - a) The premises shall be well suited for this use by reason of topography, and screening from adjoining properties by trees or other features.

D. **Permitted Accessory Uses.**

1. Any of the Home Occupations listed in Section B of Division 80.
2. The following uses, when associated with a single-family dwelling:
  - a) Detached garages/carports, tool storage/shop buildings, and similar structures
  - b) Private residential swimming pools. Shall apply only to inground pools and above-ground pools that are permanently enclosed by a deck.
3. Ground-mounted solar panels, when used entirely for the production of energy to be used on-site.
  - a) Setbacks shall be measured from the furthest horizontal extent of the panel(s), when positioned at maximum tilt.
4. Freestanding signs associated with Items 2 through 6 in Section C of this Division, and Billboards along any paved County highway, subject to all applicable provisions of Division 90 of this Ordinance.

E. **Special Permitted Uses.** On condition of approval by the Board of Adjustment. See Division 125.

1. Any of the Home Occupations listed in Section C of Division 80.
2. Golf Courses.
3. Expansion or reconstruction of legally non-conforming multi-family residential, commercial or industrial businesses/uses.

4. Private utility stations including electric transformer substations and natural gas booster or pressure regulation stations, provided they are located no less than fifty (50) feet from any adjoining property in an “R-1”, “R-1A”, or “R-2” District, and no less than two hundred (200) feet from any building used as a dwelling.
5. Telecommunications towers, including on-site equipment necessary for the operation thereof, subject to the requirements of Division 95 of this Ordinance.
6. Sanitary Landfill.
7. Mining and mineral extraction, as regulated by Chapter 208 of *Iowa Code*.

**G. Building Height Regulations.**

1. For all permitted uses, no building shall exceed two (2) full stories or thirty-five (35) feet in height.

**H. Bulk Regulations.**

1. For all Permitted Principal Uses, the minimum front and rear setbacks shall be forty (40) feet, and the minimum side setback shall be twenty-five (25) feet.
2. The following regulations shall apply to single-family dwellings:
  - a) The dwelling shall have a minimum lot area of two (2) acres and a minimum lot width of one-hundred fifty (150) feet.
  - b) For any lot of record of less than two (2) acres in size, which existed prior to the adoption of this Ordinance, or any new lot created to split an existing farmstead from the surrounding farmland, dwellings shall comply with the bulk regulations of the “R-1” District.
3. For all accessory structures associated with a Permitted Principal Use, the minimum side and rear setbacks shall be five (5) feet, and the minimum front setback shall be equal to the minimum front setback for a principal structure on the same lot.
  - a) If such an accessory structure is to be located less than ten (10) feet from the principal structure on the same lot, it shall follow the requirements of Division 25, Section F(4) of this Ordinance.

**I. Other Regulations.**

1. Parking provided for single-family dwellings, along with all other permitted uses, shall comply with the minimum standards listed in Division 85 of this Ordinance.
2. For additional regulations pertaining to uses in all Districts, including Water and Sewer System requirements, see Division 60.

**DIVISION 25. "R-1" SINGLE AND TWO-FAMILY RESIDENTIAL DISTRICT**

- A. **Purpose.** The intent of the Single and Two-Family Residential District is to provide for areas of low to moderate density residential development, either where soils and terrain are not well suited for farming, access to paved roads and existing utilities are available, or where there is existing development of this nature in the immediate vicinity.
- B. **Permitted Principal Uses.**
1. Single-family dwellings, provided that no more than one such dwelling is situated on a single parcel of land.
    - a) Includes mobile/manufactured homes converted to real estate.
    - b) Includes seasonal cottages/cabins.
    - c) Includes 'family homes' as defined by this Ordinance. However, in accordance with Chapter 335.25 of *Iowa Code*, such family homes shall be dispersed throughout the "R-1" District and shall not be located within contiguous areas equivalent in size to city block areas.
    - d) Includes dwellings occupied by the recipients of services under a Home and Community-Based Services (HCBS) Waiver, as defined by this Ordinance, in accordance with Chapter 335.34 of *Iowa Code*.
  2. Attached two-family dwellings, provided that no more than one such building with two (2) dwelling units is situated on a single parcel of land.
  3. Schools, public and private, when accredited to operate by the State of Iowa.
  4. Churches and other places of worship.
  5. Meeting and lodge halls, fraternal organizations and private clubs.
  6. Country clubs and golf courses (see also Item D(7) of this Division).
  7. Public parks, including playgrounds, campgrounds, and swimming pools.
  8. Cemeteries
- C. **Permitted Accessory Uses.**
1. Any of the Home Occupations listed in Section B of Division 80.
  2. Detached garages/carports, tool storage/shop buildings, and similar structures.
  3. Private residential swimming pools.
    - a) Shall apply only to inground pools and above-ground pools that are permanently enclosed by a deck. Any above-ground pool that can easily be moved is exempt from requiring a permit.
  4. Ground-mounted solar panels, when used entirely for the production of energy to be used on-site.
    - a) Setbacks shall be measured from the furthest horizontal extent of the panel(s), when positioned at maximum tilt.

5. Freestanding signs associated with Items 4 through 8 in Section B of this Division, subject to all applicable provisions of Division 90 of this Ordinance.

D. **Special Permitted Uses.** On condition of approval by the Board of Adjustment. See Division 125.

1. Any of the Home Occupations listed in Section C of Division 80.
2. Multi-family dwellings of three (3) or four (4) dwelling units, provided that no more than one building with dwelling space is situated on an individual lot. Bulk regulations shall be as regulated in the "R-2" District.
3. Expansion or reconstruction of legally non-conforming multi-family residential, commercial or industrial businesses/uses.
4. The following uses, when not operating on the same premises as a church or accredited school:
  - a) Daycare/childcare centers and preschools.
  - b) Social service providers.
5. Boarding Houses.
6. Any commercial business operating on the grounds of a country club or golf course, when open to the general public (rather than only members of that club).
7. Veterinary Clinics and Kennels.
8. The keeping of a limited quantity of animals typically associated with agriculture (livestock or poultry), on the same property as a single or two-family dwelling.
  - a) This provision shall not apply when the property is primarily adapted, by reason of nature or area, for use for agricultural purposes, while so used.
  - b) Horses and similar livestock animals shall be limited to three (3) animals in total, or one (1) additional animal for each additional acre above one (1) acre. The stable or tethering area for these animals shall be no closer than fifty (50) feet from any adjoining residential properties in an "R-1", "R-1A" or "R-2" District.
  - c) Chickens and similar poultry shall be limited to ten (10) birds per acre, provided that the area where they are housed is no closer than twenty-five (25) feet from any adjoining residential properties.
9. Private utility stations including electric transformer substations and natural gas booster or pressure regulation stations, provided they are located no less than fifty (50) feet from any adjoining property in an "R-1", "R-1A", or "R-2" District, and no less than one hundred (200) feet from any building used as a dwelling.

E. **Building Height Regulations.**

1. For all permitted principal and accessory uses, no building shall exceed two (2) full stories or thirty (35) feet in height.



F. **Bulk Regulations.**

1. The following regulations shall apply to single and two-family residential dwellings (which includes any use of a dwelling for commercial purposes, such as a Home Occupation or Bed-and-Breakfast):
  - a) The minimum lot area shall be forty thousand (40,000) square feet per dwelling unit when served by an on-site sewer system and/or a private well, and thirty thousand (30,000) square feet per dwelling unit when served by a cluster or municipal sewer system.
  - b) When served by an on-site sewer system and/or a private well, the minimum lot width shall be one hundred twenty (120) feet for a single-family dwelling, and one hundred fifty (150) feet for a two-family dwelling.
  - c) When served by a public sewer system, the minimum lot width shall be one hundred (100) feet for a single-family dwelling, and one hundred twenty (120) feet for a two-family dwelling.
  - d) Dwellings shall have minimum front and rear setbacks of thirty (30) feet, and a minimum side setback of fifteen (15) feet.
  - e) For any lot of under forty thousand (40,000) square feet in size, the maximum lot coverage shall be twenty-five (25) percent of the lot area. If a variance is requested to allow for greater coverage, then the applicant shall supply an engineer-approved drainage plan, which offsets the expected increase in storm water runoff generated by the excess coverage.
2. For all other Permitted Principal Uses other than single and two-family residential dwellings, the minimum front and rear setbacks shall be forty (40) feet, and the minimum side setback shall be twenty-five (25) feet.
3. For all accessory structures, the minimum side and rear setbacks shall be five (5) feet, and the minimum front setback shall be equal to the minimum front setback for a principal structure on the same lot.
4. If an accessory structure is to be located less than ten (10) feet from the principal structure on the same lot, then the minimum rear and/or side setbacks shall be proportionally increased above five (5) feet, as indicated:
  - a) If the accessory structure will be less than five (10) feet, but greater than five (5) feet from the principal structure, then it shall have minimum side and rear setbacks of ten (10) feet.
  - b) If the accessory structure will be less than five (5) feet from the principal structure, then it shall have minimum side and rear setbacks of fifteen (15) feet.

G. **Other Regulations.**

1. Parking provided for single-family dwellings, along with all other permitted uses, shall comply with the minimum standards listed in Division 85 of this Ordinance.
2. For additional regulations pertaining to uses in all Districts, including Water and Sewer System requirements, see Division 60.

**DIVISION 30. "R-1A" RIVERFRONT RESIDENTIAL DISTRICT**

- A. **Purpose.** The intent of the Riverfront Residential District is to allow special accommodations for existing residential areas comprised of both year-round and seasonal dwellings that are situated in close proximity to the Mississippi River.
  - 1. While it is recognized that new development on the river side of the levee system is not appropriate or desired, the occupants of existing dwellings should be allowed to continue the use of those dwellings as was unrestricted prior to the adoption of the Des Moines County Floodplain Ordinance No. 25.
  - 2. Furthermore, the use of properties on the land side of the levee for storage facilities and temporary living quarters for the occupants of these river cabins should be allowed as a means of protecting property and possessions from flood damage.
  
- B. **Permitted Principal Uses.**
  - 1. Any Permitted Principal Use in the "R-1" Single and Two-Family Residential District.
  - 2. The following uses, which shall only be permitted in instances where the owner's year-round or seasonal dwelling is situated between the Mississippi River and the levee system, and along the portion of the river between Lock & Dam No. 18 and the north limits of the City of Burlington:
    - a) Residential storage building, when functioning as the principal building on a lot (with no dwelling present).
    - b) Residential storage building with temporary living quarters attached, provided that proper water and sewer facilities are provided, following the requirements of the County Health Department.
  
- C. **Permitted Accessory Uses.**
  - 1. Any Permitted Accessory Use in the "R-1" Single and Two-Family Residential District
  
- D. **Special Permitted Uses.** On condition of approval by the Board of Adjustment. See Division 125.
  - 1. Any Special Permitted Uses in the "R-1" Single and Two-Family Residential District.
  
- E. **Building Height Regulations.**
  - 1. For all permitted principal and accessory uses, no building shall exceed two (2) full stories or thirty (35) feet in height.
  
- F. **Bulk Regulations.**
  - 1. The Bulk Regulations for the "R-1A" District shall be the same as in the "R-1" District, for all uses that are also allowed in the "R-1" District.

2. In any instance where a residential storage building functions as the principal building on a lot (with no dwelling present), the following standards shall apply:
  - a) The minimum lot area shall be twenty thousand (20,000) square feet in any instance in which the building will not, as designed, require a sewer system.
  - b) The minimum front, rear and side setbacks shall be the same as for a single-family dwelling in the “R-1” District.
3. In any instance where a residential storage building with temporary living quarters is attached, the bulk regulations shall be the same as for a single-family dwelling in the “R-1” District.

G. **Other Regulations.**

1. For the portion of the “R-1A” District that is also contained within the “FP” Overlay District (see Division 55), any construction of new buildings and structures, and any additions, reconstruction, or relocation/raising of existing structures, shall comply with the requirements of the Des Moines County Floodplain Development Ordinance.
  - a) Only structures that existed prior to the establishment of this Ordinance shall be permitted within Floodway, and any alterations to existing structures shall comply with the requirements of the Floodplain Development Ordinance.
2. Parking provided for single-family dwellings, along with all other permitted uses, shall comply with the minimum standards listed in Division 85 of this Ordinance.
3. For additional regulations pertaining to uses in all Districts, including Water and Sewer System requirements, see Division 60.

**DIVISION 35. "R-2" MULTI-FAMILY RESIDENTIAL DISTRICT**

A. **Purpose.** The intent of the Multi-Family Residential District is to provide for areas of moderate to high density residential development, in locations that are compatible with higher local traffic volume and utility usage.

B. **Permitted Principal Uses.**

1. Any Permitted Principal Use in the "R-1" Single and Two-Family Residential District.
2. Multi-family dwellings, including apartments, condominiums, townhomes, and assisted living units.
  - a. Whenever there is to be more than one building with dwelling space on an individual lot, the developer is encouraged to establish a Planned Unit Development (PUD), as this will allow flexibility in the design and physical layout of the complex. See Division 50.
3. Mobile / manufactured home parks.

C. **Permitted Accessory Uses.**

1. Any Permitted Accessory Use in the "R-1" Single and Two-Family Residential District
2. Freestanding signs associated with a multi-family dwelling complex, for the purpose of advertising or identification, subject to all applicable provisions of Division 85 of this Ordinance.

D. **Special Permitted Uses.** On condition of approval by the Board of Adjustment. See Division 125.

1. Any Special Permitted Use in the "R-1" Single and Two-Family Residential District.
2. Nursing homes or similar care facilities.
3. Expansion or reconstruction of legally non-conforming commercial or industrial businesses/uses.

E. **Building Height Regulations.**

1. For single and two-family dwellings, no principal or accessory building shall exceed two (2) full stories or thirty (35) feet in height.
2. For all other permitted uses, no principal building shall exceed three (3) full stories or forty (45) feet in height, and no accessory building shall exceed two (2) full stories or thirty (35) feet in height.

F. **Bulk Regulations.**

1. All uses permitted in the "R-1" District shall be as regulated in the "R-1" District.

2. The following shall apply to multi-family dwellings:
  - a) The minimum lot area shall be thirty thousand (30,000) square feet per unit, and the minimum lot width shall be 150 feet.
  - b) The minimum front and rear setbacks shall be thirty-five (35) feet.
  - c) Whenever the primary entrance of a dwelling unit or apartment building faces the side lot line, the minimum side setback shall be thirty-five (35) feet. In all other instances, the minimum side setback shall be fifteen (15) feet.
  - d) For a dwelling comprised of townhomes, a zero lot line may be used for the walls separating individual dwelling units. However, the sum total of all lots comprising the dwelling shall be considered an individual lot for the purpose of bulk regulations, and the minimum front and rear setbacks for that lot shall be 35 feet, and the minimum side setback shall be 15 feet.
  - e) The minimum distance between any two separate buildings containing dwelling space shall be thirty (30) feet, measured from one foundation to the other.
  - f) The minimum setbacks for accessory structures shall be the same as for single and two-family dwellings in the "R-1" District.
3. Any accessory structure shall have minimum side and rear setbacks of five (5) feet, and the minimum front setback shall be equal to the minimum front setback of the principal structure on the same lot.
  - a) Whenever an accessory structure is less than ten (10) feet, but greater than five (5) feet from the principal building on the same lot, that structure shall have minimum side and rear setbacks of ten (10) feet.
  - b) Whenever an accessory building is less than five (5) feet from the principal building on the same lot, that structure shall have minimum side and rear setbacks of fifteen (15) feet.
4. For bulk regulations pertaining to mobile/manufactured home parks, see Division 70, Section B.

G. **Other Regulations.**

1. Parking provided for multi-family dwellings, along with all other permitted uses, shall comply with the minimum standards listed in Division 85 of this Ordinance.
2. For additional regulations pertaining to uses in all Districts, including Water and Sewer System requirements, see Division 60.

**DIVISION 40: "C-1" GENERAL COMMERCIAL DISTRICT**

- A. **Purpose.** The intent of the General Commercial District is to provide for areas of commercial uses (business, service and office) to serve the general needs of the residents of Des Moines County, in appropriate locations that are readily accessible from primary highways or paved arterial and collector roads.
- B. **Permitted Principal Uses.**
1. Any Permitted Principal Use in the "R-2" Multi-Family Residential District.
  2. Any retail business or service establishment, including but not limited to:
    - a) Air conditioning and heating sales/service businesses.
    - b) Auto accessory stores.
    - c) Auto repair and service shops.
    - d) Barber shops and beauty shops/salons.
    - e) Business or professional Office, such as banking/finance, engineering/consulting, and administration.
    - f) Clothing and apparel stores.
    - g) Convenience stores.
    - h) Electrical appliance sales and repair.
    - i) Farm implement sales.
    - j) Gas stations and convenience stores.
    - k) General retail/discount stores
    - l) Grocery stores and pharmacies.
    - m) Gyms and similar fitness/recreation facilities.
    - n) Florist shops.
    - o) Furniture stores.
    - p) Hardware and roofing supply stores.
    - q) Lumberyards.
    - r) Plumbing businesses.
    - s) Restaurants, coffee shops, and candy/ice cream stores.
    - t) Antique stores and rummage shops.
    - u) Wholesale businesses.
  3. Commercial storage business, involving fully enclosed storage units for personal belongings and equipment, made available to the general public for lease or rent.
  4. Medical offices where no in-patient or emergency care is provided, including Dentist and Chiropractic facilities.
  5. Veterinary Clinics and Kennels.
  6. Daycare/childcare centers and Preschools.

7. Social service providers.
8. Nursing homes or similar care facilities.
9. Boarding houses.
10. Hotels and motels.
11. Recreational vehicle parks, subject to the requirements outlined in Division 75.
12. Outdoor firearm shooting ranges, when authorized by the Zoning Commission, in accordance with Chapter 657.9 of *Iowa Code*.
  - a) The premises shall be well suited for this use by reason of topography, and screening from adjoining properties by trees or other features.
13. Any other uses not specifically listed elsewhere in Sections B of this Division, but reasonably deemed by the Land Use Administrator to be similar in nature, character and effect to one of those categories.

C. **Permitted Accessory Uses.**

1. Any Permitted Accessory Use in the "R-2" Multi-Family Residential District.
2. Freestanding Signs and Billboards, subject to all applicable provisions of Division 90 of this Ordinance.
3. Other accessory uses and structures customarily accessory and incidental to any Permitted Principal Use.

D. **Special Permitted Uses.** On condition of approval by the Board of Adjustment. See Division 145.

1. Adult Oriented Businesses, as defined by this Ordinance.
2. Hospitals, where in-patient and/or emergency care is provided.
3. The storage of vehicles, equipment, or other materials directly associated with a manufacturing operation, when no such manufacturing activities take place on the same property.
4. Private utility stations, including electric transformer substations and natural gas booster or pressure regulating stations, provided they are located no less than fifty (50) feet from any adjoining property in an "R-1", R-1A", or "R-2" District, and no less than two hundred (200) feet from any building used as a dwelling.
5. Telecommunications towers, including on-site equipment necessary for the operation thereof, subject to the requirements of Division 95 of this Ordinance.

**E. Landscaping Regulations.**

1. For any permitted principal use that is not also permitted in the “R-2” District, whenever an adjoining property is zoned “R-1”, “R-1A”, or “R-2”, a landscape buffer shall be installed along the side facing that adjoining property.
  - a) Whenever required, a landscape buffer shall consist of a vegetative screen comprised of trees, bushes, or shrubs, which when fully grown result in a solid visual barrier of no less than five (5) feet in width and eight (8) feet in height.
  - b) As a substitute for the landscape buffer required above, a solid fence, wall, or earthen berm no less than eight (8) feet in height may be used in conjunction with a row of low shrubs or other plant materials placed outside the perimeter of the fence, wall, or berm.
  - c) Any required landscape buffer shall be installed prior to the commencement of the permitted use.
  - d) The landscaping requirement may be waived if natural or existing conditions sufficiently limit access and provide visual separation between properties. This includes any instance where a buffer meeting the above standards has already been established on the adjoining property for which a new buffer is required.

**F. Building Height Regulations.**

1. All residential uses shall comply with the building height regulations of the “R-2” District.
2. For all other permitted uses, the height of any building shall not exceed three full (3) stories or fifty (50) feet in height.

**G. Bulk Regulations.**

1. Residential uses shall be as regulated in the “R-2” District.
2. For all other permitted uses, the following shall apply:
  - a) The minimum lot size shall be forty-thousand (40,000) square feet.
  - b) The minimum lot width shall be one-hundred twenty (120) feet.
  - c) The minimum front setback for a principal structure shall be thirty (30) feet.
  - d) The minimum side and rear setback for all structures shall be five (5) feet.
  - e) For accessory structures, the minimum front setback shall equal the setback of the principal structure on the same lot, whether or not this exceeds the minimum for principal structures.
  - f) When the property adjoins an “R-1”, “R-1A”, or “R-2” District, or any other property presently occupied solely by dwelling(s), the minimum setback for a principal structure shall be thirty-five (35) feet for the applicable yard (rear or side).



- g) The maximum lot coverage shall be fifty (50) percent of the lot area. If a variance is requested to allow for greater coverage, then the applicant shall supply an engineer-approved drainage plan, which offsets the expected increase in storm water runoff generated by the excess coverage.

H. **Other Regulations.**

1. Parking provided for all permitted uses shall comply with the minimum standards listed in Division 85 of this Ordinance.
2. For additional regulations pertaining to uses in all Districts, including Water and Sewer System requirements, see Division 60.

## DIVISION 45. "I-1" INDUSTRIAL DISTRICT

- A. **Purpose.** The intent of the Industrial District is to provide for areas of industrial uses (i.e. manufacturing, bulk material storage and salvage operations), in appropriate locations accessible from paved roads that are capable of handling large trucks with heavy loads on a regular basis.
- B. **Permitted Principal Uses.**
1. Any Permitted Principal Use in the "C-1" District, except those listed in Section E of this Division.
  2. Bulk fuel stations
    - a) All storage tanks shall be located no less than two hundred (200) feet from any property in an "R-1", "R-1A", or "R-2" District.
  3. Commercial grain storage facilities.
    - a) Grain storage structures (silos bins, or elevators) shall be located no less than three hundred (300) feet from any property in an "R-1", "R-1A", or "R-2" District and fifty (50) feet from any property in a "C-1" District.
  4. Production facilities and storage yards for the operations of a building contractor, where stored items are not offered to the public for general sale, but are supplied directly by the contractor for on-site construction activities. Includes concrete mixing plants and lumberyards with millwork operations.
    - a) All such operations shall be enclosed by a solid wall or fence no less than eight (8) feet in height.
    - b) All such operations shall be located no less than two hundred (200) feet from any property in an "R-1", "R-1A", or "R-2" District and thirty (30) feet from any property in a "C-1" District.
  5. Salvage and junk yards, including automobile salvage and wrecking operations, industrial and waste salvage operations.
    - a) All such operations shall be conducted within an area enclosed on all sides with a solid wall or fence no less than eight (8) feet in height.
    - b) All such operations shall be located no less than three hundred (300) feet from any property in an "R-1", "R-1A", or "R-2" District and fifty (50) feet from any property in a "C-1" District.
  6. Any use of land or of structures engaged in the manufacture, production, assembly, processing, cleaning, servicing, testing, repair or storage of materials, goods or products not previously listed in Section B of this Division.
    - a) Apart from storage, all such manufacturing activities shall be conducted entirely within an enclosed building.
    - b) Any outdoor storage of materials shall be enclosed with a solid wall or fence no less than eight (8) feet in height.
    - c) All such operations shall be located no less than two hundred (200) feet from any property in an "R-1", "R-1A", or "R-2" District and fifty (50) feet

from any property in a "C-1" District.

7. Any other uses not specifically listed elsewhere in Sections B(2) through B(5) of this Division, but reasonably deemed by the Land Use Administrator to be similar in nature, character and effect to one of those categories, subject to the screening and buffer/setback requirements for that particular category.

C. **Permitted Accessory Uses.**

1. Any Permitted Accessory Use in the "C-1" General Commercial District.
2. Any accessory uses associated with a Permitted Principal Use of an industrial nature.

D. **Special Permitted Uses.** On condition of approval by the Board of Adjustment. See Division 125.

1. Adult Oriented Businesses, as defined by this Ordinance.
2. Mining and mineral extraction, as regulated by Chapter 208 of *Iowa Code*.
3. Private utility stations, including electric transformer substations and natural gas booster or pressure regulating stations.
4. Telecommunications towers, including on-site equipment necessary for the operation thereof, subject to the requirements of Division 95 of this Ordinance.

E. **Prohibited Uses.**

1. Residential dwellings, apart from incidental living quarters for a caretaker or security official employed on the premises.
2. Recreational Vehicle Parks.
3. Schools, daycare centers, hospitals/medical clinics, and nursing homes or similar care facilities.

F. **Landscaping Regulations.**

1. All uses permitted in the "C-1" District, when not prohibited in the "I-1" District, shall be as regulated in the "C-1" District.
2. For any permitted principal use that is not also permitted in the "C-1" District, whenever an adjoining property is zoned "R-1", "R-1A", or "R-2", a landscape buffer shall be installed along the side facing that adjoining property.
  - a) Whenever required, a landscape buffer shall consist of a vegetative screen comprised of shrubs and evergreen trees, which when fully grown result in a solid visual barrier of no less than forty (40) feet in width and height, with the width represented by one (1) row of shrubs and two (2) rows of trees. When initially planted, said trees shall be no less than six (6) feet in height.
  - b) Any required landscape buffer shall be installed prior to the commencement of the permitted use.

- c) The landscaping requirement may be waived if natural or existing conditions sufficiently limit access and provide visual separation between properties. This includes any instance where a buffer meeting the above standards has already been established on the adjoining property for which a new buffer is required.

G. **Building Height Regulations.**

- 1. For all permitted uses, no principal building shall exceed one-hundred (100) feet in height.
  - a) This requirement shall not apply to grain elevator structures – only to buildings that are attached to or otherwise associated with them.

H. **Bulk Regulations.**

- 1. All uses permitted in the “C-1” District, when not prohibited in the “I-1” District, shall be as regulated in the “C-1” District.
- 2. For all other permitted uses, the following shall apply:
  - a) The minimum front setback for any structure shall be equal to its height, but no less than 30 feet.
  - b) The minimum side and rear setbacks for a principal structure shall be equal to the its height.
  - c) When the property adjoins a District other than “I-1”, the minimum setback for any structure shall be equal to its height plus 20 feet, but no less than 60 feet, for the applicable yard(s).
  - d) The maximum lot coverage shall be fifty (50) percent of the lot area.

I. **Other Regulations.**

- 1. Parking lots for customers and employees are subject to all applicable provisions of Division 85 of this Ordinance.
- 2. For additional regulations pertaining to uses in all Districts, including Water and Sewer System requirements, see Division 60.

## ARTICLE III – OVERLAY DISTRICT REGULATIONS

### DIVISION 50. “PUD” PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT

- A. **Purpose.** The intent of the Planned Unit Development Overlay District is to facilitate the orderly development of adjoining properties, in areas where the road and utility infrastructure is sufficient to support mixed use development, or development of a higher density than would ordinarily be allowed.
- B. **Planned Unit Development (PUD) Concept.** A PUD is a negotiated private/public contract for land development, in which the minimum requirements for the development are set by the contract, and these may be less restrictive than those specified by this Ordinance for the Base Zoning District in which the property is located.
1. Specific requirements applying to uses in the Base Zoning District shall be relaxed or modified as outlined within this Division. In such instances, the minimum requirements of this Division shall prevail.
  2. All regulations applying to the Base Zoning District, when not explicitly modified by the regulations contained within this Division, shall be enforced the same in the PUD as they are in the Base District.
- C. **Procedure for Review and Approval.** A “PUD” Overlay District shall be established through the following process:
1. The developer shall submit a copy of the draft PUD contract to the Land Use Administrator, which shall, at minimum, contain the following elements:
    - a) A legal description of the boundary of the proposed PUD.
    - b) A detailed Major Site Plan, including all required elements listed in Division 110, Section C(2) of this Ordinance. All common areas shall be distinguished from private business or dwelling space, and all roadways open to the public shall be distinguished from private driveways.
    - c) Whenever there will be common areas or areas of open space to be shared between occupants of the PUD, documentation shall be provided which clearly identifies the specific person(s) or entit(ies) that will be responsible for their ongoing maintenance. This may take the form of deed restrictions or covenants.
  2. Once it is determined by the Land Use Administrator that all minimum requirements of this Ordinance are satisfied, the Zoning Commission shall consider the proposed PUD Overlay District, and following at least one public hearing on the matter, shall submit its recommendation to approve or disapprove the PUD to the Board of Supervisors.
    - a) Notice of the public hearing shall be given in not less than four (4) days nor more than twenty (20) days prior to the hearing, in a newspaper of general circulation in the County.

- b) The Administrator shall submit copies of the Major Site Plan and any relevant accompanying documents to the County Departments and entities listed in Division 110, Section C(4) of this Ordinance.
  - c) Based on comments received from the preceding entities as part of the Major Site Plan review, the Zoning Commission may recommend that additional requirements be imposed on a PUD as a condition of its approval. Such conditions shall be limited to the road, utility, drainage and fire safety infrastructure to serve the property, and shall be imposed in order to satisfy public needs which are directly caused by a development of that particular character, size and density. Such conditions shall be incorporated into the PUD contract in advance of the final public hearing.
3. After action by the Zoning Commission, the Board of Supervisors shall place the matter on the agenda of the next regular meeting, and shall act to approve or deny the proposed PUD agreement.
    - a) Approval of the PUD by the Board of Supervisors shall constitute the official establishment of a “PUD” Overlay District.
  4. Approval of a PUD does not constitute permission to construct any of the buildings or structures included on the Site Plan for the PUD. Individual buildings and structures shall require the submittal and approval of a Zoning Permit, as outlined in Division 105.
    - a) All permitted buildings and structures shall comply with the minimum requirements established in the PUD agreement, and these minimum requirements shall only be altered through an amendment to the “PUD” Overlay District, following the procedure outlined in Division 120.

**D. Permitted Uses.**

1. All permitted principal and accessory uses in the underlying Base Zoning District.
2. Within a “PUD” Overlay District, commercial uses which are otherwise only permitted in the “C-1” District shall be permitted in a “R-1”, “R-1A”, or “R-2” District.
  - a) In such instances, the commercial activity shall not conflict with the residential character of the surrounding area, with regard to the number, density, and physical distribution of commercial units.
  - b) A mix of commercial and residential uses shall be permitted within the same building. However, in any such instance, no individual building story shall be occupied by both commercial and residential uses, and all commercial uses shall be located on the first (ground) floor.

**E. Landscaping Regulations.**

1. No landscape buffer shall be required between any lots within a PUD.
2. The following shall apply to any lot within a PUD that adjoins the boundary of the “PUD” Overlay District, for whichever yard(s) adjoin the District boundary:
  - a) When the Base Zoning District is “C-1” or “I-1”, the lot shall comply with any applicable Landscaping Regulations of the Base District.

- b) When the Base Zoning District is “R-1”, “R-1A”, or “R-2”, but the lot contains a commercial use, a landscape buffer meeting the minimum requirements for a commercial use in the “C-1” District shall be installed.

F. **Building Height Regulations.**

- 1. There shall be no building height requirements for a Permitted Principal Use in a “PUD” Overlay District.

G. **Bulk Regulations.**

- 1. There shall be no minimum lot size requirement for residential lots within a ‘PUD’ Overlay District’, provided that all applicable setback, open space, and utility requirements are satisfied.
- 2. There shall be no minimum setback requirements in a “PUD” Overlay District, with the following exception:
  - a) For any lot within a PUD that adjoins the boundary of the “PUD” Overlay District, that lot shall follow the minimum setback requirements of the Base Zoning District, for whichever yard adjoins the District boundary.
- 3. The minimum distance between any two separate buildings containing dwelling space shall be fifteen(15) feet, measured from one foundation to the other.
- 4. No less than fifty (50) percent of the land area of the PUD shall be devoted to open space, exclusive of all buildings, accessory structures, roadways, driveways, sidewalks, parking areas, or other paved surfaces.

H. **Parking Regulations.**

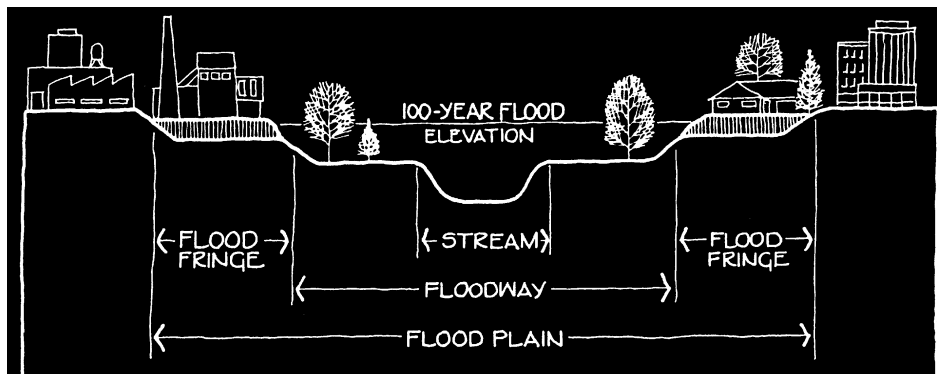
- 1. Parking provided for all permitted uses shall comply with the minimum standards listed in Division 85 of this Ordinance, with the following exception:
  - a) For a mixed-use building containing both a commercial use and multi-family dwelling units, the minimum parking requirements for either use may be waived, depending on whether peak daily demand from each use will coincide.

I. **Utility Regulations.**

- 1. No PUD shall be approved by the Board of Supervisors until the County Health Department has approved the form of sewer system to be used for all buildings within the PUD. The Department may require that single and two-family dwellings be connected to a cluster or municipal sewer system, if the size of lots is not sufficient to support an on-site sewer system.

## DIVISION 55. "FP" FLOODPLAIN OVERLAY DISTRICT

- A. **Purpose.** The intent of the Floodplain Overlay District is to identify all portions of the jurisdiction of this Ordinance that classify as a Special Flood Hazard Area (SFHA) identified by the National Flood Insurance Program (NFIP) maps. Uses permitted in this District shall be evaluated so as to minimize the potential for loss of life and property damage, for both the property involved and those adjoining it.
- B. **Relation to Other County and State Regulations.**
1. All permitted structures within the "FP" District shall comply with the requirements of the Des Moines County Floodplain Development Ordinance No. 25. No use shall adversely affect the capacity of the channels or floodways of any tributary to the main stream, drainage ditch or any other drainage facility or system.
  2. As stipulated in Chapter 468.38 of the *Iowa Code*, no structure shall be located within 300' of the centerline of a levee. Any such proposed structure shall require that an application be submitted to and approved by the applicable Levee and Drainage District.
- C. **Distinction Between Flood Fringe and Floodway.** The 'FH' Overlay District comprises two separate categories of Special Flood Hazard Area, Flood Fringe and Floodway.
1. The Flood Fringe refers to all areas with 1% annual chance of a flood event ('100-year' floodplain) that are not included in the designated floodway. New structures and uses are permitted so long as certain flood-proofing requirements are made, as outlined in the Des Moines County Floodplain Development Ordinance No. 25.
  2. The Floodway comprises 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 during a '100-year' flood event (of which there is 1% annual chance). For regulatory purposes, it is the area where no structure, use or structural alteration is permitted that would result in any increase in flood elevation during a '100-year' flood event.





- D. **Permitted Principal and Accessory Uses within the Flood Fringe.**
1. All permitted principal and accessory structures and uses in the underlying Base Zoning District, with the exception of those listed in Sections G and H of this Division. Structures shall be constructed to comply with the requirements of the Des Moines County Floodplain Development Ordinance.
- E. **Permitted Principal and Accessory Uses within the Floodway.**
1. Only structures that existed prior to the establishment of this Ordinance shall be permitted within the designated floodway. Any alterations to such structures (including additions, reconstruction, or relocation/raising) shall comply with the requirements of the Des Moines County Floodplain Development Ordinance.
- F. **Special Permitted Uses.** On condition of approval by the Board of Adjustment. See Division 125.
1. All special permitted structures and uses in the underlying Base Zoning District.
- G. **Prohibited Uses.**
1. Salvage and junk yards.
  2. Waste tire storage or processing/collection site.
  3. Solid waste disposal or processing site.
  4. The bulk storage or dumping of 'hazardous substances', as defined by this ordinance. This shall exclude the application of pesticides and fertilizers on farm fields (and any associated storage). It shall also exclude any incidental storage of any such substances in small quantities, which is incidental to the principal use of the property, and storage of the substance(s) in full compliance with the regulations of the Des Moines County Floodplain Development Ordinance.
- H. **Building Height Regulations.** All buildings shall comply with the height regulations of the Base Zoning District.
- I. **Bulk Regulations.** All principal and accessory structures shall comply with the bulk regulations of the Base Zoning District.

## ARTICLE IV – ADDITIONAL USE REGULATIONS

### DIVISION 60. REGULATIONS APPLYING TO ALL DISTRICTS

- A. **Purpose.** This Division is intended to provide a series of regulations that apply to properties in all Zoning Districts, but do not apply to the other Divisions within Article IV.
- B. **Conversion of Dwellings.**
1. The conversion of any existing building into a dwelling shall be permitted only within a District where the construction of a new dwelling with the proposed number of dwelling units is permitted.
  2. The conversion of an existing dwelling so as to accommodate an increased number of dwelling units or households shall be permitted only within a District where the construction of a new dwelling containing that number of dwelling units is permitted.
  3. The conversions identified above shall only be permitted when the resulting occupancy for one or more dwellings will comply with the Bulk Regulations and minimum parking requirements for dwellings in that particular District.
- C. **Bulk Regulations Applying to All Districts.**
1. **Changes to Existing Setbacks.** When additional development occurs on a property already containing buildings or structures, no setback shall be reduced to the extent that it no longer complies with the minimum required setback for the respective use or District.
    - a) If the setback for an individual building or structure is already less than the minimum required by this Ordinance, under no circumstances shall it be reduced further through additional development.
  2. **Corner Lots.** For corner lots in all Districts, the minimum side setback for the side facing the intersecting street shall be equal to the minimum front setback in the respective District. This shall apply to accessory buildings as well as principal buildings.
  3. **Lots with Water Boundaries.** Whenever a property has a lot line that corresponds with the shoreline of a river, slough, or lake, it shall have no minimum setback established for that particular yard.
    - a) Under no circumstances, however, shall any structure be erected within a Special Flood Hazard Area if it does not comply with the requirements of Division 55 of this Ordinance and Des Moines County Floodplain Development Ordinance No. 25.
- D. **Water and Sewer Systems.** No Zoning Permit for a new building requiring wastewater treatment shall be issued until the County Health Department has approved the form of sewer system to be used for that building.
1. Single and two-family residential dwellings may use an on-site sewer system if

access to a cluster or municipal sewer system is not readily available.

2. For multi-family residential, commercial and industrial uses, an on-site sewer system shall only be allowed in instances where the Health Department grants approval to use this instead of a cluster or municipal sewer system.
  3. Cluster sewer systems shall be designed and installed in accordance with all Health Department requirements.
  4. Lot Area and On-Site Systems. The minimum lot area requirements provided in this Ordinance are established for the purpose of ensuring that the lot is large enough to support the type of water and sewer system that will serve it. This factor alone does not guarantee the suitability of a lot for development, and it is strongly advised that developers consult with the County Health Department prior to the construction of any buildings that will be served by an on-site sewer system.
    - a) Exceptional Conditions. In some instances, due to factors such as soil type and topographic relief, the minimum lot size provided may not be sufficient to support a private on-site sewer system.
    - b) Placement of Buildings. Even in instances where the lot area is sufficient to support an on-site private sewer system, the placement of buildings may interfere with the logical placement of a private sewer system and the drainage of effluent.
- E. Landlocked Lots and Access. The following shall apply to development on landlocked lots, or lots with minimal frontage along a public or private roadway:
1. For the construction of a residential dwelling, if the lot is landlocked or has less than twenty-five (25) feet of frontage, no Zoning Permit shall be issued until a permanent, non-obstructed access easement of no less than twenty-five (25) feet wide is provided.
  2. For the construction of commercial or industrial buildings, if the lot is landlocked or has less than thirty-five (35) feet of frontage, no Zoning Permit shall be issued until a permanent, non-obstructed easement of no less than thirty-five (35) feet wide is provided.
- F. Potential Safety Hazards.
1. Public Hunting Areas. In accordance with Chapter 481A.123 of *Iowa Code*, there shall be no restriction on the placement of a new residential dwelling based on its proximity to an existing public hunting area. However, whenever a proposed residential dwelling will be located within one thousand (1,000) feet a public hunting area, the Administrator shall inform the applicant of the hunting area's presence and proximity.
  2. Dams and Breach Flood Areas. Whenever a building is to be constructed downstream of a dam regulated by the State of Iowa, in an area where flooding can be reasonably anticipated in the event of a dam breach, no Zoning Permit shall be issued by the Land Use Administrator until a permit is obtained from the Iowa Department of Natural Resources, in accordance with Section 567-71.2 of *Iowa Administrative Code*.

## DIVISION 65. NON-CONFORMING USES, STRUCTURES AND LOTS

- A. **Purpose.** Any use, structure or lot that was lawfully in existence at the time of the enactment of this Ordinance or any applicable amendments thereto may be continued even when it does not conform all the requirements of this Ordinance, or for the District in which it is located, subject to the limitations and other requirements outlined in this Division.
- B. **Exemption of Agricultural Uses.** The provisions of this Division shall not prohibit or regulate the use of land, structures or lots for agricultural purposes, regardless of the Zoning District in which a property is located.
- C. **Non-Conforming Uses and Structures.**
1. **Change of Use.** If no structural alterations are made, a nonconforming use may be changed to a conforming use, or it may be changed to another nonconforming use that would be permitted in the same district as the previous use. However, under no circumstances shall it be changed to a use that would not be permitted in the same district as the previous use.
  2. **Discontinuance of Uses.** In the event that a non-conforming use of land or buildings is discontinued for a period of one (1) year or more, the future use of the property shall thereafter conform to the use regulations of the district.
  3. **Expansion, Reconstruction and Alteration of Uses.** Unless otherwise provided for in this Division, nonconforming use shall be enlarged, extended, reconstructed or structurally altered unless such action is allowed as a Special Permitted Use in the District in which it is located, in which case it shall be contingent on the approval of the Board of Adjustment. See Division 125.
  4. **Damaged Buildings.** When a building or structure, the use of which does not conform to the provisions of this ordinance, is damaged by fire, explosion, natural disaster, or the public enemy, the following provisions apply:
    - a) When the damage to a building or structure exceeds seventy (70) percent of its market value, it shall not be restored except when in conformity with the regulations of the District in which it is located, or through a Special Use Permit when applicable, subject to the approval of the Board of Adjustment.
    - b) When the damage to a building or structure is less than or equal to seventy (70) percent of its market value, a nonconforming building may be repaired or reconstructed and used as before the time of damage, provided that such repair or reconstruction has begun within one (1) year of the date of such damage.
  5. **Non-Conforming Yards and Setbacks.** Whenever an existing structure does not comply with the minimum setback requirements of the respective District, under no circumstances shall it be expanded in such a way that the already non-conforming setback is reduced further.

D. **Non-Conforming Lots.**

1. The construction or placement of new buildings and structures on a nonconforming lot, as well as the expansion or reconstruction of existing buildings, shall only be permitted if the lot will remain fully compliant with all other requirements of the Zoning District in which it is located, including bulk regulations and setbacks.
2. No buildings requiring sewer or water service shall be constructed on a nonconforming lot unless the County Health Department grants approval for installation of the necessary sewer and water infrastructure.
3. When a presently undeveloped nonconforming lot is under the same ownership as the adjoining property, it may be sold to a different owner for the purpose of development, but any such development must comply with the requirements of the District in which it is located, and obtain the requisite approval for installation of sewer and water infrastructure.

**DIVISION 70. MOBILE/MANUFACTURED HOMES AND PARKS**

**A. Requirements for All Mobile/Manufactured Homes.**

1. Apart from a designated mobile/manufactured home park, allowed as a permitted use in the “R-2” and “C-1” Districts, under no circumstances shall a mobile/manufactured home be placed on the same lot as any other dwelling.
2. When used as a single-family dwelling outside of a mobile/manufactured home park, a Zoning Permit shall be required any time a mobile/manufactured home is newly placed on a lot, regardless of whether it was previously located within a mobile /manufactured home park.
  - a) Any such mobile/manufactured home shall comply with all requirements for a single-family dwelling within the District in which it is located.
  - b) No Zoning Permit shall be required if a relocated mobile/manufactured home is to be used as a farmstead, as defined by this Ordinance.
3. Each mobile/manufactured home shall be firmly anchored to prevent overturning. Full skirting shall be used to conceal all anchoring, plumbing, piping or other undercarriage materials.
  - a) If located outside of a mobile/manufactured home park, the mobile/manufactured home shall be placed on a permanent foundation, either of poured concrete or mortared masonry.

**B. General Requirements for Mobile/Manufactured Home Parks.**

1. The establishment of a new mobile/manufactured home park, or the expansion of an existing park, so as to accommodate an additional number of home sites/pads, shall require the submittal of a Major Site Plan, following the procedures outlined in Division 110, Section C of this Ordinance.
2. No commercial use, apart from services meant exclusively for the occupants of the park, shall be permitted within a mobile/manufactured home park, unless it is located in either a “C-1” District or a “PUD” Overlay District.
3. The park shall be located on a well-drained site, graded to ensure adequate storm water drainage. Storm sewers and water retention ponds may be required, as necessary.
4. The layout of each mobile/manufactured home park shall be designed so that there is a specific number of designated pads/sites on which the homes will be placed, and may later be removed or replaced with another at the same location.
5. Each mobile/manufactured home shall have access to a driveway no less than twenty-two (22) feet in width, and comprised of a durable and dustless surface, which provides unobstructed access to a public roadway.
6. Each mobile/manufactured home shall be connected to a water and sewer system approved by the Des Moines County Health Department, and no mobile/manufactured home in a newly established park shall be occupied as a residence prior to the installation of the approved water and sewer systems.

7. Each park shall comply with all other applicable State and local health regulations.
8. A minimum of two (2) off-street parking spaces shall be provided for each mobile/manufactured home.

C. **Bulk Regulations for Mobile/Manufactured Home Parks.**

1. The minimum size of a mobile/manufactured home park shall be ten thousand (10,000) square feet per dwelling.
2. The minimum setback for mobile/manufactured home park shall be thirty-five (35) feet for all sides.
3. Individual sites/pads within a mobile/manufactured home park shall be arranged so that there can be at least twenty (20) feet of separation between each mobile/manufactured home.
4. Any accessory building shall have minimum side and rear setbacks of five (5) feet, and a minimum front setback of thirty-five (35) feet.

**DIVISION 75. RECREATIONAL VEHICLE PARKS / CAMPGROUNDS**

**A. General Requirements for Recreational Vehicle Parks/Campgrounds.**

1. The establishment or expansion of any recreational vehicle park or campground in a "C-1" District shall require the submittal of a Major Site Plan, following the procedures outlined in Division 110, Section C of this Ordinance.
2. The park shall be located on a well-drained site, graded to ensure adequate storm water drainage.
3. The layout of each recreational vehicle park/campground shall be designed so that there are a set of designated sites/pads on which the recreational vehicles or travel trailers will be parked or placed.
4. Each park shall provide service buildings to house restrooms, showers, storage space, and laundry facilities as may be necessary.
5. Each recreational vehicle or camper site/pad shall be provided with access to an on-site water and sewer system approved by the County Health Department.
6. Each recreational vehicle or camper site/pad shall be provided with access to electrical power of at least 110 volts.
7. Each park shall comply with all other applicable State and local regulations, with regard to health, safety, and general operations of a recreational vehicle park/campground.

**B. Bulk Regulations for Recreational Vehicle Parks/Campgrounds.**

1. The minimum size of a recreational vehicle park/campground shall be five thousand (5,000) square feet per site/pad for a recreational vehicle/camper.
2. The minimum setback for a recreational vehicle park/campground shall be thirty-five (35) feet for all sides, and this shall apply to all recreational vehicle/camper sites/pads, the front office building, and all permanent structure(s) associated with Section A(4) of this Division.
3. The minimum distance between each site/pad for a recreational vehicle/camper shall be fifteen (15) feet.
4. Any accessory building, excluding those associated with Section A(4) of this Division, shall have minimum side and rear setbacks of five (5) feet, and a minimum front setback of thirty-five (35) feet.



## DIVISION 80. HOME OCCUPATIONS

- A. **Purpose.** This Division is intended to establish a set of requirements to ensure that the establishment of a Home Occupation in a Residential or Agricultural Zone does not cause any adverse impact to neighboring properties, or detract from the residential character of the surrounding area.
- B. **Permitted Accessory Uses.** The following home occupations shall be allowed following the application for and issuance of a Home Occupation Permit by the Land Use Administrator:
1. In-home production activities such as:
    - a) Home sewing or tailoring
    - b) Studios for painting, sculpting, ceramics or other similar arts.
    - c) Production of crafts such as handiwork, model-making, lapidary and wood working for the purpose of selling a product off-premises.
    - d) Home-cooking, preserving and baking for the purpose of selling a product off-premises.
  2. Mail order businesses where products are shipped directly to the customer, and no in-person sales are conducted on site.
  3. Computer programming, repair, internet services and similar activities.
  4. Offices for architects, engineers, realtors, accountants, or similar occupations.
  5. Caregiving and educational activities such as:
    - a) Tutoring to no more than four (4) students at any one time.
    - b) In-home daycare/childcare for no more than five (5) young children at any time, provided that the home shall be registered with the Iowa Department of Human Services, and currently in good standing.
  6. Other uses that are similar to the uses listed above, more so than those listed in Section D of this Division, as determined by the Land Use Administrator.
- C. **Special Permitted Uses.** The following home occupations shall only be allowed on condition of approval of the Board of Adjustment. See Division 125.
1. Bed-and breakfasts.
  2. Specialized service activities involving in-person appointments, such as:
    - a) Barber shops, beauty parlors, tanning salons, and massage therapy.
    - b) Dental, chiropractic or similar medical facilities.
    - c) Dog grooming businesses, not including overnight boarding.
  3. Catering businesses.
  4. Any retail business which offers in-person sales of a limited quantity of items, such as antiques, specialty appliances/tools, and cosmetics/home care products.

4. Specialized repair activities such as:
  - a) Repair shops for small appliances, lawn mowers, and similar items.
  - b) Repair or auto detailing of motor vehicles undertaken at the residence, provided that all vehicles shall be parked off-street, and all work shall take place in an enclosed garage.
5. Private construction contractors, provided that there shall be no storage of machinery, construction equipment, and similar products, except in an enclosed private garage, or in inconspicuous outdoor locations that are fully screened from public view.
6. Other uses that are similar to the uses listed above, more so than those listed in Section B of this Division, as determined by the Land Use Administrator.

D. **General Requirements for Home Occupations.** The following standards and criteria shall apply to all home occupations, regardless of whether they are a Permitted Accessory Use or Special Permitted Use:

1. The business shall be clearly incidental and secondary to the use of the property as a residence.
2. The business shall be conducted by a member(s) of the household residing within the dwelling on the property, and in the case of Home Occupations that are considered a Special Permitted Use, no more than two (2) employees that do not reside on the property.
3. The business shall not generate excessive traffic, noise, odors, or electrical disturbances that would adversely impact the owners and occupants of neighboring properties.
4. The business shall be conducted entirely within the dwelling or an accessory building located upon the property, apart from the minimal, incidental outdoor storage of items in inconspicuous locations that are fully screened from public view by fencing, landscaping or similar visual barriers.
5. The outdoor storage of machinery, vehicles and other items pertaining to the business shall only be allowed if it is kept to a minimal amount and located in inconspicuous locations, so as to not be readily visible from outside the property.
6. No more than one identification sign shall be displayed upon the lot, subject to the following requirements:
  - a) Contains only the name of the business and/or a description of the nature of the business.
  - b) The sign shall be no more than sixteen (16) square feet in size, four (4) feet in height, or four (4) feet in width.
  - c) The sign shall not be placed on County or State road right of way.
  - d) The sign shall not be illuminated.

7. For home occupations where customers are regularly present on the premises, customer parking shall be provided and be inconspicuous as possible on the premises.
8. Water, sewer and waste disposal systems shall meet all current state and local codes and requirements.

E. **Validity of Permits and Renewal Process.** A Home Occupation Permit is effective for exactly five (5) years after the date on which they were issued. Permits must be renewed every five (5) years in order for the business to remain operational on the property.

1. For a Home Occupation classified as a Permitted Accessory Use, the applicant shall submit an application for permit renewal to the Land Use Administrator. Upon confirmation that the activity remains compliant with all applicable requirements of this Division, the Administrator shall renew the permit for an additional five (5) years.
2. For a Home Occupation classified as a Special Permitted Use, the applicant shall submit an application for permit renewal to the Land Use Administrator. Renewal of the permit is contingent upon approval by the Board of Adjustment, following the same procedures as when the original permit was requested.
3. If after five (5) years, the Land Use Administrator has determined that a Home Occupation previously allowed as a Permitted Accessory Use has been expanded or altered to such a degree that it now fits the description of any of the items listed in Section C of this Division, then it shall be re-classified as a Special Permitted Use, and renewal shall be contingent on the approval of the Board of Adjustment.

**DIVISION 85. PARKING REGULATIONS**

- A. **Purpose.** This Division is intended to provide a set of minimum requirements for parking facilities to serve all uses within the jurisdiction of this Ordinance.
- B. **Number of Parking Spaces Required.** The number of parking spaces provided for each individual use, when newly constructed or established in place of another use upon the same property, shall be in accordance with the following minimum requirements:

USE	MINIMUM NUMBER OF PARKING SPACES REQUIRED
Residential Dwellings, including Mobile/Manufactured Home Parks	Two (2) spaces per dwelling unit
Nursing Home or Similar Care Facilities, Hospitals with in-patient care provided	One (1) space for every four (4) patient beds
Daycare centers and preschools	One (1) space for each employee at largest work shift, plus one (1) for every fifth child in attendance
Schools	One (1) space for every 8 seats in the main auditorium or 1 space for every 3 classrooms, whichever number is greater
Places of public assembly such as auditoriums, theaters, stadiums, churches, community hall, public building, etc.	One (1) space for every four (4) seats in the main auditorium, or one (1) space per five hundred (500) square feet of gross floor area, whichever is greater.
Retail sales and services such as stores, restaurants, taverns, banks, professional offices, etc.	One (1) space for every two hundred (200) square feet of gross floor area
Hotels and motels	One (1) space for every guestroom
Commercial and industrial uses where no on-site retail or service activity is present, such as office buildings, and manufacturing/wholesale/warehousing operations	One (1) space for every two (2) employees on the largest work shift

- C. **Parking Space and Lot Standards.**
  - 1. Exclusive of access driveways or aisles within a parking lot, each angled or perpendicular parking space shall not be less than eight and one-half (8.5) feet wide or eighteen (18) feet long, and each parallel parking space shall not be less than eight (8) feet wide or twenty-two (22) feet long.

2. No parking space shall be located on any part of an access or utility easement, if such an easement stipulates that the area is to remain unobstructed.
3. All parking lots for multi-family residential, commercial, industrial, or civic/institutional uses shall be comprised of a durable and dustless surface.
  - a) In any instance where a non-paved surface (anything other than concrete or asphalt) will be used, the applicant shall sufficiently demonstrate that the proposed surfacing will be durable and dustless.
4. Parking lots shall be graded so as to allow for the sufficient drainage and avoid surface accumulation of storm water.
5. All spaces within a parking lot shall be clearly marked so as to distinguish them from access drives or aisles.
6. No access driveway and aisle within a parking lot shall be less than twenty (20) feet wide, unless clearly identified as being for one-way traffic only (in which case, the minimum width shall be twelve (12) feet).
7. The paved surface of any parking lot for a commercial, industrial, or civic/institutional use shall be located no less than thirty (30) feet away from any adjoining property in an "R-1", "R-1A", or "R-2" District.
8. Any lighting used to illuminate a parking lot shall be situated so that the light does not project directly on adjoining properties or roadways.

D. **Loading Spaces Required.** Loading spaces, to be reserved exclusively for temporary use in loading and unloading persons, merchandise or materials, shall be provided in accordance with the following minimum requirements:

1. At least one (1) loading space shall be provided for each commercial, industrial, or civic/institutional use.
2. Whenever the gross floor area of a building exceeds fifty thousand (50,000) square feet, one (1) additional loading space shall be provided for each additional fifty-thousand (50,000) square feet.
3. Each loading space shall not be less than ten (10) feet wide, or forty (40) feet in length.
4. Loading spaces adjacent to a building may have a canopy, but in such instances, they shall have a height clearance of at least fourteen (14) in height.
5. Loading spaces shall clearly be distinguished from customer and employee parking spaces, by virtue of location, signage, or surface markings.
6. Loading spaces shall not be provided at any location which would obstruct the flow of traffic accessing customer or employee parking.

## DIVISION 90. SIGNS AND BILLBOARDS

- A. **Purpose.** The purpose of this Division is to set forth minimum requirements for the location, size and use of signs and billboards within the jurisdiction of this Ordinance.
- B. **General Regulations and Exemptions.**
1. On-premise signs shall be considered a Permitted Accessory Use in association with any multi-family residential, commercial, industrial, or civic/institutional use that is lawfully established as a Permitted Principal Use or Special Permitted Use in any District.
    - a) The location of any freestanding sign (including setback measurements from property lines) shall be provided along with an application for a Zoning Permit.
    - b) The replacement of an existing freestanding sign with another sign of equal dimensions shall not require a Zoning Permit. However, a Permit shall be required any time that the placement or dimensions of a freestanding sign will be altered.
    - c) Any signs associated with a home occupation shall follow the requirements of Division 90 of this Ordinance.
    - d) Signs that are attached to the exterior wall or roof of a structure shall not require a Zoning Permit.
  2. Temporary signs without a permanent foundation, such as real estate signs or political signs, shall not require a Zoning Permit. However, no such signs shall be placed within the right-of-way of a public or private roadway.
    - a) Any signs placed in violation of this requirement are subject to removal and/or penalty by the public or private entity responsible for maintaining the roadway.
  3. Billboards and other off-premise signs within 200 feet of the right-of-way of any State or US Highway shall comply with all applicable regulations and permitting requirements of the Iowa Department of Transportation, in accordance with Chapter 306C of *Iowa Code*.
  4. No Zoning Permit shall be required for any roadway sign erected by a Local, State, or Federal government entity to serve the traveling public for directional, safety, or other informational purposes, or as required by law.
    - a) No private advertising sign shall be posted or erected which simulates any such official traffic sign erected by a government entity.
- C. **Requirements for Freestanding Signs.** The following requirements shall apply to any freestanding sign (including billboards) that is not exempted from a Zoning Permit, as provided in Section B of this Division:
1. The surface of any freestanding sign shall not be more than seven hundred (700) square feet in area.

2. Freestanding signs in the “A-1”, “C-1” and “I-1” Districts may have constant illumination. However, the light projected from any such sign shall not project directly onto any dwelling in the “R-1”, “R-1A”, or “R-2” District, or into the right-of-way of any State or US Highway.
3. Freestanding signs with flashing lights that would distract motorists on any roadway shall not be permitted.
4. No freestanding sign shall be attached to poles maintained by a public utility, or on signposts placed by the County Secondary Roads Department.
5. The following placement and spacing requirements shall apply to any freestanding sign (including billboards) within thirty (30) feet of the right-of-way line of any public or private roadway:
  - a) No part of any freestanding sign shall be located within or project into the right-of-way of any roadway.
  - b) The surface of any freestanding sign shall be at an angle of no less than sixty (60) degrees to the roadway centerline.
  - c) No freestanding sign shall be placed less than three hundred (300) feet from the nearest freestanding sign along the same roadway, including permanent directional or traffic control signs erected by a Local, State, or Federal government entity.
  - d) No freestanding sign shall be placed less than one hundred (100) feet from the right-of-way line of the nearest intersecting roadway, including any on or off-ramp to a controlled-access highway.
6. No billboard or other off-premise sign shall be located within three-hundred (300) feet of a dwelling, church, or school on any adjoining or nearby property.

## DIVISION 95. TELECOMMUNICATION TOWERS

- A. **Purpose.** The purpose of this section is to establish a set of guidelines for the placement, installation, and operation of commercial wireless telecommunications towers, when allowed as a Special Permitted Use within a Zoning District, to ensure compatibility with neighboring land uses, and avoid adverse safety or aesthetic impacts.
- B. **Permits.**
1. The construction or placement of a telecommunications tower shall be allowed as a Special Permitted Use in the “A-1, “C-1”, and “I-1” Districts.
  2. The replacement an existing tower with a structure of greater height or physical size shall require an additional Special Use Permit, subject to the same requirements as the application for the original tower.
    - a) The replacement or technological upgrade of existing equipment on a tower (including antennas) shall not require a permit if the physical location of the tower structure will not be altered, and its size will not be enlarged as a result.
- C. **Application Requirements.** An application for a Special Use Permit shall be accompanied by, at minimum, the following:
1. A Major Site Plan, including all applicable components listed in Division 110, Section C of this Ordinance, along with the following:
    - a) The location of the tower and, wherever applicable, the physical extent of any associated structures and equipment, such as guy wires and anchors.
    - b) Any existing buildings or structures within one thousand (1,000) feet of the base of the proposed tower, and measurements to indicate the distance between it and each of these buildings and structures.
    - c) The locations of any and all driveways and access easements for obtaining access to the tower, as well as any other private driveways within one thousand (1,000) feet of it.
  2. A report from a licensed structural engineer containing the following information:
    - a) A description of the proposed tower, in terms of functional design characteristics, appearance, dimensions, etc.
    - b) Photographs and/or elevation drawings providing a visual depiction of the proposed tower.
    - c) A line of sight analysis showing the potential visual and aesthetic impacts on adjacent or nearby residential properties.
    - d) Information regarding the anticipated noise volume (if any) to be generated by the tower, and the associated impact on neighboring properties.
    - e) Documentation to establish that any proposed tower has sufficient structural integrity for the proposed use and location, and complies with all applicable industry standards in terms of safety and performance.



- f) The general capacity in terms of the number of users the tower is designed to accommodate.
3. Information regarding the long-term operations and maintenance of the tower, including the names and contact information of all firms involved, and the anticipated frequency and volume of traffic necessary for such operations and maintenance.
4. If any of the properties involved are not owned by the applicant, written authorization for the construction and operation of the proposed tower from any such owners shall be provided.
5. Evidence that a valid Federal Communications Commission (FCC) license for the proposed activity has been issued.
6. Information regarding the geographic area to be served by the tower, and the distance between it and any other towers operated by the applicant that serve the residents of Des Moines County.
7. Documentation of any and all applicable permits issued by other permitting agencies at the State or Local level, including any erosion and sediment control plan required by the Iowa Department of Natural Resources for projects disturbing more than one (1) acre of land.

D. **General Regulations.**

1. **Visual Impact and Aesthetics.** Telecommunications towers shall be designed to blend in with their existing surroundings to the greatest practical extent, and avoid reflective glare from sunlight or other lighting used to illuminate them.
2. **Lighting.** Any lighting used to illuminate a tower shall be situated so that the light does not project directly onto adjoining properties or roadways.
3. **Collocation of Towers.** A tower shall not be permitted if it is feasible to utilize an existing tower within one-half of a mile (0.5 miles) of the proposed new tower site, by sharing the space with another service provider ('collocation').
  - a) If other tower(s) are present within one-half of a mile (0.5 miles) of the proposed tower site, the applicant shall demonstrate that these other tower(s) are unsuitable for the purpose under applicable telecommunications regulations and the applicant's own technical design requirements.
4. **Future Capacity and Usage.** The applicant must demonstrate that the tower is designed to accommodate future demand for additional usage.
5. **Security and Screening.**
  - a) The base of any telecommunications tower shall be screened from view and public access with a security fence at a minimum of six (6) feet in height. The entrance through any security fence shall be locked at all times when the tower is not being accessed for maintenance purposes.

- b) Appropriate signage shall be provided at any locked entry point, which prohibits trespassing, warns of any applicable risk of high voltage or other safety hazard, and provides contact information for the owner/operator in case of emergency.
  - 6. Towers on County Property. For any telecommunications tower to be situated on Des Moines County property, the applicant must file with the Land Use Administrator a written indemnification of the county and proof of liability insurance or other proof of financial ability to respond to claims up to one million (\$1,000,000) dollars in the aggregate which may arise from operation of the facility during its life, in a form approved by the County Attorney.
  - 7. Other Standards and Regulations. The applicant shall demonstrate that the proposed tower complies with all applicable industry standards, as well as any other applicable Federal, State and Local code requirements pertaining to telecommunications towers.
- E. Height Regulations. The height of a tower shall be measured from the adjacent grade at the base of the tower to its highest point, including all antennas.
- 1. No tower shall exceed a total of seven-hundred fifty (750) feet in height.
    - a) For any proposed tower in excess of three hundred (300) feet in height, the applicant must clearly demonstrate that additional height above three hundred (300) feet is necessary to provide adequate service to residents of the County.
  - 2. No tower in the 'AH' Overlay District shall exceed the height limits specified by the Des Moines County Airport Approach Zone Regulations (Ordinance No. 58) for that precise location.
  - 3. In accordance with Des Moines County Floodplain Ordinance No. 25, no tower in the 'FH' Overlay District shall be placed so that any electrical equipment is less than one (1) above the Base Flood Elevation (BFE) for that precise location.
- F. Bulk Regulations. All setback and distance measurements for a tower shall be measured from the base of the tower.
- 1. On all sides, the minimum setback for a tower shall be equal to its height.
    - a) In instances where the owner of the property on which a tower is situated also owns adjoining parcels (not separated by any public right-of-way), the minimum setback shall apply to the outer perimeter of all such parcels when combined together.
  - 2. The minimum distance between a telecommunications tower and any other structure on the property (apart from infrastructure that directly supports the operation of the tower) shall be equal to the height of the tower (including all antennas).
  - 3. The minimum distance between a telecommunications tower and any building used as a dwelling shall be one-hundred fifty (150) percent of the height of the tower.

4. The minimum setback for any guyed wires supporting a telecommunications tower shall be thirty (30) feet from any right-of-way line or adjoining property in an “R-1”, “R-1A”, or “R-2” District, and fifteen (15) feet from all other lot lines.

**G. Decommissioning and Abandonment.**

1. As a condition of the approval of a Special Use Permit for a telecommunications tower, the Board of Adjustment shall set an amount to be held in a bond, escrow, or another acceptable form of financial security approved by the Board, for use in the demolition and removal of the telecommunications tower, should the owner or operator fail to do so once operations have ceased.
  - a) The applicant shall file this bond or other financial security with the County prior to the construction, erection, or placement of the tower at its approved location.
  - b) Financial security for the approved tower shall only be released when the Land Use Administrator determines, following inspection, that the decommissioned tower and all associated on-site equipment has been removed.
2. In the event that the use of any telecommunications tower has been discontinued for a period of one-hundred eighty (180) consecutive days, excluding a natural catastrophic event, the tower shall be deemed to be abandoned.
  - a) Once a date of abandonment has been determined by the Administrator, the owner or lessee shall have an additional one-hundred eighty (180) days within which to either reactive the use of the tower, or dismantle or remove it.
  - b) If the tower is not dismantled and removed within one-hundred eighty (180) days of abandonment, the County may do so and assess the costs against the property for collection in the same manner as a property tax, pursuant to Chapter 331.384 of *Iowa Code*.
  - c) This provision shall not apply to any telecommunications tower that was placed at its current location prior to the effective date of the Original Zoning Ordinance (March 3, 1998).

## ARTICLE V – ADMINISTRATION

### DIVISION 100. LAND USE ADMINISTRATOR

- A. **Appointment of Administrator.** The Board of Supervisors shall appoint a Land Use Administrator and any additional staff that may be necessary to serve as assistants to the Administrator.
- B. **Duties of Administrator.**
1. The Administrator shall serve as an administrative officer, as provided for in Chapter 335 of *Iowa Code*, to enforce the provisions of this Ordinance, as adopted by the Board of Supervisors.
  2. The Administrator shall examine all applications for construction and the establishment of uses, to determine whether they would be in accordance with requirements of this Ordinance.
  3. When matters are brought before the Board of Adjustment or the Zoning Commission and Board of Supervisors, the Administrator shall supply a report and accompanying documentation pertaining to each such matter.
  4. The Administrator, acting on the behalf of the Board of Adjustment or Zoning Commission, shall supply notification on all public hearings to a newspaper of general circulation within the County, and provide notices to adjoining property owners whenever applicable, using property ownership information from the Des Moines County GIS Department/Assessor's Office.
  5. The Administrator shall keep copies on file of all applications, petitions, staff reports and meeting minutes pertaining to the enforcement of this Ordinance, to serve as an ongoing public record of all such matters.

## DIVISION 105. ZONING PERMITS

- A. **When Permits are Required.** Except when exempted by Division 10, Section 10 of this Ordinance, or Section G of this Division, prior to the issuance of a Zoning Permit by the Land Use Administrator, it shall be unlawful to construct, erect, enlarge, move, alter, or reconstruct any building or structure, or to change the use of any building, structure or land from one classification (agricultural, residential, commercial, or industrial) to another.
- B. **Application for Permit.**
1. In any instance where a Zoning Permit is required, an application shall be submitted to the Land Use Administrator, on a form supplied by the Administrator for this purpose. The following information, at minimum, shall be provided:
    - a) The name, current address, and contact information for the applicant and building contractor.
    - b) The address/location and Zoning District classification of the property involved with the building activity or use change.
    - c) A description of the proposed project/nature of the work to be performed, including a list of buildings/structures if more than one (1) is involved.
    - d) The physical dimensions, height, and proposed use of all buildings/structures to be erected or altered, along with the existing use of any buildings/structures whose use will be changed.
    - e) The proposed number of dwelling or business units within the building(s) to be erected or altered.
  2. Each application for a Zoning Permit shall be accompanied by the following:
    - a) A site plan for the proposed development, as further detailed in Division 110 of this Ordinance.
    - b) Building floor plans, whenever applicable. This requirement may be waived for accessory buildings.
    - c) Depending on the nature of the development, the Land Use Administrator may require additional information regarding the lot or neighboring lots, as may be necessary for the enforcement of this Ordinance.
- C. **Issuance of Permit.** The Land Use Administrator shall review the application and make a decision on whether to approve or deny the request, based on whether it complies with all applicable provisions of this Ordinance. The Administrator shall then submit a signed copy of the permit or written notification of its denial to the applicant.
- D. **Denial or Revocation of Permit.**
1. In the event the Land Use Administrator denies a permit application, including in instances where the Board of Adjustment or Board of Supervisors has denied a petition on which a permit would be contingent, that same petition or application shall not be filed again unless there is evidence of a substantial change to the nature or circumstances of the original proposal.

2. The Land Use Administrator may, in writing, suspend or revoke a previously issued permit, under one of the following conditions:
  - a) It has been determined that the permit was originally issued in error, or on the basis of incorrect information supplied.
  - b) Following the issuance of the permit, the building, structure or land involved is found to be in violation of any of the provisions of this Ordinance, or of any other applicable ordinance or regulation.

E. **Expiration of Permit.** If the permitted activity has not commenced within one-hundred eighty consecutive (180) days of the date on which a Zoning Permit was issued, or has not been completed one (1) year of that same date, then the Permit shall automatically become null and void. Once a Permit expires, a new application and fee must be submitted in order for the proposed activity to be re-approved.

1. In instances where the permitted activity has been delayed due to unforeseen circumstances, the applicant may request an extension. Prior to an extension being approved, the applicant shall provide the Land Use Administrator with sufficient evidence that the approved activity has not yet commenced.
  - a) If the permitted activity has not commenced within one-hundred eighty (180) days of the date on which the extension was issued, or has not been completed within one (1) year of that same date, then the Permit shall automatically become null and void.
2. In the event that of an exceptionally large construction project, such as one requiring significant excavation activities prior to the erection of a building, the Land Use Administrator may waive the one (1) year requirement, provided that no evidence of a lengthy lapse of construction activity is made available.

F. **Fees.**

1. The fee for a Zoning Permit request shall be established by resolution of the Board of Supervisors. Such fee shall be paid to the Land Use Administrator prior to any action being taken to review or approve a Zoning Permit, and under no conditions shall said fee be refunded for failure of said Permit to be approved.
2. When the issuance of a Zoning Permit is contingent on the approval of a Major Site Plan by the Board of Supervisors, or the approval of a Special Permitted Use or Variance by the Board of Adjustment, the corresponding fees shall be established by the Board of Supervisors so as to accommodate the additional time and resources necessary for holding and providing notification for the requisite public hearing.
3. There shall be no fee charged to the United States government, the State of Iowa, or any political subdivision thereof.

G. **Uses Exempt from Permits.** In addition to agricultural uses (per Chapter 335.27 of *Iowa Code*), the following uses are exempt from requiring a Zoning Permit:

1. **Small Accessory Buildings.** No accessory building under one hundred seventy-five (175) square feet in total floor area shall require a Zoning Permit.

2. Removal of Structures. A Zoning Permit shall not be required for the full or partial demolition or removal of any structure, including a reduction in the number of stories. However, a Permit shall be required whenever a new structure is constructed or placed on the site of a previously demolished or relocated structure.
  3. Essential Services. Essential services, as defined by this Ordinance, shall not require a Zoning Permit for installation, but may require other permits from the County or other regulatory agencies.
  4. Roof-Mounted Solar Panels. These are functionally considered to be a part of the structure upon which they are situated, as opposed to a free-standing structure in and of itself (as applies to ground-mounted solar panels). The addition of solar panels onto the roof of an existing structure shall not require a Zoning Permit.
  5. Temporary Buildings. Temporary buildings associated with construction activities shall not require a Zoning Permit. However, they shall be removed following the completion or abandonment of the construction activity.
  7. Private recreational facilities on a residential property (such as tennis or basketball courts). This does not include in-ground swimming pools, or above-ground pools that are permanently enclosed by a deck, which are a Permitted Accessory Use.
  8. The following uses that are excluded from the definition of 'Structure' within Division 15 of this ordinance:
    - a) Paved surfaces or pads.
    - b) Retaining walls, fences, or walls that are functionally uses as fences.
- H. **Other Permits Required.** Depending on the nature of the proposed development activity, other permits from Des Moines County or another local, state, or federal agency may be required. It shall be the applicant's responsibility to apply for and obtain all other required permits that are applicable to their project. However, the Land Use Administrator shall not issue a Zoning Permit until documentation has been provided that all other applicable permits have been obtained. In addition, if another permitting agency determines that a violation of their conditions has occurred, this may result in revocation of the Zoning Permit or issuance of a Stop Work Order, as provided for in Division 150 of this Ordinance.
1. The following Des Moines County Departments may require permits for the proposed development activity, under the specified conditions:
    - a) Land Use Department. Development within Special Flood Hazard Areas, as regulated by the Des Moines County Floodplain Development Ordinance No. 25, or Airport Approach Zones, as regulated by the Des Moines County Airport Approach Regulations (Ordinance No. 58).
    - b) Health Department. Development that requires the installation of a new or replacement on-site sewer system, or a cluster sewer system.
    - c) Secondary Roads Department. Development that requires the installation of a new driveway entrance (or the expansion or alteration of an existing driveway entrance) from a County Road.

2. The Iowa Department of Natural Resources (DNR) may require permits for the proposed development activity. Examples include, but are not limited to:
  - a) Storm Water Pollution Prevention Plan (SWPPP). In accordance with Chapter 64.4 of Iowa Administrative Code 657, if the construction activity results in more than one (1) acre of land being disturbed, a Storm Water Discharge Permit (NPDES General Permit No. 2) must be filed with the Iowa DNR. This plan must identify any potential sources of pollution that are likely to impact the quality of storm water runoff from the construction site.
  - b) Erosion and Sediment Control. In order to prevent loose soil from infiltrating area waterways, NPDES General Permit No. 2 requires that the applicant prepare and submit an erosion and sediment control plan, which outlines the specific activities that will be undertaken to prevent the loss of exposed soil through stormwater runoff and other forms of erosion. Examples include, but are not limited to: silt fences, sediment basins, diversion channels, and measures for post-construction landscaping such as seeding, sodding, and placement of riprap.
  - c) Storm Water Discharge Permits for industrial facilities (such as asphalt, concrete, or rock crushing plants, sand and gravel facilities, and mining and associated processing facilities)
  - d) Air Quality Construction and Operating Permits, for industrial activities that result in the discharge of pollutants.
  - e) Sovereign Lands Construction Permits, for development involving all lands and waters under the jurisdiction of the Iowa DNR, including the Mississippi River.
  
3. Other permitting agencies and applicable project types include the following:
  - a) U.S. Army Corps of Engineers. Development that involves a navigable waterway, such as the Mississippi River.
  - b) Iowa State Fire Marshal. Commercial and industrial activities involving flammable or explosive materials.
  - c) Levee and Drainage Districts (Two Rivers or North Bottoms). Development involving any property that is at least partially within three hundred (300) feet of an accredited levee centerline.



## DIVISION 110. SITE PLAN REVIEW

- A. **Purpose.** In order for a proposed development to be reviewed for compliance with the requirements of this Ordinance and other applicable regulations, the applicant shall submit a site plan along with the application for a Zoning Permit, which provides a map/illustration of the physical layout of the property and all proposed buildings, structures, and wherever applicable, other supporting infrastructure.
- B. **Minor Site Plan Review.** For all buildings and uses not listed in Section C(1) of this Division, a Minor Site Plan shall be submitted to the Land Use Administrator, along with the application for a Zoning Permit.
1. The site plan shall be drawn at an appropriate scale to cover the extent of the property in sufficient detail (preferably one (1) inch equals twenty (20) feet), and include, at minimum, the following information:
    - a) The shape and physical dimensions of the lot involved.
    - b) The location and physical dimensions of any buildings/structures to be erected or altered.
    - c) The location of any other existing buildings on the lot, and measurements between these and the buildings/structures to be erected or altered.
    - d) Setback measurements between the property line and any buildings/structures to be erected or altered.
  2. Once the proposed development has been fully evaluated, using the information supplied on the permit application, site plan, and any other accompanying documentation, the Administrator shall act to approve or deny the Zoning Permit, and submit notification of this decision to the applicant within fifteen (15) days of the submittal of all required application materials.
    - a) If lot pins or markers from the most recent survey of the property cannot be located, and compliance with minimum setback requirements cannot be reasonably verified, the Administrator may require that the property be surveyed by a registered land surveyor prior to the issuance of a permit.
- C. **Major Site Plan Review.** For the buildings and uses listed in this section, a Major Site Plan shall be submitted to the Land Use Administrator, along with the application for a Zoning Permit.
1. The following buildings and uses shall require Major Site Plan Review:
    - a) Multi-family dwellings involving more than eight (8) units.
    - b) Mobile / manufactured home parks.
    - c) Any gathering places that are likely to generate significant traffic on a regular basis, such as churches and other houses of worship, meeting and lodge halls, and country clubs and golf courses.
    - d) Any uses involving overnight stays or lodging (such as nursing homes or other similar care facilities, hotels and motels, recreational vehicle parks, and boarding houses), or the boarding of animals.

- e) Any commercial use allowed in the “C-1” General Commercial District, which involves a building with a floor area in excess of fifteen thousand (15,000) square feet.
  - f) Any commercial use which involves the direct dispensing of flammable or otherwise hazardous substances such as gasoline or propane.
  - g) Any permitted principal uses allowed only in the “I-1” Industrial District.
  - h) Any use that is allowed only as a Special Permitted Use in the respective Zoning District. For such uses, Sections 5 through 7 of this Division shall not apply, and the review process by Board of Adjustment is described in Division 125, Section E of this Ordinance.
2. In addition to the information required for a Minor Site Plan in Section B(1) of this Division, the site plan shall include the following information:
- a) The specific proposed use for each individual building or structure to be erected or placed upon the property.
  - b) The location of proposed traffic facilities, including entrances onto the primary or secondary road system, interior streets/driveways and pedestrian walkways.
  - c) The location of proposed parking facilities, including the capacity and type of surfacing.
  - d) The location and type of utilities proposed to serve the development, including gas, electric, telephone, water, sewer and solid waste disposal.
  - e) If applicable, the location, size and type of proposed outdoor advertising, signage and lighting for the development.
  - f) The location and method of screening or buffering between the proposed development area and adjoining land uses (walls, fences, planting strips, open spaces, etc.).
  - g) Any information pertinent to the Fire Department in its enforcement of all applicable Fire Codes, including the location of all fire safety exits, and the location where any flammable or hazardous substances are dispensed or stored, if applicable.
  - h) Two-foot contours, to illustrate both the current and proposed elevation of the development site.
  - i) The finished floor elevation for any new buildings, and spot elevations for parking areas and driveways.
  - j) Contextual information, including a title (the development name or a general description), north arrow, scale bar, and the date of preparation.
3. Specific information pertaining to the required elements described in Section C(2) above (such as the size/capacity of utility lines) may be excluded from the development plan/map, provided that the information is supplied through accompanying written documentation or floor plans.

4. Departmental Review. The Land Use Administrator shall submit copies of the Major Site Plan and any relevant accompanying documents to the following for review:
  - a) County Health Department.
  - b) County E911 Coordinator.
  - c) County Secondary Roads Department.
  - d) The Fire Department serving the property to be developed.
  - e) Public or private utilities serving the property to be developed.
  
5. Zoning Commission Review. The Land Use Administrator shall place the Major Site Plan on the agenda of the next Zoning Commission meeting. The Commission shall review the Major Site Plan and submit its recommendation to the Board of Supervisors, as to whether any additional conditions should be imposed on the Zoning Permit as a condition of its approval. Such conditions shall only be imposed in order to satisfy public needs which are directly caused by a development of that particular nature, scope and physical extent. This shall be limited to the following:
  - a) Measures to ensure that the development is compatible with the roadway system that serves it.
  - b) Measures to ensure that the utilities serving the development are of a sufficient size and capacity to serve it.
  - c) Measures to mitigate the impact of storm water drainage on adjoining or nearby properties.
  - d) Measures to mitigate the risk of fire hazard.
  
6. Board of Supervisors Vote. The Board of Supervisors shall place the application on the agenda of the next regular meeting, and shall act on the Commission's recommendation. Any additional conditions approved by the Board shall thus be attached to the Zoning Permit by the Administrator, as a condition of its final approval.

## ARTICLE VI – ZONING COMMISSION

### DIVISION 115. ZONING COMMISSION

- A. **Establishment of Commission.** The Board of Supervisors shall appoint a Zoning Commission for the purpose of providing technical guidance and expertise to the Board regarding certain provisions of this Ordinance (as well as the Des Moines County Subdivision Ordinance No. 29).
- B. **Membership.**
1. The Zoning Commission shall consist of five (5) members, the majority of whom shall reside within the jurisdiction of this Ordinance, and all of whom shall reside within Des Moines County, but outside the corporate limits of any City.
  2. Each member of the Commission shall be appointed for a term of five (5) years, to expire on the first Tuesday in January.
  3. Members may be removed from the Commission for cause by the Board of Supervisors.
  4. Members may be re-appointed by the Board of Supervisors for an unlimited number of terms, so long as they remain eligible to serve based on their location of residence.
  5. Whenever a position is vacated, a replacement shall be appointed to fill only the remainder of that unexpired term and must be reappointed once it expires.
- C. **Duties of Commission.**
1. In order to enforce the provisions of this Ordinance, the Zoning Commission shall have the authority to review the following and make recommendations to the Board of Supervisors on whether they should be approved, denied, or approved with conditions:
    - a) Zoning Map amendments (rezoning of property).
    - b) Amendments to the text of this Ordinance.
    - c) Establishment of outdoor firearm shooting ranges, when allowed in a particular Zoning District, in accordance with Chapter 657.9 of *Iowa Code*.
    - d) Major Site Plans.
    - e) Subdivisions (as regulated by the Des Moines County Subdivision Ordinance No. 29)
  2. In accordance with Chapter 335.5 of *Iowa Code*, the Zoning Commission may recommend that the Board of Supervisors adopt a Comprehensive Plan or any amendments thereto.

D. **Rules of Procedure.**

1. The Zoning Commission shall be responsible for adopting rules of procedure regarding meetings, public hearings, voting, and organizing committees, provided that these are entirely in accordance with all applicable provisions of Chapter 335 of *Iowa Code*. The affirmative vote of a majority of Commission members shall be required in order for these rules of procedure, or any amendments thereto, to take effect.

## DIVISION 120. ZONING MAP AND ORDINANCE TEXT AMENDMENTS

- A. **Purpose.** In accordance with Chapter 335 of *Iowa Code*, this Ordinance may be amended, either through changes to the text of the Ordinance and the specific regulations contained therein, or through a rezoning of property from one District to another.
- B. **Amendments Requested by the General Public.** Any member of the general public may apply for zoning map or text amendments by petition. In order to be acted upon, such petitions shall be submitted in writing.
1. Applications for amendments to the text of this Ordinance, or the rezoning of property (as shown on the Official Zoning Map) shall be submitted to the Land Use Administrator, including an explanation for why such a change is being sought, along any other supplementary data and information that the Administrator deems necessary to provide context for the Zoning Commission.
    - a) Each application for a Zoning Map amendment shall be accompanied by an exact legal description of the land area proposed to be rezoned.
  2. **Fee.** The fee for a Zoning Amendment request shall be established by resolution of the Board of Supervisors. Such fee shall be submitted to the Land Use Administrator along with the application for Amendment, and under no conditions shall said fee be refunded for failure of said amendment to be approved.
- C. **Amendments Requested by County Staff or Officials.** The Land Use Administrator or a member of the Zoning Commission, Board of Adjustment, or Board of Supervisors is hereby permitted to initiate a request for Zoning Map or Text Amendment.
1. Whenever new territory is added to the jurisdiction of this Ordinance as the result of an annexation, the new territory shall automatically be zoned as “A-1” Agricultural. If it is determined that a different zoning class is more appropriate for all or a portion of the land in question, the Administrator is hereby authorized to initiate a rezoning of the property.
  2. In any instance where a road or railroad centerline serves as a Zoning District boundary, and the right-of-way is officially vacated, the District boundary shall be automatically retained at the location of the former centerline, regardless of whether it follows parcel lines. The Administrator is hereby authorized to initiate a rezoning if it is deemed appropriate as a result of the right-of-way vacation.
- D. **Procedure for Review and Approval.** All proposed map or text amendments, whether initiated by a member of the general public or by County staff or officials, shall follow the procedure described below.
1. The Zoning Commission shall consider the proposed amendment, and following at least one public hearing on the matter, shall submit its recommendation to approve or disapprove the amendment to the Board of Supervisors.
    - a) Notice of the public hearing shall be given not less than four (4) days nor more than twenty (20) days prior to the hearing, in a newspaper of general circulation in the County.

- b) The Commission may recommend that additional conditions be placed on a map amendment, as specified in section D(2) of this Division.
2. After action by the Zoning Commission, the Board of Supervisors shall place the application on the agenda of their next regular meeting, and shall act to approve or deny the requested amendment.
- a) Conditional Rezoning: Acting on its own, or following the recommendation of the Commission, the Board may impose additional requirements, more restrictive than those provided in this Ordinance, as a condition of its approval. Such conditions shall be reasonable and imposed to satisfy public needs which are directly caused by the requested rezoning. Such conditions shall be agreed to in writing by the property owner in advance of the final public hearing.
  - b) In accordance with Chapter 335.7 of *Iowa Code*, if a protest is submitted against a requested rezoning of property, signed by the owners of twenty (20) percent or more of the land area proposed to be rezoned, or twenty (2) percent or more of the land area immediately adjacent to and within 500 feet of the area proposed to be rezoned, then such amendment shall not become effective except by the favorable vote of at least sixty (60) percent of the members of the Board of Supervisors.
- E. Evaluation of Zoning Map Amendments. The following factors shall be considered by the Zoning Commission, to ensure that the proposed amendment is in conformance with the intent and standards of this Ordinance:
- 1. The Purpose statements and individual regulations of the Zoning District proposed for an applicable property shall be evaluated to determine whether it is appropriate for the proposed future use of the property.
  - 2. The creation of Non-Conforming Uses through a rezoning is permissible. However, the number of such uses created through a single rezoning shall be minimized.
  - 3. The practice of Spot Zoning (as defined by this Ordinance) shall be discouraged. A proposed zoning map amendment shall be evaluated to ensure that it would not create both a unique advantage to the owner(s) of a small area of land, and a detriment to neighboring property owners.
- F. Record of Amendments. For the public record, the Land Use Administrator shall keep a list of all amendments to this Ordinance, including a description and explanation of each amendment, and the date on which each was approved by the Board of Supervisors.

## ARTICLE VII – BOARD OF ADJUSTMENT

### DIVISION 125. BOARD OF ADJUSTMENT

- A. **Establishment of Board.** The Des Moines County Board of Adjustment is hereby established for the purpose of reviewing and deciding on cases in which special exceptions from the terms of this Ordinance have been requested. Members of this Board shall be appointed by the Board of Supervisors.
- B. **Membership.** The Board of Adjustment shall consist of five (5) members, a majority of whom shall reside within the jurisdiction of this Ordinance, and all of whom shall reside within Des Moines County, but outside the corporate limits of any City.
1. Each member of the Commission shall be appointed for a term of five (5) years, to expire on the first Monday in November following the fifth year. Members may be re-appointed by the Board of Supervisors for an unlimited number of terms, so long as they remain eligible to serve based on their location of residence.
  2. Whenever a position is vacated, a replacement shall be appointed to fill only the remainder of that unexpired term and must be reappointed once it expires.
  3. Board of Adjustment members are appointed by the Board of Supervisors. Members shall be removable for cause by Board of Supervisors, following the filing of written charges and a public hearing on the matter.
  4. The Board of Adjustment shall select a Chairperson and Vice Chairperson from among its members. The Chairperson, or in their absence, the Vice Chairperson, shall conduct the business of the meeting, and may administer oaths and compel the attendance of witnesses.
- C. **Powers of Board.**
1. The Board of Adjustment shall have the authority to hear and decide on the following matters, each as defined by this Ordinance and further outlined in Sections D, E, and F of this Division:
    - a) Appeals
    - b) Special Permitted Uses
    - c) Variances
  2. In deciding on these matters, the Board may reverse, affirm, or modify (wholly or partly) any order, requirement, decision or determination of the Land Use Administrator, and this decision shall have the same force of law as any decision authorized to be made by the Administrator or the Board of Supervisors.



- D. **Appeals**. Appeals to the Board of Adjustment may be taken by any person aggrieved or otherwise affected by an order, requirement, decision or determination made the Land Use Administrator in the enforcement of this Ordinance.
1. Appeals shall be filed with the Land Use Administrator, and shall specify the nature of the request, the context of the case for which the contested order, requirement, decision or determination was made, and any evidence that may affirm their contention that the order, requirement, decision or determination was in error or otherwise unjustified.
  2. **Stay of Proceedings**. Once affirmed by the Board of Adjustment, an appeal stays all proceedings in furtherance of the action being appealed, unless the Land Use Administrator certifies to the Board after the request for appeal has been field that such a stay would, in the Administrator's opinion, cause imminent peril to life of property. In such a case, the proceedings shall not be stayed unless and until a restraining order against the Administrator is granted by the Board of Adjustment or a court of record, and the Administrator is notified of this fact.
- E. **Special Permitted Uses**. The Board of Adjustment shall have the authority to review and decide on an application for a Special Permitted Use, provided that the type of use being proposed is listed as an allowable Special Permitted Use in the Zoning District in which it is located. An application for a Special Use Permit shall be accompanied by all of the information required for a Major Site Plan, as listed in Section C(2) of Division 110.
1. The following shall be held as the minimum standards for the evaluation of a proposed Special Permitted Use:
    - a) The proposed use shall comply with all applicable regulations of the base and overlay Zoning Districts in which it is located, and all other applicable provisions of this Ordinance that apply to all Districts (as outlined in Article IV).
    - b) The proposal should conform with the most recent Comprehensive Plan for Des Moines County.
    - c) The proposed use should be compatible with the existing and planned uses of nearby properties, and other uses that would be allowed in that particular Zoning District.
    - d) The proposed use should not produce traffic congestion or result in rapid deterioration of roadways serving neighboring properties and/or through traffic.
    - e) The proposed use should be sufficiently supported by the utility infrastructure proposed to serve the property. All means of wastewater treatment shall be approved by the County Health Department.
    - f) The development should not result in an increase in surface drainage that would negatively impact neighboring properties through flooding or erosion on a regular basis.
    - g) The proposed use should not increase the risk of fire hazard or endanger public health or safety in any other way.
    - h) The proposed use should not be located in close proximity to any other Special Permitted Use(s) of a similar character.

2. Prior to a public hearing on a Special Permitted Use, the Administrator shall follow the same procedure specified for a Major Site Plan Review, outlined in Division 110, Section C of this Ordinance. Any comments submitted by County departments and utility/service providers shall be supplied to the Board of Adjustment for their consideration.

F. **Variations.** The Board of Supervisors shall have the authority to review and decide on an application for a Variance from one or more of the specific requirements of this Ordinance.

1. Approval of a variance shall be contingent on whether each of the following conditions apply:
  - a) The land cannot yield a reasonable return on investment if the applicable requirement(s) of this Ordinance are literally enforced.
  - b) The need for a variance is due to special, exceptional circumstances of the property involved, which do not apply to a substantial number of other properties within the same district, and which are not the result of the applicant's own actions.
  - c) The proposed use would not alter the essential character of the surrounding area.
2. The Board of Supervisors may provide for its review of variances granted by the Board of Adjustment before the effective date. The Board of Supervisors may review a decision for granting a variance, and remand that decision to the Board of Adjustment for further study. If remanded, the effective date of the variance is delayed for thirty days from the date of the remand.

G. **Meetings.**

1. When a request for an Appeal, Special Permitted Use, and Variance is submitted to the Land Use Administrator, it shall be placed on the agenda of the next meeting of the Board of Adjustment, and the Board shall hold a public hearing on the matter.
  - a) Notice of the hearing shall be given not less than four (4) days nor more than twenty (20) days prior to the hearing, in a newspaper of general circulation in the County.
2. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each matter of business, 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 Land Use Administrator to serve as an official public record of the proceedings.
3. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Land Use Administrator, or to approve the request for a Special Permitted Use or Variance.

- H. **Rules of Procedure.** The Board of Adjustment shall establish a set of administrative by-laws to serve as the rules of procedure for conducting business, provided that these are entirely in accordance with all applicable provisions of Chapter 335 of *Iowa Code*. The affirmative vote of a majority of Board members shall be required in order for these by-laws or any amendments thereto to take effect.
- I. **Appeal of Board Decision.** Any persons(s) aggrieved by a 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 appeal the decision to a court of record.
1. **Petition to Court.** The aggrieved person(s) may submit to the District Court of Des Moines County 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 Board's decision in the office the Land Use Administrator.
  2. **Review by Court.** Upon the presentation, the Court may allow a writ of certiorari directed to the Board of Adjustment to review such decision of the Board of Adjustment and shall describe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the Court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and on due cause shown, grant a restraining order.
  3. **Record Advanced.** The Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions hereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
  4. **Trial to Court.** If upon the hearing, which shall be tried de novo, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, the court may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with the referee's findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
  5. **Costs.** Costs shall not be allowed against the Board unless it shall appear to the Court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

## ARTICLE VIII – ENFORCEMENT AND PENALTIES

### DIVISION 145: ENFORCEMENT AND PENALTIES

- A. **Enforcement.** It shall be the duty of the Land Use Administrator, with the aid of the County Attorney and County Sheriff as necessary, to enforce the provisions of this Ordinance.
- B. **Determination of Violation.** When it has been determined that a violation has occurred, the Land Use Administrator shall notify the owner of the property in writing, indicating the nature of and consequences for the violation.
1. Any individual charged with a violation of this Ordinance shall have the opportunity to submit evidence that would prove that the initial determination of the Administrator was in error. If contested by the Administrator, an Appeal may be filed with the Board of Adjustment. See Section D of Division 125.
  2. If the activity involved in the violation continues unabated after notification has been provided to the property owner, the Administrator shall direct the proper authorities to issue a Stop Work Order to prevent the continuance of any use or construction activity deemed to be in violation of this Ordinance.
- C. **Penalties for Violation.** Any violation of the provisions of this ordinance or failure to comply with any of its requirements shall constitute a county infraction, as defined by Chapter 331.307 of the *Iowa Code*. Each day that the violation persists shall constitute a separate repeat offense.
1. In accordance with Chapter 331.307 of the *Iowa Code*, any person or firm that violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than seven-hundred fifty (750) dollars for the first offense, and not more than one-thousand (1,000) dollars for each repeat offense, or be imprisoned for not more than thirty (30) days for each offense.
  2. Nothing herein contained shall prevent Des Moines County from taking such other lawful action as is necessary to prevent or remedy any violation.